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What are the barriers experienced by self-represented litigants in civil court?

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Abstract

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MA, Walden University, 2021

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Abstract

The Judiciary Act of 1789 permits parties to plead and manage their cases personally or by a defense counsel. The legal provision laid the foundation for self-representation guidelines adopted by the courts. Despite self-representation becoming widely accepted in the legal system, there is limited understanding of the barriers faced by litigants. John Rawls' theory of Justice written in 1971 guided an in-depth analysis of these experiences. The theory states that with the subject of justice things are just or unjust. With the need to answer the research questions that sought to explore the lived experiences of self-represented litigants, attorneys, and judges, the qualitative study relied on a sample of 5 judges, 5 attorneys, and 25 self-represented litigants. In-depth interviews offered a reliable approach of collecting the data using thematic analysis method. The study found structural, financial, political, and doctrinal barriers affected self-represented litigation. These barriers included difficulty in accessing legal information and resources, cost of litigation, political interferences, personal issues (emotions), inequality of arms, and limited knowledge of the legal system. Recommendations include improving access to legal information, collaboration among the stakeholders in the justice system, and streamlining training programs to ensure judicial officers assist self-represented litigants to access justice. With the increasing usage of self-representation litigation in the current justice system, positive social change may result from improving accessibility to the legal system which benefits low-income self-represented litigants who cannot traditionally afford professional counsel to plead and manage their cases.

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Dedication

I would like to dedicate this dissertation in loving memory of my mother Betty Ann Johnson Rice. I wish you were here to see me walk across this stage to receive my degree. I will always carry you in my heart. I love and miss you so much. To my dad who would always check in on me to see how I was doing, I thank you. To my brother, thank you for all your words of encouragement along this journey. To the two beautiful women in my life, my daughters, Adena Renee Rice and Alexis Diahan Rice. Thank you both for your encouragement and motivation to propel me to this point. I couldn't have done it without you!

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Chapter 1: Introduction to the Study

Courts across the United States for the last 20 years have been dealing with litigants representing themselves in various matters such as family law, small claims, and domestic violence. With an increase in self-represented litigation, pressure has been put on the courts and attorneys to adjust how cases are adjudicated by the court and tried by attorneys. This study was conducted to explore the financial, structural, doctrinal, and political barriers experienced by self-represented litigants in civil court. In this study, financial barriers include factors such as local, state, and federal budgets to fund legal aid organizations, self-help centers, and indigent defense services for civil court cases to assist low to middle-income people. Structural barriers address how the public receives legal services, the number, and location of those attorneys to deliver the services. Structural barriers also include language used to establish laws in the United States. Doctrinal barriers can potentially protect the public from people who are attempting to take advantage of those needing low-cost legal assistance, but this barrier can also reduce competition in the legal market. Political barriers are the most difficult to determine but relate to implementing laws and rules at the local, state, and national levels of government that benefit attorneys.

Background of the Problem

The history of self-represented litigation can be traced back to the Judiciary Act of 1789, Section 35, which states that:

> in all courts of the United States, the parties may plead and manage their causes personally or by the assistance of such counsel or attorneys at law as by the rules

> of the said courts respectively shall be permitted to manage and conduct causes therein. (Judiciary Act, 1789)

Although this act did not delineate the type of case requiring self-represented litigants to have appointed counsel, the act leans toward where incarceration may be part of the disposition (Judiciary Act, 1789). Additionally, on July 28, 1868, the 14th amendment was ratified to give due process rights to all persons born or naturalized in the United States, and it forbids the denial of equal protection under the law to any person under its jurisdiction (U.S. Const. amend. XIV).

The civil right to counsel movement is also important to address, which does not have the same guidance of a Constitutional amendment as the criminal right to counsel has under the sixth amendment. Some legal scholars have proposed placing the civil right to counsel in federal and state due process, federal equal protection law, state law, or in the federal and state court's inherent constitutional power (Lucas, 2014). There are three cases that provide a historical perspective of the origin of the movement to provide counsel in civil court cases. They also address the barriers to low- to middle-income people who enter the civil court without the use of an attorney. First, in *Gideon v. Wainwright* (1963) a defendant in a criminal case was not provided a court-appointed attorney despite not being able to afford one, which led to the court's decision that the state and federal courts are both required to appoint counsel to those who could not afford a lawyer of their own. Second, in 1974, *Lassiter v. Department of Social Services* challenged the interpretation of due process and the 14th amendment requirement by the Supreme Court when the Department of Social Services petitioned for the termination of

Abby Gail Lassiter's parental rights, but she was not appointed counsel because the court determined had enough time to find counsel and she never asserted that she was unable to afford one. Third, in *Turner v. Rogers* (2011), the district court determined that the defendant did not require legal counsel and allowed him to represent himself. The court found Michael Turner guilty of contempt and sentenced him to 12 months. In a majority decision, the Supreme Court ruled that the lower court should have provided the defendant with appointed court counsel. These cases demonstrate the barriers faced by self-represented litigants in criminal courts as well as civil courts. Any progress made in the civil Gideon movement before the 2011 ruling in *Turner v. Rogers* has regressed after this ruling by the Supreme Court.

Based on some of the Supreme Court rulings in cases that address a person's civil right to counsel, this study focused on four barriers faced by self-represented litigants: financial, structural, doctrinal, and political (Rhode, 2016). The financial barrier prevents self-represented litigants from having counsel in the state's civil district and superior court (Gustafson et al., 2012; Medows, 2014; Painter, 2011). Low- to middle-income people cannot afford the fees necessary to retain an attorney. Additionally, paid subscriptions to legal research websites such as LexisNexis and Westlaw do not benefit self-represented litigants who may only use the service for one case (Blankley, 2013).

Structural barriers address the lack of a system that provides legal assistance equal to the need of the litigant. These systems can vary by state and even by county (Greacen, 2014; Landsman, 2012). Federal, state, and local funding could be used as a method to reduce this barrier.

Doctrinal articles discuss barriers such as language, remedy, and evaluation (Davis, 2012; Greacen, 2014; Janku & Vradenburg, 2015; Landsman, 2012; Medows, 2014; Painter, 2011). Language barriers pertain to legal language derived from Latin and French. Individuals may not understand the terms necessary to try their case. Three Latin legal terms used in civil court is res judicata, which is a Latin term meaning a matter already judged; amicus curiae is Latin for "friend of the court"; and de novo is Latin for "anew"—a trial de novo is a new trial. Three French legal terms used in civil court is judgment, which means a decision of a court or judge; lien, which means the lawful case of one individual upon the property of someone else to secure the installment of an obligation or the fulfillment of a commitment; and plaintiff, which is defined as a person who brings a claim against another in court.

Political barriers are the least visible and are more difficult in to address. There are local and state legal associations that work to maintain the legal system as it currently operates. But self-represented litigants do not have the opportunity to provide input to state and local county rules of procedure for court. It is difficult to understand the process for providing input to state and federal legislators on laws that affect civil cases.

The gap in the research pertains to self-representation. Additionally, there is biased research written by judges or attorneys that do not address the population or provide peer-reviewed research. This study is important for not only self-represented litigants but the legal community. As more low- and middle-income people access the courts, the more the legal community will need to address the lack of support for those who cannot afford full or partial representation. Barriers experienced in civil courts are

financial, structural, doctrinal, and political (Rhode, 2016). Adding more research and more rulings in the Supreme Court may assist in changing the perspective of those who argue against removing barriers experienced by self-represented litigants.

Problem Statement

More low- and middle-income people are attempting to represent themselves in civil court for legal issues such as child custody or eviction. The lack of certain laws and procedures prevent citizens from hiring an attorney or receiving assistance with their case. Somewhere in the range of 64 million U.S. citizens with common legitimate legal issues do not have the way to procure an attorney (Nicholson, 2013). Additionally, about 1 in every 5 Americans meet all requirements for them to receive legal services from Legal Services Corporation (LSC) in 2012, but many were not ready to get the required help because of decreased to LSC's budget (Nicholson, 2013).

Self-represented litigation is developing rapidly, which can cause a lack of clarity (Knowlton et al., 2016); however, articles on this topic do not provide or provide little on the lived experience of the self-represented litigant. Most articles provide the perspective of the writer and quantitative data to support their opinion on self-represented litigation in the United States. Qualitative data helped to understand the experiences of the participants in this study, which is useful when there is a lack of theoretical or empirical consensus around an issue such as self-represented litigation (Knowlton et al., 2016). More research using the lived experience of the self-represented litigant will serve to reduce the barriers they experience.

Purpose of the Study

The purpose of this qualitative study was to understand the barriers experienced by self-represented litigants in civil court. I explored the financial, structural, doctrinal, and political barriers experienced by these individuals in the United States. I also collected responses from judges and attorneys in North Carolina. The results provide a new perspective to help shape other research on this topic.

Research Questions

Research Question 1: What barriers are experienced by self-represented litigants in civil court?

Research Question 2: What is the experience of judges who hear cases with at least one party being self-represented?

Research Question 3: What is the experience of attorneys who try cases when the other party is self-represented?

Conceptual Framework

I chose John Rawls's (1971) theory of justice, which states that with the subject of justice things are just or unjust. Laws must be known and expressly stated, and their meaning defined in both statement and intent, and they must not be used to harm individuals (Rawls, 1971). But because of the lack of legal context, self-represented litigants in civil cases are left to hire an attorney or attempt to represent themselves. The theory of justice is analogous to the present study where the legal community provides an advantage to those who have the benefit of hiring an attorney and provides little relief to those who cannot afford to pay for representation in civil court.

Nature of the Study

The nature of this study was a qualitative, phenomenological approach. In this approach, the researcher must provide an explanation grounded in the subjective experiences of real people (Aspers, 2009). The researcher must gain an understanding of how as well as why things happen. In empirical phenomenological research the original data collected is comprised of "inexperienced" descriptions of the experience obtained through open-ended questions and discussions with the participants of the study (Moustakas, 1994). The goal of the questions and discussions is to define what the experience means for the people who have lived the experience (Moustakas, 1994). I used this approach to explore and understand the lived experience of self-represented litigants in civil court. I employed semistructured interviews using a homogenous sample of judges, attorneys, and self-represented litigants from North Carolina. I used one focus group interview with five judges and a separate focus group of five attorneys. I used five one-on-one, face-to-face interviews and 25 online surveys interview with self-represented litigants. After all the data were collected, I identified themes that developed and employed Dedoose and Microsoft Excel software to analyze and store the data. The themes enabled all data collected and analyzed to precisely give the lived experience of the barriers in civil courts.

Definition of Terms

Adjudicate: To settle in the exercise of judicial authority or to determine finally.

Civil courts: Civil courts are where a plaintiff may sue a defendant. How a civil matter is tried, and the punishments that may result, is different from what happens in a criminal court.

Self-represented litigant: An individual who represents themselves in a dispute proceeding before Court.

Assumptions

There are three identified assumptions in this research. One assumption is that low- to middle-income people would use free or low-cost legal services if they were available. Research on self-represented litigation has not been found that confirms when legal services are provided for low- to middle-income people. Research has indicated services such as legal clinics and attorney for the day programs, but there is little qualitative data that explores if self-represented litigants would use these services (Blankley, 2013; Smith & Stratford, 2012; Steinberg, 2011).

The second assumption is that all low- to middle-income people cannot afford any legal services. Not all attorneys use the same fee scale to charge clients for legal services. The research shows that although billable hours are the most popular method to collect fees, attorneys also bill using a fixed fee rate, fixed fee per project, or time period. These fees are based on a specific project or cover a specific amount of time rather than the client being required to pay the total cost upfront. Capped fees occur when clients pay their fees by the hour. The total number of hours is prearranged before the agreement is signed. A blended rate reduces the hourly rate by charging the rate of paralegals,

associates, and outsourced workers. Attorneys use portfolio fees to handle all a client's work for a specific period.

The third assumption is that cases with both parties representing themselves will take more time from the court and require more court resources. Based on research, self-represented litigant cases ae on the court docket less, have fewer continuances, and are resolved in a shorter period (Greacen, 2014). These assumptions were necessary for the research to provide the legal community with qualitative and quantitative research on myths, legal commentary, and ideological understanding which justify barriers to self-represented litigants in civil courts.

Scope and Delimitations

One aspect of this study is the financial, structural, doctrinal, and political barriers experienced by self-represented litigants in civil courts. This topic was chosen to add qualitative research to this field of study, which can influence the access of self-represented litigants to the legal community. The population included in the study are judges, attorneys, and self-represented litigants. Excluded populations are paralegals, legal assistants, and court staff. Paralegals and legal assistants do not have the level of experience to add value to the data collected on this topic. Court staff may only have limited experience with self-represented litigants and may not add value to the research. Court staff have limited contact with self-represented litigants and may not be aware of the barriers experienced by self-represented litigants. John Rawls in his theory also discussed if the thought of unadulterated procedural equity is to succeed, it is fundamental to set up and to control the unprejudiced nature and only arrangement of

encompassing organizations (Rawls, 1971). In this research, the choice was to focus on the justice system and no other institutions that share a similar population. Other governmental systems that the theory of justice could apply to are housing, education, and labor.

Limitations

A methodological weakness of this study is homogeneous sampling. A homogeneous sample of 40 was used, which did not include court staff. However, most court staff have short periods of time where they interact with self-represented litigants, and they may only add data already collected through interviews with one of the other groups of the sample population.

Bias can create conditions that can diminish the validity of the research (Patton, 2015). One of the most pervasive biases in research is confirmation bias, which involves the researcher judging responses that confirm their beliefs. Confirmation bias can extend into data analysis pointing toward the desired results. To reduce confirmation bias, the researcher needs to constantly reevaluate the sense of respondents' and their assumptions and beliefs.

Question order bias happens when the researcher influence answers by the order they ask questions (Patton, 2015). Avoiding question order bias as much as possible can take place by asking general questions before asking specific questions, by asking positive questions before asking negative questions. To reduce question order bias there must be a conscience action by the researcher to maintain validity. As a researcher, asking leading questions or shaping the respondent's answer can lead to bias. Having

influence over the respondents answer by a perceived weight on each question can aid in bias research. Using the respondents' language when asking questions will help reduce bias and prevent any influence over the experience of the respondent. When transcribing data, the researcher should not assume the relationship between a feeling and the behavior of the respondent.

Significance

The efficacy of self-represented litigation is challenged because self-representing litigants may not adhere to court routine, and they have a higher rate of courtroom violence perhaps due to their frustration with the lack of guidance during the litigation process (Medows, 2014). Thus, lawmakers should provide a guideline when possible so that equity regarding the ability to afford counsel (Smith & Stratford, 2012). Similarly, the judiciary should act to assist self-represented parties in enforcing orders to enhance justice as well as respect for the pattern of law (Smith & Stratford, 2012). Lawmakers should act to make the legal criterion for relief as open and concrete as possible (Smith & Stratford, 2012). The bench and the bar must provide additional assistance for self-represented parties occasional brief advice if they are to completely present their cases to the courts and admittance justice (Smith & Stratford, 2012).

This research will provide the North Carolina State Bar Association, the Mecklenburg County Bar Association, the Equal Access to Justice Commission, and the Access to Justice Section of the Department of Justice with the information needed to understand the lack of assistance being provided to low- and middle-income people by the legal profession. The results of the study may thus contribute to the state of North

Carolina legal system and reduce barriers for self-represented litigants. Goals of the research are to (a) modify the North Carolina Rules of Professional Conduct to establish a minimum number of hours each attorney in the state must conduct per year, (b) strengthen the language in Rule 6.1, Voluntary Pro Bono Publico Service to ensure attorneys are protected when they provide legal advice, (c) strengthen the language in Rule 6.5 Limited Legal Services Programs, (d) make the state and federal government aware of the necessity of funding legal aid offices and self-help centers in North Carolina and possibly throughout the United States, and (e) assist the North Carolina Chief Justice Commission in the Administration of Law and Justice, especially with their inquiry into the civil right to counsel in civil court.

This study also contributes to the critical gap in the research on the barriers experienced by self-represented litigants in civil courts. Some articles on the topic are not peer-reviewed and biased depending on which lens the author views the topic. This gap will be addressed by identifying the barriers based on the lived experience of the study population.

Summary

In civil court, some laws and procedures make it difficult for citizens to effectively represent themselves. This study addressed financial, structural, doctrinal, and political barriers from the perspectives of self-represented litigants as well as judges and attorneys. Chapter 1 provided a background of the study. Chapter 2 is a critical review of literature on barriers experienced by self-represented litigants in civil courts. Additionally, Chapter 2 includes a description of the conceptual framework that guided

the study. Chapter 3 describes the design and methodology including how information was collected, transcribed, stored, and analyzed. Chapter 4 presents the collected data. Chapter 5 presents the interpreted findings from the study, limitations of the study, recommendations from the study, and implications for social change from the result of the study.

Chapter 2: Literature Review

U.S. courts are seeing hundreds of thousands of self-represented litigants every year seeking divorce separation or a resolution of child-related disputes, and 80–90% of family cases have a least one party unrepresented in court (Knowlton et al., 2016). This study addressed barriers experienced by self-represented litigants in civil court to provide more research and context to the literature currently in the field. Conducting one-on-one, face-to-face interviews, online and in-person surveys, as well as focus groups allowed for an understanding of how barriers experienced by self-represented litigants affect the disposition of a civil court case. The following chapter addresses the literature related to four main barriers self-represented litigants face: financial, structural, doctrinal, and political. The chapter also addresses the conceptual framework of the study, Rawls's (1971) theory of justice.

Literature Search Strategy

To find articles relevant to the study of barriers experienced by self-represented litigants I searched databases such as Google Scholar, Pro Quest, Lexis Nexus Academic, and Thoreau Multi-Database. I also used resources such as the U.S. Constitution, the U.S. Library of Congress, the U.S. Supreme Court website, the North Carolina General Assembly website, and peer-reviewed and law review journals. Keywords used in the database search were *access to justice, justice, equal access to justice, pro se litigation, pro se and civil courts, Turner v. Rogers, right to counsel, self-represented litigation, self-representation, self-represented* and *civil courts*, and *civil Gideon*. The literature review included studies related to barriers faced by self-represented litigants, equal access

to justice, and the civil right to counsel with a focus on contributing to the existing knowledge base and bridging the knowledge gap of low- to middle-income people who enter the court system without representation. The articles selected for the literature review cover financial, structural, doctrinal, and political barriers that are faced by self-represented litigants. Finding research articles and dissertations on the four themes was difficult, but the most difficult was research on political barriers. I used two articles written in the United States and one article and one dissertation written in Canada that addresses political barriers in civil court.

Conceptual Framework

The task of political theory is to imagine both associated policy reform and institutional arrangements in a way that can remedy misrecognition and maldistribution (Fraser, 1998). Success is to be measured by meeting the task of policy reform and institutional arrangements while reducing interferences that arise when more than one type of redress occurs. The goal of practical politics is to nurture engagement across divides to build an extensive program orientation that assimilates both the politics of redistribution and those of recognition (Fraser, 1998). Based on this concept I chose Rawls's (1971) theory of justice. In the United States, justice is the basic structure of society; it is the way social institutions distribute fundamental rights and duties and determine how advantages are spread among social cooperation (Rawls, 1971).

There are two principles in Rawls's theory of justice. The first is the liberty principle, which suggests that each person has a right to the most basic liberties. The second, the difference principle, focuses on making the least advantaged as well off as

possible. The theory of justice applies to the structure of society and directs the assignment of rights and duties along with the regulation and dispersal of social and economic advantages (Rawls, 1971). Rawls argued that wealth distribution does not have to be equal, but it must be to the advantage of everyone. This theory also indicated that with positions of authority, the responsibilities that come with those positions have to be available to all (Rawls, 1971). Rawls acknowledged in his theory that people are not born with equal gifts, but those with a gift that gives them an advantage should use them not only to advance themselves but those who are less fortunate. Regarding the natural distribution of talents, Rawls claimed that it is neither just nor unjust that some are born into a particular position in society; what is just or unjust is how institutions deal with the natural distribution in society. Unjust societies such as aristocratic and caste societies make ascriptive and contingency biases in favor of enclosed and privileged social classes.

In addressing the rule of law and its impact on justice and society, Rawls contended that it must address the conduct of society as to what it can and cannot do and must not impose unenforceable rules upon society. There must be a belief that enacted laws by legislators and orders handed down by judges in good faith can be obeyed and carried out. The precept implied by the rule of law is that each case must be treated similarly and that the criteria of similarity be set by rules and principles that allow them to be properly interpreted (Rawls, 1971). Laws must be clearly defined in both statement and intent, and they must not be used to harm individuals (Rawls, 1971).

The theory of justice applied in my research, because in civil court cases, low- and middle-income citizens of society do not have the same ability to retain legal

counsel, evaluate their case, or determine their best legal option. In contrast, those with a higher income level have a greater chance of retaining legal counsel, evaluating their civil case, and determining their best legal option for resolution. The low- to middle-income person is placed at a legal disadvantage when attempting to resolve a civil case in court. Thus, the judicial system provides advantages to those who have the benefit of money and does not provide relief to those who cannot afford to pay for representation in civil court.

Literature Review Related to Key Concepts

Evidence-based approaches to access to justice could provide the judicial branch with the additional methods to deliver services to those who cannot afford an attorney. Other acts such as the Individuals with Disabilities Education Act (IDEA) and the No Child Left Behind Act used evidence-based approaches to provide a more scientifically valid method of research, which led to more funding for further studies. But there is an absence of effort to expand access to justice in an evidence-based approach for citizens facing civil legal issues such as child custody disputes, domestic violence, and small claims (Abel, 2009). Part of the reason is that there is no single acceptable metric for evaluating tools that provide access to justice. Despite this lack of research, several initiatives have begun over the past decade to expand tools used to provide access to justice such as simplifying court procedures, pro se clerks, help desks, and self-help manuals. Other efforts include form pleadings, advice-only hotlines, computer terminals, and unbundled legal services (Abel, 2009). Regardless, litigants still face financial, structural, doctrinal, and political barriers (Rhode, 2016).

Financial Barriers

Self-represented litigants in civil court face financial barriers related to the cost to fully retain an attorney, the lack of funding to LSC, the cost for one-time use legal software, and limited scope legal services provided by attorneys (Gustafson et al., 2012; Medows, 2014; Painter, 2011). Studies show that an estimated 80% of the legal needs of those with lower income go unmet in the United States. Low- to middle-income people have too little information available to them about the law and the legal system as well as too few choices in a non-profit system used to defend citizens' rights. Paid subscriptions to legal research websites such as LexisNexis and Westlaw do not benefit self-represented litigants who may only use the service for one case (Blankley, 2013). Further, self-represented litigants have a difficult time hiring attorneys to represent them in civil court cases (Blankley, 2013).

Attorneys employ several methods to establish their fees with contingency fees being one of those methods where typically the fee is a percentage of the amount the attorney can obtain in a lawsuit. If the award that a client may receive in a case is determined to be minimal, the attorney may decline the case or require the client upfront to defray the cost of services rendered. An attorney can also charge a flat fee based on services rendered and such services will be limited and may not get the client the relief they are seeking (Medows, 2014). Billable hours, another payment method used by attorneys, is the most traditional payment system in the legal community and is the most precise way attorneys measure and account for time spent on a case. The average hourly billing rate for attorney services in the United States is $295 (Gustafson et al., 2012), and

in some markets the average attorney fees range from $200 to $350 per hour (Medows, 2014). This rate may fluctuate based on the attorney's experience, the area of law they practice, and the legal market in which they practice law. Attorneys may also request a retainer for the services they will provide based on a fee agreement and the complexity of the case. A retainer is a lump sum of money that is held in a trust account managed by the attorney, and money is withdrawn when services are rendered in a case. Clients may be required to provide more money when their trust account balance is low, which allows the attorney to continue to work on their case.

Another service that the Model Rules of Professional Conduct suggest for private attorneys is low bono or sliding fee scale services which were created to target the middle class as a means of providing a more affordable option for legal services. Low bono or sliding scale services can serve as an affordable option when the unemployment or under-employed rate in a region is high. An attorney willing to charge a sliding scale fee can attract clients who may not have any other option for legal representation. Low bono or sliding scale fee payment systems do have their faults as they are dependent upon the goodwill of the attorney to provide the service. An attorney may not be willing to reduce the price of services when they can provide that same service at a 25 to 50% higher cost.

Although the Supreme Court recognized that it is a constitutional right to have access to the courts, low-income individuals lack affordable legal counsel (Steinberg, 2011). The sixth amendment, along with the Supreme Court case *Gideon v. Wainwright* support providing defendants in criminal cases the right to counsel, but the same right is not to a plaintiff or defendant in a civil case. Counsel not provided in a civil case does not

take away the liberties of the parties in the case on the surface. Legal issues such as wages, workplace conditions, divorce, child custody, child support, and housing (i.e., eviction) can have a similar effect on the liberties of the parties in a civil case (Blankley, 2013). The loss of liberties experienced in civil cases such as *Lassiter v. Department of Social Services* and *Turner v. Rogers* have the potential to be as devastating as the loss of liberties in a criminal case.

LSC

Other financial barriers occur when the government attempts to provide funding to legal services programs designed to close the gap in services rendered to low- to middle-income litigants (Medows, 2014). LSC is the single largest funder of civil legal services in the United States (Sandman, 2017). There are 133 independent legal aid offices comprised of 800 offices throughout the United States and its territories (Sandman, 2017). The budget for LSC was $300 million in 1980, and in 1981 its budget request provided two lawyers for every 10,000 low-income clients (Steinberg, 2011). However, because of a reduction in funding, states restructured how services were delivered and focused on new sources of financing (Rhode, 2008). Since 1980 the amount of funding received by LSC has fluctuated. In 2002 LSC estimated they would require approximately $600 million in funding to provide services equal to those rendered in 1980. Even though the White House proposed the elimination of funding for LSC for the fiscal year 2018, LSC proposed a budget for that year of $527.8 million (Sandman, 2017). A sliding fee scale system of payment would allow those with some means to qualify for legal aid services at a reduced cost. Because federal and state governments

must fund such programs as health, defense, education, and transportation, funding for subsidized legal services can be a low priority.

With adequate funding, LSC may be able to provide some additional representation services in civil court and still provide legal clinics and other volunteer attorney services. Not all low- to middle-income people would use the services of LSC, as well as there is not an office in every community to assist with legal needs. Some low-to middle-income people may use family and friends, programs through a church or other civic organization. Other non-profit, private, and state agencies and organizations could provide services for low to middle-income people who do not qualify for services through LSC.

Increased funding for legal aid services is another way to assist low-income clients (Smith & Stratford, 2012). Without it, low-income clients pursuing family law matters are obliged to handle them on their own. Legislators should provide guidelines to improve equality for a party to a case no matter their economic status (Smith & Stratford, 2012). Legislators should write laws that make relief clear, concrete, and comprehensible (Smith & Stratford, 2012). Although clients are appreciative of receiving information through legal clinics taught by experienced family law attorneys or law students, legal clinics cannot compare to full representation (Smith & Stratford, 2012).

Legal Insurance

The 1990s brought the advent of legal insurance, which was designed on a medical insurance model charging a monthly premium for the opportunity to access a prescribed list of services from a licensed attorney in an individual's state (Medows,

2014). Legal insurance was designed to fill a gap in providing limited legal services to the middle class. Some workers' unions, as well as some employers, offer prepaid services or provide legal insurance to their employees to reduce the cost of retaining an attorney when an employee has the need. A service such as legal insurance is considered a fringe benefit and is not offered by all employers. Litigants must choose from the pool of attorneys that have signed up to provide services through the insurance program. Just as with any other fringe benefit, such as vision or dental, some employees will be unable to afford it or will opt not to purchase it.

Rule 6.1 Voluntary Pro Bono Publico Service

Pro bono services have been around since the early 1900s and the American Bar Association (ABA), state, and most county bar associations have areas of practice that include pro bono service to the poor. Although there is a model for this service, there is no set number of hours an attorney is required to provide. The model rules recommend a lawyer give 50 hours of pro bono services per year. Under the Rules of Professional Conduct, Model Rule 6.1, every attorney should aspire to provide 50 hours per year to those who are unable to pay. In Section A1 of the Rules of Professional Conduct, an attorney should provide a substantial portion of their 50 hours to persons of limited means. Section B2 states the attorney can provide additional legal services at a sustainably reduced fee to persons of limited means. But although law firms large and small have pro bono programs, but lawyers have not provided a substantial level of service (Cantrell, 2002).

Structural Barriers

Structural barriers address the absence of a system that provides legal assistance equal to the need of the litigant. Greacen (2014) and Landsman (2012) not only address what support systems are currently in place to assist self-represented litigants, but they also discuss other methods of providing support to low and middle-income people who cannot afford to retain an attorney. Institutions that provide legal assistance to those unable to afford it vary by state and even by county. A means of reducing the effects of this barrier would be to shift the paradigm of how law students and attorneys view access to justice and pro bono work. Changing the paradigm of law students and attorneys would be a large job as most law schools do not have a required number of pro bono hours a student must serve to graduate or require participation in pro bono clinics. The ABA's Rule of Professional Conduct only asks attorneys to aspire to 50 hours per year of Pro Bono Publico services to those reduced by limited means. Incorporating the need for access to justice and identifying the justice gap is of vital importance (Blackbourne-Rigsby, 2014, p. 2). In criminal cases, the defendant is at risk of incarceration and of losing rights if he is unable to afford legal counsel. In civil matters, the justice gap between those who need services and services available to them is a gap that needs to close. Civil cases deal with matters that are equally as valued as our freedoms. Some civil legal issues deemed as significant as incarceration include custody of children, the ability to work, the ability to find adequate shelter, and the need for safety (Blackbourne-Rigsby, 2014).

Some states provide counsel as a right in discreet areas and have written it into their legislation. The right to counsel in most states covers three broad categories: involuntary commitments, medical treatment, and family law. Rhetoric concerning access to justice at times portrays attorneys as impediments to access. Access can be limited by the intricacy of procedures designed to benefit attorneys and no one else (MacDowell, 2015). Advocates for the under-represented in the legal system, and court personnel argue that it would be beneficial to those attempting to represent themselves to have access to simplified forms and procedures (Cantrell, 2002). A legal process such as divorce where property, spousal support, child support, and child custody are not involved could be heard in an administrative hearing which would eliminate the need of a lawyer (Cantrell, 2002). Those opposed to considering some matters administrative cite the challenge of the adversarial system. A civil procedure such as perfecting service on the opposing party and providing proof of such service is an example of the adversarial system that exists when using the courts.

Beginning in the 1990s, U.S. state courts worked to address the challenge of providing equal access to justice through innovative programs to assist self-represented litigants. Some such programs include electronic filing of court documents, instructions written in plain language, public information, and assistance programs, and training and support materials (Gray, 2007). Other programs consist of videos and PowerPoint presentations, training for court staff, and community outreach and access programs. These innovations are not designed to encourage self-represented litigants to go to court without representation. Rather they are a way for the court to effectively and efficiently

move these cases to the disposition and to prevent self-represented litigants from being mistreated (Gray, 2007). These initiatives at times are implemented without regard to the culture of the court and practices that may cause self-represented litigants to potentially lose legal rights as well as experience injury and harm (MacDowell, 2015).

Self-represented litigants are less likely to perform research to determine if there is a cause of action or a proper defense to a claim, given that they are less likely to have access to legal references such as case notes, legal precedent, regulations, and secondary authority. Most of these legal resources are inaccessible to the legally untrained. Software programs such as Westlaw, LexisNexis, and Bloomberg are cost prohibitive and self-represented litigants may try their civil court case without the benefit of these tools. The cost to use this software may reduce their ability to formulate an effective argument in court.

Court Officials

Civil court judges and attorneys can be a barrier to self-represented litigants who have poorly written complaints or briefs, or who misunderstand court orders. According to Gray (2007), judges are sympathetic to self-represented litigants but are hesitant to depart from court procedures to prevent the appearance of impartiality and make represented parties feel as if the judge is assisting the self-represented litigant. Some judges view self-represented litigants as nuisances because they ask some questions of opposing counsel, court personnel, and courtroom clerks (Blankley, 2013). The learning curve for self-represented litigants is steep, and few within the courts, including attorneys and their staff, are concerned with helping them navigate this curve or encouraging them

to have the motivation. Adding to the learning curve is the limited times a self-represented litigant will interact with the court system on a particular matter. Due to this lack of interaction with the courts and no training in the law, a self-represented litigant has no method of judging the value of their case.

When is a lawyer-client relationship created? Legal services which provide information only attempt to prevent lawyers from establishing a lawyer-client relationship. Legal information versus legal advice is difficult to recognize in practice, and most programs provide attorneys with disclaimers, retainer forms, and liability insurance as a measure of protection (Engler, 2014). Lawyers who limit the scope of their representation to a client must receive the client's consent by Rule 1.2(c). The lawyer may not reduce the level of representation to avoid providing meaningful legal advice to a client. Lawyers must maintain confidentiality when providing services to clients for both full and limited representation and this includes consultation-only matters where lawyers are not representing the client in court. Conflicts of interest are important when providing pro bono, low bono or limited scope services. Rule 6.5 allows individual lawyers to provide services through a non-profit organization and applies only when the lawyer is aware of a conflict of interest (Engler, 2014).

A virtual firm, whereby an attorney connects with a client via technology, is another challenge to the conventional law firm. Such firms can keep their overhead costs to a minimum and pass the savings on to the client (Medows, 2014). As well, attorneys who operate in virtual law firms can increase and decrease the size of the firm as the level

of business dictates. These virtual firms must maintain password-protected and secure web space to maintain confidential attorney/client interactions.

Alternate Dispute Resolution/Limited Scope Representation

Two services low- to middle-income people do not use alternate dispute resolution and limited scope services. Alternate dispute resolution, also called meditation, can be used to resolve matters without having to go to court. If the parties can come to terms with an agreement, a complaint can be filed, and the agreement can be entered. Alternate dispute resolution is usually conducted by an attorney and is a low-cost way to resolve legal issues and can involve certified mediators instead of an attorney. This agreement is binding, but unlike using an attorney this agreement is not entered into court but upon the violation by either party can be entered into court for enforcement. Limited Scope Services is a service not used by low to middle-income people. The perceived cost of the service prevents its use. Attorneys providing limited scope services are supported by Model Rule 1.2 (c) of the Rules of Professional Conduct.

Alternate dispute resolution coupled with limited scope representation is an effective way to offer access to justice for those who cannot afford full representation (Blankley, 2013). Well within the bounds of services provided to clients, limited scope representation has long been recognized by the Model Rules of Professional Conduct. The definition of limited scope is the performing of one distinct task and nothing else by an attorney hired by a client. In a Resolution, the ABA has endorsed limited scope representation, or the unbundling of services, and has encouraged more attorneys to engage in this practice.

Self-represented litigants can take advantage of various types of alternate dispute resolution. A list of services that can be provided includes negotiation counseling, negotiation representation, mediation preparation, mediation representation, and arbitration counseling (Blankley, 2013). Some consider alternate dispute resolution, used in conjunction with limited scope representation, reasonable representation in some circumstances. Settlement counsel is a useful means of resolving disputes in areas such as family law, landlord-tenant, and consumer law to name a few.

The author argues that approximately sixty percent of court cases in the United States have at least one party representing themselves (Medows, 2014). In other parts of the country, that number is as high as ninety percent. Limited scope service is a process of entering into an agreement between an attorney and client to perform just some of the customary services in a case. A client using unbundled legal services is analogous to someone ordering food from an a la carte' menu. Critics of unbundled services argue that clients neither have nor receive enough knowledge to navigate the court system. Model Rule 1.2 (c) has been adopted in approximately forty states, and it requires that a client must give informed consent for services provided to them under unbundled services mantle. A limited scope agreement signed by the client and the attorney is there to ensure that there is an understanding as to the extent of the services provided as well as to the cost of those services. Some unbundled services consist of the attorney writing a complaint to file in court, providing a copy of the complaint documents to the other party in the case, and if necessary, appearing in court for a specific hearing (Gustafson, at el., 2012).

One study maintains that services such as limited scope representation do not help the parties obtain substantive relief in their cases (Blankley, 2013). Various studies followed litigants who enter the court without representation and irrespective of the issues, the outcomes of those cases were less favorable than those of represented parties (Steinberg, 2011). Others believe that providing some legal assistance to the greater population creates more access than providing full representation to a few participants of the low-income population (Steinberg, 2011). Limited scope representation does not prevent self-represented litigants from avoiding default judgments and other technical errors. Empirical research indicates that when a party has the opportunity to participate in and have a voice in the process, they are better satisfied with the outcome (Blankley, 2013). In civil cases, self-represented litigants are often more invested in resolving other issues that may be underlying the problem such as who gets the marital home, how much time they will have with the children, who will pay the medical, dental, and vision insurance, and even in hearing an apology from the other party to the case. By recognizing that other services, outside of representation in court, may better meet the needs of their client, attorneys can sometimes achieve this by making the order entered in court a solution that will make the client whole.

Nonlawyer Services

Some states are considering instituting services that can be performed by nonlawyers and allow those who have not licensed attorneys but are trained to perform certain legal tasks and to charge a fee for those services. The Supreme Court of Washington State has adopted the concept of licensed legal technicians who are trained to

provide limited legal services such as gathering facts, explaining procedures, and collecting documents (Committee on Professional Responsibility, 2013). The New York Family and New York State Supreme Court use nonlawyers to use pro se clerks, court-appointed special advocates, and friends and relatives to assist pro se litigants. The primary role of the pro se clerk is to assist in completing the necessary paperwork that would result in securing a court order. Court-appointed special advocates/assistants act in the capacity of "friend of the court" advocating for the needs of children who are abused, neglected or at-risk (Committee on Professional Responsibility, 2013). Friends and relatives in the courtroom bring moral support to the self-represented litigant and can also become a witness if the judge finds it beneficial. Some states have allowed independent paralegals to render services directly to a client for a fee without the supervision of an attorney (Committee on Professional Responsibility, 2013). Law students are another option in bridging the justice gap for low to middle-income people and law schools should do more to encourage pro bono efforts in that community. The legal community should increase awareness of pro bono service to law schools and should see to it that the proper context is provided to law students to ensure a clear understanding of Model Rule 6.1 (Blackbourne-Rigsby, 2014).

In the case of Pliler v. Ford, the court created a substantial barrier to unrepresented litigants since it held that not only should judges not help self-represented litigants but that by assisting them, they were jeopardizing judicial neutrality (Landsman, 2012). LSC, the agency funded to provide legal services to low-income self-represented

litigants, is only able to provide legal representation to approximately twenty percent of those eligible for their services (Greacen, 2014).

Doctrinal Barriers

Authors such as Davis (2012), Janku and Vradenburg (2015), Landsman (2012), Painter (2011), Greacen (2014), and Medows (2014) addressed doctrinal barriers. Doctrinal articles discuss barriers such as language, remedy, and evaluation of their court case. Language barriers pertain to legal language derived from Latin and French. James Madison in section V of The Federalist No. 62 states:

> The internal effects of a mutable policy are still more calamitous. It poisons the blessing of liberty itself. It will be of little avail to the people, that the laws are made by men of their own choice, if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood; if they be repealed or revised before they are promulgated, or undergo such incessant changes that no man, who knows what the law is to-day, can guess what it will be to-morrow. Law is defined to be a rule of action; but how can that be a rule, which is little known, and less fixed? (Congress.Gov Resources, 2016)

Some low- to middle-income litigants may not understand many of the terms necessary to try their case. Although services such as forms-processing may provide self-represented litigants with clerical help, the restriction of identifying errors or answering questions that provide specific direction is prohibited. LegalZoom, a computerized document assistance program, was held to have violated the unauthorized practice of law (UPL) standard because the software provided more assistance than clerical support and helped the

litigant to determine the legal direction they should pursue without the assistance of a licensed attorney. Courts have used the prohibition of the UPL as a tool to ensure that the public suffers no injury as a result of legal advice given by a non-attorney. About twenty-five percent of all UPL cases within the past ten years specifically address public injury based on improper legal advice given. Attorneys and the unauthorized practice committees primarily file UPL lawsuits against cyber lawyer products and these suits have settled without harm.

The author claimed that nations other than the United States allow non-attorneys to assist with routine documents and provide legal advice and that no evidence suggests harm to clients (Rhode, 2014). Research in the United States shows that non-attorney specialists are conducting legal representation in bankruptcy cases and for administrative agency attorneys (Rhode, 2014). Research also noted that broad formal preparing is less critical than everyday encounters for viable advocacy.

Practice of Law

There are good arguments on both sides as to whether competition between lawyers and non-lawyers should exist. How the practice of law is defined determines the level of free-market services a non-attorney could provide. There is no one clear definition or standard for UPL in the United States, which attorneys may use as a means to restrict non-attorneys from practicing law without a license. Some jurisdictions within the United States just deny, without characterizing, the act of law by non-legal counselors. Others adopt a roundabout strategy and characterize the routine with regards to the law as what legal advisors do. These definitions can cross into other professions

that must know the law (Rhode, 2014). Professionals in other industries may not be able to give intellectual advice without referencing legal concerns (Rhode, 2014). The professionals are in the industry of accounting, financial planning, real estate brokers, insurance agents, even newspaper advice columnists (Rhode, 2014).

Enforcement of UPL is not consistent across the states. Some states report active levels of enforcement, while others allow multiple entities to enforce UPL restrictions. Some states have established laws while other states have local rules that cover restrictions on UPL (Nicholson, 2013). Though states have duplicate authority for UPL enforcement, a lack of funding or personnel challenges their ability to compel actions. Penalties for UPL infractions vary from state to state with some, for example, having civil injunctions, criminal fines; while others have prison sentences; and some have civil contempt and civil fines.

States such as New York have amended their penalties for the unlicensed practice of law by raising it up from a misdemeanor to a felony. With the increased frequency of scams that target the elderly and disadvantaged population such as a reverse mortgage, identity theft, immigration, and bankruptcy, Connecticut in 2013 amended its rules to a felony as well. These raised penalties increase the likelihood that a judge will hear a UPL case as well as make a ruling.

The ABA has made several attempts to define the practice with little success and has placed the burden of defining the practice of law on the states. There has been an effort by the ABA to urge states to refrain from broadly defining the practice of law as it would prevent any free-market competition from taking place (Nicholson, 2013). Within

the definition can be certain types of legal services that do not require the skills and knowledge of a practicing attorney, but the ABA has not defined the types of services.

North Carolina law has in Chapter 84; Section 84-2.1 has defined the practice of law as:

> (a) the phrase "practice law" as used in this Chapter is defined to be performing any legal service for any other person, firm or corporation, with or without compensation, specifically including the preparation or aiding in the preparation of deeds, mortgages, wills, trust instruments, inventories, accounts or reports of guardians, trustees, administrators or executors, or preparing or aiding in the preparation of any petitions or orders in any probate or court proceeding; abstracting or passing upon titles, the preparation and filing of petitions for use in any court, including administrative tribunals and other judicial or quasi-judicial bodies, or assisting by advice, counsel, or otherwise in any legal work; and to advise or give opinion upon the legal rights of any person, firm or corporation: Provided, that the above reference to particular acts which are specifically included within the definition of the phrase "practice law" shall not be construed to limit the foregoing general definition of the term, but shall be construed to include the foregoing particular acts, as well as all other acts within the general definition.

It was important to provide North Carolina law on UPL as I will be collecting focus group data from North Carolina Judges and attorneys. I will also conduct one-on-one, face-to-face interviews and online surveys with self-represented litigants who reside in

the state of North Carolina. Other professions may refute some restrictions based on the North Carolina law that defines the practice of law given that someone in a field not included in the law can show that they do not develop a relationship with the customer which is based on trust and reliance on their knowledge and skill in the law (Nicholson, 2013). Professionals such as tax accountants, real estate agents, and pension consultants do not represent themselves as legal professionals, but they have to use related laws to provide accurate information to their clients.

The two-tiered market system for legal services can create competition in the legal field and provide limited legal services to low- to middle-income people. A layperson who provides legal services would receive either a qualified or unqualified designation, and these will inform the public of those who are certified and those who are not (Nicholson, 2013). Some argue that a non-attorney system would lower the quality of legal services, and some could potentially take advantage of their lack of knowledge of the legal system. The Supreme Court of Washington State has adopted the concept of trained and licensed non-lawyers (Committee on Professional Responsibility, 2013). The services such non-lawyers may provide include the gathering of facts and documents, and assisting in completing court forms, but do not include participation in civil court (Committee on Professional Responsibility, 2013) so there are tasks that non-lawyers can perform effectively with some training.

Civil courts in New York, New Jersey, and Virginia utilize help desks to inform litigants of court procedures, the duties and responsibilities of certain courts, and refer litigants to additional resources. Court-sponsored courses such as legal clinics, town hall

meetings, and information sessions are valuable resources to educate the public. Volunteers such as law school students and undergraduate students in law-related fields can assist magistrates and judges in landlord/tenant, child custody, and child support cases as well as simple divorce cases. If the goal of the access to justice advocates is that low to middle-income people must have access to qualified attorneys, then the two-tiered system will not succeed. This system will become one where one group has access to full representation by a licensed attorney, and the low and middle-income people will have non-lawyers who provide limited services which would not include providing legal advice or representation in court (Nicholson, 2013). The impact on those who choose the cost-efficient direction is the lack of understanding of the legal issue in question and the potential remedy available to them since the legal issue may be more complicated than the unqualified, or even the qualified non-lawyer, will be able to decipher and this could cause the client to lose their right to specific remedies.

Harm and injury to low to middle-income people can also be caused by non-attorney-operated self-help websites. These websites may represent that they provide the proper forms acceptable to the state in the filing of legal actions and in some cases their forms may meet the minimum standard required by the state. They may not, however, meet the requirements of a particular county within the state based on that county's local rules. Such a website may limit itself to guaranteeing that the forms follow the state's laws and may consist of a complaint and a civil summons when the court process in some counties may require additional documentation to obtain the remedy sought. Consumers who have their cases dismissed after using these services may feel that their only recourse

is to file a complaint on the website, on other consumer protection websites, or with the Better Business Bureau.

The Role to Increase Access

Language is another doctrinal barrier that prevents some from access to justice. Speakers of Spanish and French may find some relief in understanding legal terms, but speakers of Arabic, Hindi, Madeiran, or one of the many African dialects may have a harder time understanding legal terms. The roots of most legal terms derive from Latin and French, and this makes it difficult for some English speakers to understand. Increasing access to attorneys for those of low to middle-income is a problem that the ABA and state and local bars must address. Providing targeted access to this population will prevent the need for a two-tier market system. The ABA's Model Rules of Professional Conduct, specifically Rule 6.1 provides that each attorney has a professional responsibility to provide legal services to those who cannot pay.

A study conducted in 2012 found that less than forty-four percent of lawyers performed more than twenty hours of pro bono services and the ABA has urged attorneys to provide at least fifty hours per year (Nicholson, 2013). An experienced lawyer performing pro bono work is critical and can be potentially lifesaving, but the volunteer/pro bono movement has been consistently unable to maintain fifty hours of pro bono services over any period.

Leadership in the legal community has failed this movement as there is no push to track the number of hours attorneys provide pro bono services. It is time to require practicing attorneys to provide at least 120 hours of pro bono services over each two year

period (Nicholson, 2013). The criteria which qualify an attorney for credit is to render pro bono services to meet the needs in civil litigation cases in the areas of housing, family court, or consumer matters in civil court.

Bench Books and Bench Cards

Judges face the difficult task of providing just rules in court for both attorney-represented cases and self-represented cases. A just outcome in self-represented cases requires judges to adopt best practices or standards of conduct, and some states have a bench book or bench card to assist judges in directing a case to such an outcome. Some of the best practices in civil courts are as follows:

> Framing the subject matter of the hearing, explaining and guiding the process that will be followed, eliciting needed information from the litigants. Additional methods of directing a case is accomplished by; breaking the hearing into specific topics, asking general questions to obtain information needed for a fair decision, and paraphrasing. While trying cases, Judges can give litigants an opportunity to be heard while constraining the scope and length of their presentations and engage the litigants in decision making. Before adjourning the case, the Judge can, articulate the decision from the bench, explaining the decision, summarize the terms of the order, anticipate, and resolve issues with compliance, providing a written order at the close of the hearing, setting litigant expectations for next steps (Greacen, 2014).

Judges can engage self-represented litigants effectively when they use these techniques during the hearing. This process allows self-represented litigants to gain a greater

understanding of the outcome of the case and to know the factors that played a role in the judge's decision. Determining who is the winner or loser is most difficult in family law cases given that typically there are two parents in such cases. If one parent is given more time to a child or children, is that parent the winner and the other the loser? The best interest of the child is for both parents to have an active role in the child's life

As previously stated, left with few options self-represented litigants either do not seek a resolution to their disputes or must resort to representing themselves in court, and judges are faced with dealing with issues of poorly written pleadings, extending deadlines, and listening to unprepared testimony and direct and cross-examination. Other obstacles include repetitious filing and the filing of frivolous cases, along with the demands self-represented litigants place on the court (Gustafson, at el., 2012). Problems associated with responding to motions for summary judgment and the lack of ability to understand legal decisions or orders also present difficulties and impede court procedures and self-represented litigants often fail to know when it is appropriate to object to testimony or evidence entered onto the record.

Political Barriers

Political barriers are the least visible hindrances, and therefore it is more difficult to make changes to them. Some local and state legal associations work to maintain the legal system as it currently operates, and self-represented litigants do not have an opportunity to provide input to state and local county rules of court procedures as it is difficult to understand the process for providing input to state and federal legislators on laws that affect civil cases.

Countries such as Mexico, Bangladesh, Nepal, and the United States, do not provide a comprehensive right to counsel for litigants in civil cases and some researchers argue that a society's inability to afford counsel is not limited to those affected but it is everyone's problem (Medows, 2014). Citizens without the means to litigate their claims can be taken advantage of without fear of recourse, and an unjust and immoral society can result from a justice system that does not provide protections for the poor (Medows, 2014).

In 1964, President Lyndon B. Johnson's Economic Opportunity Act -- the "war on poverty" – created legal services programs intended to help the poor with legal matters (Landsman, 2012). President Richard Nixon restricted these programs and moved them to LSC. The reason for the reorganization was to ensure that those who could not afford an attorney had access to legal counsel and were able to get advice in civil cases (Landsman, 2012). The creation of legal services was a step to help break the cycle of poverty experienced in America during the depression.

In 2007, the recession in America created constraints on monies used to fund legal services. The Supreme Court recognized the limitation as a reason not to rule to expand the right to counsel (Barton and Bibas, 2012) and due to the monetary reduction in the federal budget, Congress refused to fund court-appointed attorneys in civil cases, cases such as Turner v. Rogers (Barton and Bibas, 2012). The Supreme Court has avoided legislative and judicial judgments involving the civil right to counsel (Barton and Bibas, 2012) but in civil cases too complex for a self-represented litigant to try, some courts have funding reserved to appoint counsel. Those who advocate for a civil right to counsel

or civil "Gideon" focus on one case in isolation. Unfortunately, because of the constraints in the federal budget, criminal and civil cases contend for funding. Felony cases, especially capital cases, involve such procedures as trial by jury, jury instructions, arguments, rules of evidence, and other complexities. The poor do not have the same compounded levels of court procedures to follow in civil cases, and this gives local, state, and national bar associations the perception that representing yourself in civil court is easier.

The ABA

The ABA has made efforts to slow down or even prevent any movements aimed at placing an hour requirement on the amount of pro bono services provided by attorneys each year. Although the ABA is the regulatory body of the legal community, its membership consists of attorneys. Attorneys serve in various capacities such as local, state, the federal government, board of directors, general counsel for national and international companies. There are those who also serve as elected officials, policy writers, consultants, and lobbyists. The influence of the ABA spans all levels of government as well as the public and private sectors.

Litigants at times are uninformed and unorganized when attempting to address access to justice. Most of their efforts are focused on options bar organizations have effectively opposed (Rhode, 2014). Most Americans believe that legal services should be available to those who cannot afford to pay for full representation and the majority also believe that the poor have a right to counsel in civil court cases. One-third of the population think that legal assistance would not be difficult to find by low-income

individuals, and out of touch perception (Rhode, 2014). Approximately four-fifths of those surveyed feel that legal matters handled by attorneys can be performed just as well and more cheaply by non-attorneys, and most see legal assistance as more episodic and willingly met by self-help.

Given their incentive and ability to resist, the ABA is a formidable foe when it comes to reform. No other profession has been able to spread its influence across all three branches of government as the legal profession has and this allows the ABA to block initiatives that might benefit the public at the legal community's expense (Rhode, 2014). The bar association is known for not supporting regulations that strengthen and enforce UPL. The bar has expressed concern over the spreading of pro se court as it may entice middle-income people and above to represent themselves rather than hiring an attorney (Rhode, 2014). It has also effectively sabotaged any efforts to mandate pro bono services, even though leaders and ethics codes mandate that attorneys should provide pro bono services to low and middle-income people and such attempts get buried by the ABA and legislators. Only thirty-six percent of attorneys in the United States meet the unregulated standard of fifty hours per year systemized in the Rules of Professional Conduct and some of the largest firm attorneys perform no more than twenty hours of services per year.

Litigants representing themselves in court are a powerless group due to the lack of unity and to their status in civil cases (Medows, 2014). Such cases are adversarial and require one party to file a complaint or plead against another party. Although it may be equitable if both sides have representation, the party that has counsel may feel that it is

not their concern if the opposing party does not. In that capacity, this cycle brings about an inability to satisfactorily address the requirements of this gathering.

Reform Strategies

The increased interest in do-it-yourself brochures, manuals, and form packets along with the increase in self-represented litigants has put added pressure on the legal community for reform, and how judges and court clerks view self-represented litigants has changed over the past fifteen years. This attitude change has helped to usher in access to justice commissions and consortiums consisting of law professors to conduct research and teaching initiatives on the phenomenon of access to justice. Washington State has developed a licensing system for paralegals which will allow them to perform some limited legal services and California and New York is contemplating similar systems (Rhode, 2014). The increase in self-help software has caused a change in ideology toward this form of access to justice. The ABA ended their attempt to make known the descriptive definition of the UPL. The unauthorized practice occurred based on the Federal Trade Commission and its antitrust division, along with the Justice Department, in their concern with anti-competitive results of such charges. (Rhode, 2014). States such as California and Massachusetts have commissioned a pilot program that will evaluate the cost of guaranteeing the right to counsel in certain cases, and the task force on legal education of the ABA has recommended a licensing system for paralegals to provide specific legal services. Four levels of strategy need to be considered by the ABA. The first is to maximize self-help and assistance opportunities that are less expensive than licensed attorneys. The next strategy has two parts; first, create ways to connect cases and

issues with a cost-effective provider, and second, litigants in cases not addressed by other low-cost methods must have access to attorneys. The third involves researching to evaluate the methods of assistance and to increase the understanding of what works in what circumstances. The last strategy should ensure that more education on the need for reform takes place with the public and those in the profession (Rhode, 2014).

Self-Help and Nonlawyer Service Providers

Courts around the country are noticing the increase in self-represented litigants and have implemented reform efforts to accommodate them. Litigants are a vulnerable group in society because they are disproportionately poor and are typically unfamiliar with legal proceedings (Rhode, 2014). This population also faces the barriers of language, literacy, and education. There is a need for more courts that are friendly to self-represented litigants and need to reduce the complex language and procedures required to navigate the court system. Using technology and training judges and staff to assist self-represented litigants would significantly improve their experience. Starting in 2009, courts have developed magistrate courts for self-represented litigant cases and have employed staff attorneys to help them navigate the system. Other court programs have hotlines staffed by attorneys to assist self-represented litigants with basic questions, and pro se clerks in some courts confirm for the bench that the litigant has met the minimum standard necessary for their self-representation. Other programs make available an attorney-for-the-day system that provides limited scope services on specific issues such as child custody, divorce, eviction (landlord/tenant), and small claims (Rhode, 2014).

Gap in Literature

The research is a qualitative study to understand the barriers experienced by self-represented litigants in civil courts and those barriers, as identified in my review of the literature, are financial, structural, doctrinal, and political (Rhode, 2014). This study should be pursued to provide the field with trustworthy, quality research to further help identify obstacles encountered by self-represented litigants; it is important to research, not only for them but for the legal community as it will assist states and civil courts in developing legal assistance programs for low and middle-income people.

Authors such as Cantrell (2002), Smith (2016), Steinberg (2011), and Blankley (2013) provide information about financial, structural, and doctrinal barriers and others have addressed those issues as well as looking at political barriers to access to justice in civil court. Even so, there is a negligible amount of research on these barriers. My research has found the use of journal articles that address barriers but do not follow a research methodology or theoretical framework. I also uncovered articles that do not include data collection methods and sampling strategies with findings that are results-based. Those articles do not study the population to provide quality peer-reviewed research. The gap in the research goes to the lack of a theory that addresses the advent of self-representation. The more the number of low and middle-income people who access the court's increase, the more the legal community will need to address the issue of the lack of support for those who cannot afford full or partial representation. Gustafson at el., (2012) argues that judges in the 7th District Circuit Courts have seen an increase in self-representation. Gideon v. Wainwright rests on equality grounds with repeated inequitable

results when the prosecuted has representation in court, and the poor defendant does not (Davis, 2012).

According to articles used in this research, there is justification for adding more qualitative research to this field of study and this study will contribute to the critical gap in research on the topic of barriers experienced by self-represented litigants in civil court. It will identify the barriers based on the lived experience of the study population. Some of the journal articles on this topic use only other journal articles and court decisions to justify their resulting arguments. Some are not peer-reviewed and are biased depending on which lens the author uses to view the topic. This research will have a theoretical framework, methodology, results, and a conclusion as to the barriers experienced.

Goals and Objectives

The goal of my research is to provide the North Carolina State Bar Association, the Mecklenburg County Bar Association, the Equal Access to Justice Commission, and the Access to Justice Section of the Department of Justice the information needed to understand the lack of assistance provided to low and middle-income people by the legal profession. The following five results of the research I am conducting may contribute to the state of North Carolina legal system and reduce barriers for self-represented litigants: 1.) Modify the North Carolina Rules of Professional Conduct to establish a minimum number of hours each attorney in the state must provide pro bono per year. 2.) Strengthen the language in Rule 6.1, Voluntary Pro Bono Publico Service, to ensure attorneys have protection when they provide legal advice or when they write pleadings for self-represented litigant. 3.) Strengthen and clarify the language in Rule 6.5 Limited Legal

Services Programs. 4.) Make the state and federal government aware of the necessity of funding Legal Aid Offices and Self-Help Centers in North Carolina and possibly throughout the United States. 5.) This research will assist the North Carolina Chief Justice Commission in the Administration of Law and Justice, especially with their inquiry into a right to counsel in civil court.

The objective of this research is to increase the legal communities' understanding of barriers experienced by self-represented litigants. Increasing the knowledge of legislators, judges, and attorneys about the barriers that confront such litigants will help shape policies that are designed to provide greater access to justice at the local, state, and federal levels of government.

Summary

The United States should have a system of representation that is less expensive and more inclusive. Fundamental issues and the insurance of fairness should determine civil rights to counsel (Rhode, 2014). Basic needs areas such as shelter, sustenance, safety, health, and child custody are beginning points for the ABA, and procedures and power relationships between parties should be considered when determining fairness (Rhode, 2014). Fundamentals such as brief imprisonment for misdemeanors, where counsel is mandated, often dominate the concept of attorney access. Countries in the Council of Europe such as Canada, Japan, India, and Australia recognize a civil right to counsel in some cases while the United States is behind forty-nine other countries in such recognition (Rhode, 2014). In the financial portion of this paper, I argue that money and

politics are factors in the civil right to counsel, causing both governmental and non-governmental agencies to vie for money to perform services in their area of interest.

By reviewing the literature on this topic, it became evident the impact these barriers have on the legal community and those attempting to gain access to the courts. The literature review provided a history of self-represented litigation in the United States and barriers that have slowed the process of creating a fair and equitable judicial system, as well as identifying Supreme Court cases and their impact on self-represented litigation. To clarify how the lack of understanding of the impact of the barriers, focus groups as well as one-on-one, face-to-face interviews will be conducted with civil court judges, attorneys, and self-represented litigants. Lastly, the literature review introduced methods of financing legal assistance services identified a system for delivering legal services to low and middle-income people, defined who can and who should provide legal services, along with outlining laws, rules, procedures, and policies that would make the interaction with civil court more equitable. Chapter 3 presents the research methods used to conduct the study and will provide an overview of the design and approach used in conducting this study. Chapter 5 encompasses the implications for social justice, laws, policies, rules, and procedural changes and includes recommendations for future studies.

Chapter 3: Research Method

This study was intended to expand on current literature regarding the financial, structural, doctrinal, and political barriers experienced by self-represented litigants. Chapter 3 provides information on the design of the research, the role of the researcher, and the methodology used for the study. The population of this study is addressed as well as the data collection method. The potential for ethical concerns is also addressed.

Research Design and Rationale

The qualitative, hermeneutic, phenomenological approach provided an understanding of the lived experience of self-represented litigants in civil court. Researching lived experience helps depict a phenomenon (Creswell, 2009). This design helped answer the research questions for the study:

Research Question 1: What barriers are experienced by self-represented litigants in civil court?

Research Question 2: What is the experience of judges who hear cases with at least one party being self-represented?

Research Question 3: What is the experience of attorneys who try cases when the other party is self-represented?

Role as the Researcher

In social justice and in the interpretive framework, individuals seek the understanding of the world that they live and work (Creswell, 2009). In qualitative research, ethical practices must be recognized by the researcher especially the importance of subjectivity of their lens (Creswell, 2009). As the researcher and a multicultural

subject, I maintained a distance between my beliefs and the information I receive from the participants.

I have a professional relationship with some of the judge interviewed in this study, as I have worked with civil district court/family law judges. But I had no power over this population, as they are elected officials and report to the chief district court judge and the chief judge for the state of North Carolina. I also did not have power over the self-represented population. My school email address was used as the means to contact me and only answer questions about the research after I was off from work.

Methodology

Participant Selection

The population selected for this study included judges, attorneys, and self-represented litigants who work and reside in North Carolina. For judges, they had to be licensed in North Carolina for 5 years before becoming a judge and on the bench for 4 years with at least 2 of those years trying civil district or superior court cases with at least one side of the case being self-represented. The criterion for attorneys was that they were licensed to practice law in North Carolina for 5 years with a least 3 of those years trying cases in civil district or superior court with the opposing party being self-represented. For the self-represented population, I recruited those who initiated a civil district or superior court case without any assistance from an attorney and at no time in the process used an attorney in their case. Additionally, the self-represented litigant had to have tried their case in court and have a current order in their case.

After permission was given, I placed recruitment flyers in the judge's chambers for civil district and superior court judges. Attorneys were recruited by placing a recruitment flyer in each civil district and superior court courtroom in the county courthouse. Flyers were also placed in the clerk of superior court's civil district and superior court filing division and will place flyers in the family court division and caseflow management division to recruit self-represented litigants. There were five judges recruited for the judge focus group, five attorneys recruited for the attorney focus group, and five self-represented litigants recruited for the one-on-one, face-to-face interviews. Online surveys were available to self-represented litigants and led to 25 accepted surveys.

The site location was different for the judges but used the same location for attorneys and self-represented litigants. For the judges, the focus group was conducted in the county courthouse at a time when most patrons were out of the courthouse. A conference room was used to give us privacy and judges the ability to provide open and information-rich answers. The attorney focus group took place at a regional center conference room, which has plenty of parking, handicap access, and is a neutral site location with no other attorneys who occupy office space in the building. I used the same location for the one-on-one, face-to-face interviews with self-represented litigants.

The justification for incentives is to assist in recruiting participants to be part of the self-represented litigant focus group and encourage self-represented litigants to participate in the online survey. I will offer the same incentive for judges and attorneys to prevent any bias or ethical issues based on a personal or professional relationship.

Sampling

A homogenous sampling technique consisted of two focus groups, five one-on-one, face-to-face interviews, and 25 self-represented litigants. The homogeneous sampling method allowed me to understand and describe a particular group in depth. The first focus group consisted of five judges who have adjudicated civil cases for at least 5 years. The second focus group was composed of five attorneys who have practiced civil law for 5 years. The participants in the one-on-one, face-to-face interviews, as well as an online survey, comprised of litigants who have filed a complaint and obtained a court order without representation from an attorney. Five one-on-one, face-to-face interviews were conducted in addition to 25 online surveys. The sample size used in this study allowed for information-rich results being derived from this study.

Instrumentation

Semistructured interviews of judges, attorneys, and self-represented litigants were conducted to learn of their views and experiences as a person who adjudicated, was the opposing party, or represented themselves in a civil court case. The semistructured interviews were of five civil district or superior court judges, five attorneys who practice law in a civil district or superior court, and five litigants who represented themselves in a civil district or superior court. Additionally, 25 litigants took an online survey. In the focus group interviews, I used three recording instruments; the first was a computer software program to record audio-only. The webcam was covered on the computer to ensure no video is recorded during any of the interviewing sessions. The second was an audio recording device; I used a new cassette tape for each interview session and ensured

the batteries had at least 50% charge. The third recording device was my cellphone with the smart recorder app and will ensure the cellphone battery has at least a seventy percent charge at the start each interview session. Each audio file will be labeled separately using a common naming protocol and ensure not confuse any of the information. The method of collection will be explained as well as the different collection devices used during the interviews. The cellphone will also be used to ensure I stay within the allotted time to conduct the interviews.

Data Collection

The possible types of data collected for this study will be semi-structured one-on-one, face-to-face interviews, online surveys, and two focus groups. I will also request data from the Administrative Office of the Courts and the Annual reports from County Self-Help Center to determine the number of self-represented litigants in the court system. This information will help identify services provided by the largest county in North Carolina to litigants who attempt to represent themselves in court. Assistance will be needed from the institutional review board (IRB) to review and obtain the data from the County Self-Help Center as well as the Administrative Office of the Courts.

The collected data will be semi-structured using focus groups, one-on-one interviews, and online surveys. Using qualitative questioning such as ideal questioning will assist in gathering information about the participants' concept of a solution to the problem. Interpretive questioning allows the participant to be subjective and provide in-depth information on the topic. Leading questions provide the participant with a direction for their answer. This type of question helps the participant maintain focus on the

research topic. The data collection and questioning methods will assist me in gathering in-depth information from the participants of the study. The main questions of the interview should be structured to show their connection (Rubin & Rubin, 2012). Connecting questions allow for rich information across the entire interview and overlap answers by providing more detailed to answers to questions provided earlier. Researchers should ask broad, open-ended questions first then move to more detailed questions later in the interview. This will allow for a better interaction between the researcher and interviewee (Rubin & Rubin, 2012).

Data Analysis

The framework analysis of the study will consist of familiarizing me with the data collected by transcribing and reading it multiple times. I will also identify the initial framework that developed from prior and new issues. In the study, I will use textual codes to assist in determining specific pieces of data that correspond to the different themes that emerge. The charts created will be from headings of the thematic framework. Lastly, analyzing the data collected I will be looking for patterns, associations, concepts, and explanations in the data collected.

This data will be transcribed word by word using the data analysis system Dedoose qualitative and mixed-methods software. This software allows the researcher to upload text, photos, audio, videos, and spreadsheet data. The researcher can collaboratively share work products with others and still maintain control. The software is cloud-based and updated for qualitative research. Dedoose uses the highest in encryption software to ensure that the research is secure from their server to my

computer. Dedoose also conducts a nightly backup of the information contained on their server. Information on the server can be backed up on a computer or personal hard drive as extra security from loss of information.

Simultaneous coding does not only include regular patterns but also can consist of forms of coding that vary (Hatch, 2002). I will use pattern coding for this study, with an emphasis on similarity, difference, correspondence, and causation (Hatch, 2002). I will look for patterns to determine if the financial, structural, doctrinal, and political barriers experienced by self-represented litigants are verified based on the information provided in interviews.

The analytical approach will be used is inductive. The inductive analysis is a major design of qualitative research. Using a new framework, it is important to group data by category and look for the relationship. The point of focus in the text data will be to identify the barriers of political, structural, doctrinal, and financial. Text data categories may emerge or dissipate during the analysis, which could drive the research in another direction.

Issues of Trustworthiness

For the past 18 years, I have worked with the sample population which has helped me develop assumptions that will need to be validated. One assumption that has to be validated is the litigant's inability to analyze and evaluate the issue they want to present to the court, their inability to gain an understanding of the legal language used in court documents, court hearings, and a lack of understanding the remedy the court can provide. I have worked in this field for 18 years, and because of that research bias has the potential

to make researching this topic difficult. Having observed this population can cause research biases that can affect the results of research conducted on this topic. Bias can create conditions that can diminish the validity of the research. One of the most pervasive biases in research is confirmation bias. Inserting beliefs into parts of the research that takes place at any moment and can consist of the researchers' judging and weighing responses that confirm their beliefs. Confirmation bias can extend into data analysis pointing towards the desired results. To reduce confirmation bias, I will need to constantly reevaluate the sense of respondents and their assumptions and beliefs.

Question order bias happens when the researcher influence answers by the order they ask questions. Researchers should plan to avoid question order bias as much as possible by asking general questions before asking specific questions and plan to ask positive questions before asking negative questions to reduce bias. To reduce question order bias, there must be a conscious action by the researcher to maintain validity.

As a researcher, asking leading questions or shaping the respondent's answer can lead to bias. Having influence over the respondents answer by a perceived weight on each question can aid in bias research. Using the respondents' language when asking questions will help reduce bias and prevent any influence over the experience of the respondent. When transcribing data, I will not assume the relationship between a feeling and the behavior of the respondent.

A researcher must also consider the bias they have within a topic. Researchers must focus on the bias of the respondents. Some respondent acquiesces because they feel that the researcher is the expert. The participants of the study could provide simple

answers as a way out of the interview. To keep respondents engaged, I will keep the interviews to no more than one hour per session and ask open-ended questions to allow their true point of view to be expressed.

Respondents may know or suspect the feelings of the sponsor of the research, which may bias their answers. Respondents were familiar with the County Self-Help Center; its goals and mission could influence how they answer related questions. As a researcher, I must maintain a neutral stance, as well as reduce positive reinforcement of feedback.

There are several dimensions of rigorous analysis (Patton, 2015). One dimension is information search, which requires depth and breadth of the search process in data collection. I have been conducting a diligent, purposeful sampling of data as relevant to the inquiry. Information validation is the dimension that uses corroborated and cross-validation. Verification and triangulate information, as well as sampling information from rich, trustworthy, and knowledgeable sources. Information synthesis addresses how far the researcher goes beyond simply collecting, listing, and analyzing distinct data elements. I plan to use thorough consideration of the data collected to extract and integrate information. Researchers conducting studies interpret relevant data annotating areas of consistency in finds and areas of data that provide conflicting findings (Patton, 2015, Exhibit 9.5).

Trustworthiness within data collection is an essential part of the research process. There are four factors to consider for a researcher to establish trustworthiness (Patton, 2015). Credibility is the inquirer's reconstruction, representation, and the fit between the

respondent's views of their way of life. Transferability allows the inquirer to provide the reader enough information on the case study which could establish a degree of similarity in the case was studied and cases in which findings may be transferred.

Dependability makes the inquirer responsible for ensuring the process is logical, traceable, and documented. This process is parallel to reliability. The last dimension of trustworthiness is confirmation. Confirmation establishes that data and interpretation of data in an inquiry is not merely a creation of the inquirer's imagination.

Ethical Procedures

Before starting the information-gathering stage for this study, I asked for and acquired IRB endorsement (approval no. 07-25-19-0625821). Remembering the individual idea of the study, a few participants were incredulous about participating. Nonetheless, after tending to every single intrigued participant worry, those chose unreservedly and eagerly volunteered to partake in the interview process. All the participants picked to take an interest and could quit the study at any time in the process. Moreover, all protection laws were observed, and participants' privacy was maintained as required by ethical research standards. While participants shared their encounters, no participant involved in the study was identified. Participants communicated agreement was achieved, and their privacy was looked after unequivocally. All study material was secured by Kaspersky internet security software as well as Dedoose data encryption software. Paper versions of all materials gathered during the interview process were stored in a Sentry Safe located in the home office of the researcher. The IRB policy prescribes erasing and crushing all cassette tapes used to gather data, deleting all audio

files on the researcher's cellphone and computer. Also, the IRB recommends deleting the audio files from the trash folder on both the cellphone and the computer to ensure the data cannot be recovered. Before validating data, any information identifying participants in the study was removed from all material. Consent forms and confidentiality statements were secured in compliance with Walden University policies and procedures.

Summary

Chapter 3 provided the research design for the study along with the rationale, methodology, and ethical procedures for this study which looked to understand the barriers experienced by self-represented litigants in civil courts. As a researcher, how data on the lived experiences of self-represented litigants in civil court is gathered and how participants were recruited, the selection criteria, the interview approach for this study and the role of the researcher was discussed. The hermeneutics phenomenological approach was used as the data collection mechanism which helps to bring rich, in-depth information to the study. I also discussed the method used to collect data and how it was analyzed. Trustworthiness is addressed and discussed the relationship between the sample population and the methods used to prevent from violating ethical procedures. The information above laid the foundation on which data was characterized in chapter 4 of this study.

Chapter 4: Results

This phenomenological study was intended to record the experience of self-represented litigants in civil court from their responses as well as the responses of civil court judges and attorneys who try cases in civil court. The results of the study will contribute to the knowledge of the legal community supporting the need for more pro bono as well as low bono options for litigants who cannot afford full representation. Chapter 4 is the results chapter, which also includes participant demographics, data collection details, and data storage and analysis information.

Setting

Participants in this study were recruited from a county courthouse in North Carolina. At the time of the study, each participant demonstrated they were sound in judgment and understood their role in the research. Economic status or ability to afford an attorney was not a criterion in the recruitment of participants because their lived experiences needed to be captured as detailed on the recruitment flyer.

Participant Demographics

I used a diverse group of participants, including judges, attorneys, and self-represented litigants, who interact with the court for different reasons. From the flyers posted throughout the courthouse, participants contacted me directly by phone or email to express their interest in participating in the research study. After recruiting five judges, I scheduled a date and time for the WebEx video interview. The judges' focus group did not have additional questions. Two attorneys interested in the focus group had one clarifying question, and it was determined they did not meet the criteria to participate.

From the pool of self-represented litigants, 70 participants contacted me to take part in the study. After clarifying questions, 40 candidates either do not meet the criterion or were no longer interested in participating in the study.

I used specific criteria for each focus group and self-represented litigants. In the judge focus group criteria, all participants had to work as a judge for 5 years to adjudicate cases in district court with a least one party being self-represented. In the attorney focus group criteria, all participants in this group had to have practiced law for at least 5 years and tried cases in district court against a self-represented litigant. The criterion for self-represented litigants was to participate in a district court case from filing to adjudication without the representation of an attorney. All participants participated freely and at no time were coerced and/or forced to take part in or continue participating in the study.

Everyone participating in the study was voluntary, and to protect their identity, I coded their names. The codes used are JDG-1–5. For an attorney who participated, I used codes ATY-1–5. For self-represented litigants in the face-to-face interview, I used codes SRLF-1–5. For self-represented litigants who completed the online survey, I used codes SRLS-1–25. The judge and attorney focus group took place via WebEx video conferencing software. Two of the one-on-one, face-to-face surveys took place in the courthouse conference room for privacy. Three of the one-on-one, face-to-face interviews took place via online survey. The 25 online surveys took place using Survey Monkey software. The participants' demographics as presented at the time of the interview are shown in Table 1.

Table 1

Participant Demographics

Participant	Gender	Race	Age
JDG-1	F	B	52
JDG-2	F	W	60
JDG-3	F	B	42
JDG-4	M	B	51
JDG-5	F	B	60
ATY-1	F	B	52
ATY-2	F	W	30
ATY-3	F	B	40
ATY-4	M	W	48
ATY-5	M	W	34
SRLF-1	F	B	55
SRLF-2	F	W	42
SRLF-3	F	B	42
SRLF-4	F	B	46
SRLF-5	F	I	44
SRLS-1	F	B	29
SRLS-2	F	B	33
SRLS-3	F	B	45
SRLS-4	F	B	36
SRLS-5	F	B	25
SRLS-6	F	B	41
SRLS-7	F	B	26
SRLS-8	F	B	29
SRLS-9	F	B	49
SRLS-10	F	B	51
SRLS-11	F	B	32
SRLS-12	F	B	35
SRLS-13	F	B	37
SRLS-14	F	B	44
SRLS-15	M	B	27
SRLS-16	M	B	39
SRLS-17	M	B	45
SRLS-18	F	W	48
SRLS-19	M	B	53
SRLS-20	M	B	53
SRLS-21	M	B	41
SRLS-22	F	B	25
SRLS-23	F	B	48
SRLS-24	M	B	57
SRLS-25	M	B	48

Data Collection

The participants' identities were protected by using assigned codes. Because of the COVID-19 pandemic, the judge focus group interviews were conducted using WebEx Video conferencing software. To protect the identities of the judges in the focus group, I asked each judge to use their assigned code as the name displayed. Attorney interviews were also conducted using WebEx video conferencing software, with their assigned codes displayed instead of names. Two of the self-represented litigant interviews were conducted face-to-face, and three were conducted by emailing the survey to the participant. The pandemic had no impact on the online survey process. Each study participant was sent an informed consent form by email and upon returning the consent form to me, the participant was emailed a link to the survey.

All focus groups and one-on-one, face-to-face interviews were recorded using a digital recorder on a cellphone and a tablet. The focus group interviews ranged from 45 to 55 minutes. The one-on-one, face-to-face interviews ranged in time from 35 to 45 minutes. I sent a copy of the transcript to each participant of the judge and attorney focus group. For the participants of the one-on-one, face-to-face interviews, I allowed them to listen to their interview responses to determine the level of accuracy. None of the interview participates provided revisions to their responses. Compensation for participating in the study was a $25 Visa gift card.

After all focus group and face-to-face interviews were complete, I transcribed all recordings and uploaded the transcription into Dedoose software. I used Otter transcription software version number 2.1.30-2344. Once all transcriptions were uploaded

into Dedoose, I destroyed all paper and digital copies of the participant responses per Walden University policies. I have a 512 GB password-protected hard drive for storage of all interview data. This hard drive is secured in a fireproof safe located in my house. Documents related to the research are in the fireproof safe located in my house. The key to the safe in an undisclosed location within the house. The data from the research is securely stored in my house and will be destroyed by following Walden University policy.

The data were evaluated using thematic analysis to identify patterns and themes (Miles et al., 1994). The data collected along with annotations made during observation were uploaded into Dedoose software, which assisted in identifying patterns. There were no disruptive events during the interview process. In the focus groups and one-on-one face-to-face interviews, all participants were professional.

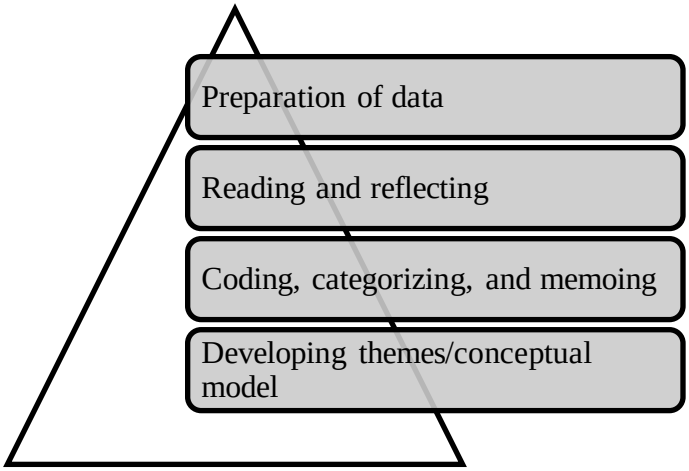
Data Analysis

Data analysis entails transforming extensive fieldwork and illustrative data into actionable conclusions (Raskind et al., 2018). Rigorous data analysis can elucidate the complexity of people's behavior and facilitate interventions to give voice to lived experiences. In qualitative studies, researchers have to read, analyze, and interpret the text to determine themes. In this regard, iterative processes enhance the researcher's focus on emerging concepts and make it possible to address gaps to get accurate information (Ravindran, 2019). Despite using different analytical processes, there are generally four basic steps in qualitative data analysis (see Figure 1). In any qualitative

study, data analysis starts with conducting content analysis, which ends at the interpretive level.

Figure 1

Data Analysis Process



Qualitative data analysis can be both deductive and inductive (Ravindran, 2019). The deductive analysis approach allows researchers to use descriptive techniques to analyze data instead of using interpretive methods. In contrast, inductive processes take into perspective, asking in-depth questions and are deemed a more explorative and overarching approach to understanding lived experiences (Ravindran, 2019). Hence, an inductive approach was used in the current study by following the recommended data analysis processes to understand the lived experiences of self-represented litigants. An inductive approach stood out as an ideal approach of analyzing the data by creating themes and establishing the relationship through emergent frameworks. The participants' responses were the focus of the research by exploring their shared lived experiences.

The analysis of qualitative data collected through observations, interviews, or focus groups needs to be transcribed into well-defined protocols and transcripts to understand the underlying themes (Busetto et al., 2020). One of the commonly used methods for analyzing qualitative data is thematic analysis. Also termed qualitative content analysis, thematic analysis is a reliable, easy, and transparent approach used in qualitative research (Kuckartz, 2019). Thus, a thematic analysis was used in the current study to explore the lived experiences of self-represented litigants. The collected data were grouped into themes to aid in identifying and analyzing related information. Working with codes and categories is an effective and proven method in qualitative research (Kuckartz, 2019). In the current study, groupings of similar codes from different sources were created, and the data were indexed into world lists. A content analysis approach was vital in interpreting the participants' responses by sorting, reflecting, enhancing, and presenting the interviews and observations of the participants. At the same time, narrative analysis was used and facilitated by presenting the individuals' lived experiences.

Evidence of Trustworthiness

The core concepts of trustworthiness are dependability, transferability, confirmability, and credibility (Eldh et al., 2020; Forero et al., 2018; Johnson et al., 2019; Nyirenda et al., 2020; Xu & Zammit, 2020). In addition to quality criteria (four elements), good research should exhibit a high level of flexibility as part of ensuring transparency (Korstjens & Moser, 2017; Nyirenda et al., 2020). Credibility depicts the accuracy of research; it is an internal validity concept that ensures that the study

represents the truth and correctly interprets the observed behavior or responses. Transferability depicts the researcher's ability to provide detailed information, allowing readers to determine the authenticity and accuracy of the results and their applicability to other scenarios. Dependability represents the stability of findings over time. It involves evaluating findings, interpretations, and recommendations to ascertain that the collected data support them. Confirmability is the degree to which other researchers can confirm the results of research. It is concerned about ensuring that the findings are not imaginations of research (Johnson et al., 2019; Korstjens & Moser, 2017). The best practices to increase the trustworthiness of the research include developing clear sampling designs, determining data saturation, ethics in research, triangulation of data sources, and observation of study participants (Johnson et al., 2019).

Qualitative studies have limited generalization due to their reliance on interpreting the participants' behavior and lived experiences. Hence, to ensure the transferability of the research, a sampling technique, which focused on specific participants instead of generalized information, was used in the current study. Dependability was attained by collecting rich data, the information was triangulated, and coding techniques were used in the analysis process. Triangulation ensured that participants were asked the same questions. Confirmability was attained by ensuring that follow-up questions were used to capture the real lived experiences of the participants. Interviews were recorded and replayed to ensure accurate responses were captured. Transcripts were used in the analysis to test the coherence of the data analysis process. At the same time, audit checks were used in the verification process. An independent party was involved in verifying the

authenticity of the collected and analyzed data. I also utilized data reduction and display. The conclusions drawn from the research enhanced the credibility of the study. The credibility of the study was maintained by prolonged engagement with the respondents. The participants were given enough time to respond to questions. Before the interviews, the participants were informed about the research and its intended goals. In addition, the choice of a semistructured interview procedure allowed me to focus on the interviews. Other methods used included adhering to the ethical guidelines and persistent observation of the participants to note their behavior and matching responses.

Results

Following the collection and transcription, the participants' lived experiences were compared. The transcriptions were evaluated, and relevant and common experiences were highlighted. Common experiences were then described to capture the participants' lived experiences, which facilitated the development of themes. The identification of the barriers affecting self-represented litigants in accessing court proceedings was conducted based on the developed themes related to financial, structural, doctrinal, and political barriers. Six core themes were identified and were categorized based on their weighted averages of the lived experiences of the participants were difficulty in accessing relevant information and resources, limited knowledge and understanding of the legal system, personal issues: emotions, anxiety, and nonattendance, cost of litigation, inequality of arms, and political.

Difficulty in Accessing Relevant Information and Resources

Legal proceedings are often tedious and require an understanding of the guidelines and language used in a court of law. However, such information is not always provided to self-represented litigants, or if it is available, litigants do not know how to access it. The interviews established that more than 70% of the interviewees experienced concerns about information and resource accessibility. It is easier for attorneys and experienced legal officers to organize their cases and adequately follow legal proceedings, but it is not easy for self-represented litigants, who must grapple with a lack of knowledge and skills on legal issues. However, self-represented litigants have no clue about where to start or what do to prepare for their cases. Although some procedures may be straightforward for some litigants, many face barriers and are not able to complete and submit the necessary paperwork.

In the interview, JDG-1 explained that the lack of adequate knowledge of court proceedings was a major hindrance to completing cases involving self-represented litigants:

> When dealing with self-represented litigants, cases take longer than anticipated. As judges, we must ensure that we let litigants get their paperwork in order and make their defense. Although some of the litigants get it right the first time, most do not, and we are forced to postpone cases to give them time. It is different when dealing with attorney-represented litigants, where all files and arguments are presented professionally.

Like the judges, the attorneys in the interview described access to information among self-represented litigants is a complex process. The attorneys agreed that it is difficult for self-represented litigants to access information because they do not know what to ask for during research or presentation of court documents. Hence, accessing relevant information is always difficult for the untrained self-represented litigants. ATY-3 explained,

> Accessing information is not always easy for all of us. However, it is extremely hard for self-represented litigants because they often do not know what to look for during court cases. In this case, it is highly unlikely for them to get the right information on time. Besides, even if they get the information, they are looking for, they may not determine its relevance in their cases.

Often, court officers do what they can to help self-represented litigants. However, the officials are often constrained by their roles and may not assist all the litigants with the information they need. Thus, a large proportion of litigants are not supported as required. From the interview, many litigants expressed empowerment when they represented themselves in a court of law. However, these feelings were overshadowed by disempowerment when court proceedings do not go as planned. Several interviewees expressed concerns about being taken advantage of by opposing counsel for failing to organize their paperwork. Many litigants expressed anxiety and fear from the interview, which led to an unwillingness to discuss legal issues with the opposing attorney. Instead, some litigants chose not to appear in court or failed to communicate with opposing counsel, and if they did share, they would do so in writing. In the interview, ATY-1

pointed out that it was difficult to deal with SRLS due to a poor understanding of court proceedings and information organization. ATY-1 stated:

> I often find it difficult to engage self-represented litigants. On many occasions, they fail to communicate or provide incomplete information, which is not helpful. It is a different experience when dealing with attorneys, where there is a timely exchange of information and coordination to deal with cases.

There was consensus from self-represented litigants that a lack of expertise and competency to deal with court proceedings was a major impediment in planning their defense. The interviewees explained that they often grappled with a language barrier and could not put a spirited defense against well-trained attorneys. SRLF-1 argued that in her first case, she just stood there and waited for the proceeding to end because she had done everything wrong – poor paper submission and did not know how to argue her case. Other self-represented litigants shared similar experiences. SRLF-2 said:

> In my first case, I came to court with incomplete information, and when the judge asked, I did not know what to say. All I knew was that is all the information I could get. I admit my paperwork was poor, but at least I showed commitment. I could not afford an attorney, so I just used the means I could afford, self-representation. I wanted the case to end.

Bureaucratic processes in court often make it difficult for self-represented litigants to access crucial information to support their cases. SRLS-19 explained, “When I went to submit my documentation, I was surprised by the wait times and the additional information required for completing my submissions. Most of what they require is not

adequately shared with the public." There are no specific guidelines simplifying court proceedings for people without formal legal training from the litigant's perspective. Lengthy procedures and limited access to resources exacerbate the problem. Litigants alluded that the cost of dealing with court proceedings, especially when attorneys are involved, is out of reach for most low and middle-income earners. Hence, some litigants opt for self-representation. SLRS-5 argued, "I do not have enough money to pay for an attorney. It is why whenever I find myself court, I opt for self-representation despite its challenges." While the administrative challenges in the criminal justice system make it difficult for litigants to access relevant information, they also must deal with resource constraints. ATY-5 stated, "Most people feel the cost of hiring an attorney is too high." Hence, for most low and middle-income individuals with civil court cases, the best option is to self-represent. Unfortunately, self-representation has many demerits, including the inability to access the right information to put up a good defense.

Limits to Knowledge and Understanding of Legal System

Regarding self-represented litigants in court proceedings, there are two overarching themes, broadly categorized as empowerment and disempowerment. Empowerment is a precondition to meaningful participation in court proceedings. Individual engagement in legal proceedings can be judged by their decision-making abilities – having a say and being heard. While some self-represented litigants become empowered to defend their rights and privileges through court proceedings, disempowerment is prone to occur. The inability to communicate and argue cases can manifest or cause self-represented litigants to fail to defend their arguments in a court of

law. Although more than 75% of the self-represented litigants expressed feelings of empowerment relating to lived experiences, they also expressed instances of disempowerments. These aspects mainly included poor engagement with adjudicators, interaction with opposing counsel, and understanding legal procedures. SRLS-15 stated that in his first court proceeding, he did not know what to do, and the opposing attorneys kept interrupting his presentation. However, luckily the judge was patient with him and granted him enough time to make his presentation. JDG-3 explains, "self-represented litigants often lack the understanding of common guidelines, and we are compelled to give them direction." From the interview, it is evident that the lack of adequate knowledge and understanding of court proceedings impairs the defense of self-represented litigants.

Self-represented litigants are not often clear about the law or procedure in their cases. Moreover, most of them are unaware of their understanding of the law. In many cases, self-represented litigants may prepare one aspect of their case to be confronted in court by a different issue beyond their experience or knowledge. In this regard, uncertainty about court proceedings is a major challenge for most self-represented litigants. However, a few know their way around the criminal justice system, and many of them are disadvantaged, especially in complex proceedings. Judges recognize the issue. As poised by JDG-4, "Many low-income self-represented litigants attend court sessions for the sake of it; they only come to hear what the opposing counsel or the judges have to say." The same sentiment is shared by JDG-2, who depicts that self-represented litigant finds it difficult to negotiate with the opposing counsel or

representatives due to a lack of understanding or knowledge about the procedures to follow. More than 60% of the self-represented litigants' interviewees asserted that it was difficult to engage with opposing attorneys due to difficulties understanding legal jargon. Most problems arise if self-represented litigants were absent in court proceedings or if evidence was provided and could not contest it. Unlike trained attorneys, self-represented litigants find it difficult to cross-examine evidence. SLRS-2, SRLS-3, and SRLS-7 agree that they found it difficult to challenge evidence submitted by the opposing parties' attorneys in their cases. SRLS-3 explained:

> In my first case, I was unsure what to do after the attorney submitted new evidence. The best I could do at the time was ask the judge to give me more time to evaluate the evidence. In reality, I did not know what I should check because I was not ready to put up a defense.

Several of the interviewees expressed concern that they had been taken advantage of by the opposing counsel. In many cases, the litigants were unwilling to discuss legal issues with opposing attorneys. The best most litigants would do, is focus on presenting their arguments in writing instead of using in-person or over-the-phone conversations. SRLS-7 argues that the knowledge gap between self-represented litigants and attorneys makes it difficult to have fair negotiations. The interviewee's concern was corroborated by other self-represented litigants, who recounted their experiences, whereby they believed that the opposing counsel was overly aggressive and unfair. Judges and attorneys interviewed in the study termed the one-sided relationship between self-represented litigants and attorneys as inequality in arms. Judges admitted that they had

witnessed instances where attorneys withheld information from self-represented litigants. The attorneys would then provide large folders full of documents outside of the courtroom to the respondents on the day of the hearing. Other situations pointed out self-represented litigants included arrogance from attorneys and, in some cases, judges failing to protect them from the pressure of attorneys. While it is difficult to verify the interviewees' claims, it is important to note that most of them expressed negative experiences linked to the treatment they received from court officials. Due to the lack of understanding of court proceedings, self-represented litigants fail to ask for necessary documents from opposing counsel. At the same time, they are unable to conform to the requirements set by the courts. Typically, self-represented litigants cannot deal with scenarios where requested documents are provided late or entirely concealed by opposing counsel. SRLF-3, SRLF-4, SRLF-5 explain something like this happening during a civil case court proceeding. SRLF-3 said the following:

> Attorneys try their best to intimidate self-represented litigants. Have you served this, have you done that, and why have you failed to do that? All these questions are bombarded at an individual. If you cannot hold your nerves, you will storm out of court or go on a rampage with rage. At my first hearing, the opposing counsel was all over my face; she tried her best to undermine my case. The attorney attempted to serve me with documents the moment the hearing took place. Fortunately, the judge came to my defense and ruled that the new documents could not be accepted. It is a mess if you have no idea what you are

expected to do. The courts need to have a framework for people to self-represent, without the troubles we experience in the current system.

SRLF-4 said, “The court system should have processes that meet the needs of litigants”. SRLF-5 stated, “There should be more attorney representation options for those in the low to middle class”. SRLF-5 also stated, “The Judge asked me what I wanted to happen in a contempt hearing. I told the Judge I didn’t know, and I wanted him to decide”.

Personal Issues: Emotions, Anxiety, and Nonattendance

Emotions and anxiety adversely affect the participation of self-represented litigants in court proceedings. self-represented litigants who have difficulties dealing with personal issues while self-representing cannot effectively argue their cases. It becomes more challenging when these litigants cannot afford professional legal representation. Emotional reactions are common among self-represented litigants, as some reported instances where they have become abusive towards the opposing counsel, leading to negative effects on their cases. From the interview, 70% of the self-represented litigants agreed that they have been in situations where they experienced or were likely to experience an emotional outburst. However, it was unclear whether the emotional and anxiety challenges were linked to self-representation or mental issues. The attorneys and judges who were interviewed also expressed concern when it comes to self-representation. They argued that they would not easily determine the emotional state of self-represented litigants in court. The emotional instability of the self-represented litigants influenced their court attendances. Non-attendance was high among self-represented litigants compared to counsel-represented litigants. More than 30% of the

self-represented litigants interviewed missed some court appearances due to personal issues.

SRLS-12 stated that she was nervous and could not attend her second hearing in a civil court. SRLS-17 explained that he could not participate in the second hearing due to his bad experiences in the first appearance (humiliation by the opposing counsel). From the interviews, it was evident that non-attendance by self-represented litigants was common. JDG-4 explained common non-attendance by stating, "Most of these self-represented litigants skip court cases, thinking that nothing will happen if they do not attend." When asked why they could not attend court cases, 80% of the self-represented litigants who had skipped some hearings argued that it was the fear of being up against trained attorneys and facing their opponents. The sense of meeting partners or spouses in court led to anxiety and fear. Moreover, there is an assumption that self-represented litigants cannot win against professional lawyers, making it irrelevant to attend court proceedings. SLRS-25 argued the following:

> In my first appearance as self-represented litigant, I was so angry with my wife for going to court to the extent that I did not attend the second hearing. In my third hearing, the judge told me to contain myself, but I could not. Eventually, I lost the case because I could not control my emotions. After all, it was meant to happen because she had good representation.

The interview showed that the respondents (self-represented litigants) were less likely to attend domestic court cases, including violence injunctions and debts. The

judges felt that some litigants did not appreciate the value of court proceedings. JDG-1 stated:

> Sometimes, litigants fail to understand that they are supposed to come to court, especially on applications to suspend execution warrants. When applications are set aside for judgments, some litigants do not turn up. Most try to justify their absence but fail to recognize that the courts may not acknowledge their arguments if they do not take the cases seriously.

JDG-2 was skeptical and cited that failing to show up in court is a way of playing the system and trying to get what some litigants term 'justice". JDG-2 explained:

> I could be cynical and say that most litigants know how to run the system. They know well that if they do not attend court proceedings, the defendants will get orders against them. However, if they fail to show up in court, the case will have to be set aside based on non-attendance. Thus, justifying non-attendance based on personal issues like emotions and anxiety is not always true.

While it is evident that personal issues, including emotions and anxiety, can influence court attendance, some self-represented litigants opt to avoid court proceedings to take advantage of legal shortcomings – play the system. Personal issues like emotions and anxiety affect the ability of litigants to access courts. In most cases, emotionally unstable individuals will not access the courts. Even if they do, they cannot argue their cases due to the legal provision, which categorizes such individuals as of unsound mind. In this regard, access to court is adversely limited by personal issues, particularly emotions and anxiety, which impair the defense of self-represented litigants.

Costs of Litigation

There is no doubt that the costs of litigation play a crucial role in access to justice. The cost of hiring experts represents a significant barrier to disadvantaged people. More than 90% of the self-represented litigants commented that the risk of having a costs order made against an unsuccessful litigant represented a significant disincentive for the low and middle-income groups to pursue civil claims, especially those that may not be test or public interest cases. All the self-represented litigants agreed that cost was a primary factor for the reason they chose self-representation. Although the respondents accepted that professional representation was advantageous and vital in court proceedings, it was out of reach for many. Left with no choice, they had to go for self-representation. SLRS -11 explained, "I did not think I would find myself in such a situation. Honestly, I needed an attorney, but I could not afford one." The same sentiment was shared by other litigants, who expressed concerns about the running of the legal system. SLRS-9 argued, "We need reforms; legal services should be affordable for all." The attorneys agreed with the sentiments of the litigants. They also expressed concerns that the costs of litigations are very high for most people. ATY-3 states, "Yes, the cost is out of reach for most people."

The structure of the legal system disadvantages self-representation. Besides the protocols to be followed, access to the court is adversely limited for self-represented litigants. Hence, it explains why most litigants opt for legal representation. In addition, it justifies the decision for court-appointed representation in criminal cases (serious issues dealing with public interest). JDG-3 agrees that the structure of the courts is expensive

for self-representation, as most people cannot afford what is expected from them; for example, getting legal representation is expensive. JGD-3 stated the following:

> We expect far too much from litigants. I know not everyone has the financial muscle to get professional representation. While attorneys cannot sometimes take unpaid cases, it is not always the case. It means many low and middle-income individuals cannot access professional assistance; it is simply expensive.

Unable to meet the cost of hiring professional assistance, litigants are left with the burden of dealing with the initial paperwork and filing formal documents. At the same time, there is also the burden of handling correspondence with the court. Making applications and attending hearings are fewer common challenges and add to the complexity of managing court proceedings. Compared to represented parties, self-represented litigants are more likely to file few and less diverse documents. In the long term, the quality of their defense becomes impaired due to limited arguments or strategies deployed in the court.

Inequality of Arms

The legal system is meant to foster equity and fairness. However, it is not always the case, especially when self-representing litigants are involved. Equality of arms requires attaining a fair balance between the opportunities accorded to all parties involved in litigation. In cases where self-represented litigants are involved and going against attorneys, there is always an imbalance. For example, attorneys have the experience and knowledge to call witnesses and conduct cross-examination. Although some self-represented litigants can conduct such cross-examinations and use witnesses in their

cases, a majority cannot. Hence, when it comes to developing solid defense, which involves multiple witnesses, self-represented litigants cannot attain similar results reported by attorneys. From the interviews, 90% of the self-represented litigants argued that they were unable to take advantage of the opportunity to use witnesses and conduct cross-examinations in their first cases. The judges shared a similar position; they agreed that self-representing litigants do not know how to cross-examine evidence or witnesses. It means that when self-represented litigants go against attorneys, they are at a disadvantage.

Interviewees commented on multiple experiences involving their experiences where judges and attorneys held private conversations during court proceedings without their involvement. When asked about such cases, judges and attorneys agreed that they do happen. However, it is meant to clarify some issues concerning the subject. JDG-3 said, “Yes, we do have private conversations, but they are not meant to sideline SRLS.” While to the judges and attorneys, such conversations are not intended to sideline self-represented litigants, they are indicators of inequality of arms to litigants. SRLS-10 describes the feeling of being sidelined as that of a mixing club. SRLS-10 explained the following:

> In a civil court, there is you and the opposing counsel. The opposing counsel and the judges constantly interact; however, it is different when it comes to self-represented litigants. When in such a court, it is as if you do not exist.

The view of inequality of arms was shared by all the self-represented litigants who were interviewed. The litigants’ responses demonstrate that self-represented litigants

do not associate with the courts. The participants tend to associate attorneys and judges with the courts. Further, self-represented litigants do not communicate in the same language as the attorneys and judges. 80% of the self-represented litigants agreed that it was difficult to argue in the same manner as a trained professional. SRLS-11 explained the difficulty of winning a case against an individual with an attorney as the opposing counsel. SRLS-11 argued the following:

> I mean, it is an unfair and unequal war. How can you fight against an individual armed with a gun and you are using a stick. It is the kind of war self-represented litigants are embroiled, whenever they go against trained opposing counsel. For equality to be attained, we need to have a similar playing ground. self-represented litigants need to have access to relevant information and resources. At the same time, judges need to listen to all parties in a case. It should not seem as if they are favoring their own.

The administrative processes in the judicial system make it difficult for self-represented litigants to become equal parties with attorneys in court proceedings. While the interviews demonstrated that judges are ready to assist self-represented litigants in arguing their cases in court, it is not probable for them to help all self-represented litigants. At some point, limitations emerge, especially when many self-represented litigants are involved. Having the right tools and resources in court proceedings will play a vital role in limiting the inequalities.

Summary

This study aimed to evaluate the barriers experienced by self-represented litigants in civil court. A qualitative research method with a sample population of five judges, five attorneys, five one-to-one, face-to-face self-represented litigant interviews, and 25 online surveys of self-represented litigants was used. Following the ethical guidelines, interviews were conducted to collect data. Further, thematic analysis was used to evaluate the data. The findings depict a situation where self-represented litigants are at a disadvantage for many reasons, simply because of not having professional legal representation. From the interviews, it was apparent that self-represented litigants are not entirely accepted as legitimate users of courts. They do not have access to information to support their defense. At the same time, they have little understanding of the law and court procedures. Unlike legal professionals, self-represented litigants do not know how to separate their emotions from court proceedings. Their emotional entanglement puts them at a disadvantage and often adversely impairs their cases. In addition, the findings showed that the high cost of litigations marred access to legal representation. Many of the self-represented litigants could not afford legal representation. Inequality of arms was another barrier identified in accessing civil court. The respondents depicted an imbalance between what self-represented litigants can access or do versus what the attorneys can in civil courts. From the interviews, more needs to be done to enhance the role of self-represented litigants in civil courts.

Chapter 5: Discussion, Conclusions, and Recommendations

With increased self-represented litigants, courts are under pressure to remodel their processes and accommodate the needs of the litigants. The focus of this study was to explore the financial, structural, doctrinal, and political barriers faced by self-represented litigants in civil court. Financial barriers prevent self-represented litigants from using attorneys in civil courts (Painter, 2011). Affordability is a significant concern, and the most affected persons are those in the low- and middle-income categories. In addition, research shows that self-represented litigants have to contend with structural barriers, which is a lack of a legal system that provides legal assistance to litigants. Doctrinal barriers also inhibit access to justice for self-represented litigants. Some of the challenges in this category include language barriers, remedies, and evaluation. Although political barriers are not common, they do affect self-represented litigants' access to justice. Research shows that self-represented litigants do not have equal opportunities to access state and local civil courts.

The involvement of litigants, attorneys, and judges in the research was essential in providing a multi-faceted view of the barriers affecting self-represented litigants in civil courts. A combination of face-to-face and video-conferencing interactions was used to conduct interviews. The respondents also completed an online survey using Survey Monkey. Responses provided by the participants reflected their understanding and interpretation of the barriers affecting self-representation in civil courts. The responses captured the participants' lived experiences and played a crucial role in determining the self-representation barriers. All the participants possessed some knowledge and skills of

civil court proceedings, which influenced their understanding of the barriers affecting self-represented litigants. The respondents' views illustrated similar barriers that affected their civil court proceedings. Understanding these barriers is fundamental in shaping the civil court policies and regulations to enhance the role of self-represented litigants.

In this chapter, the interpretation of the study findings is discussed. The chapter outlines the recommendations for future studies and potential changes in the civil courts to address the interests of self-represented litigants. I relate the findings toward the research gap identified in the current literature. I also present the limitations of the study and recommendations from the research.

Interpretation of the Findings

This research was intended to explore the barriers experienced by self-represented litigants in civil courts. Even though self-representation is acknowledged by the law, self-represented litigants experience significant challenges in civil courts when representing themselves. The themes were extracted from the respondents' lived experiences as they described them in the interviews. These themes are discussed in the following sections in relation to the literature.

Difficulty in Accessing Relevant Information and Resources (Structural Barriers)

Structural barriers adversely affect self-representation in civil courts (Greacen, 2014; Landsman, 2012). Lack of legal assistance, particularly for low- and middle-income litigants, remains a significant problem in the justice system (Greacen, 2014; Landsman, 2012). Self-represented litigants have difficulties in accessing relevant information and resources to support their arguments in civil courts. Often, legal

proceedings are tedious and complex and require a high level of preparedness to prosecute. At the same time, they need a thorough or intermediate understanding of the guidelines and language used in the courts. Though courts emphasize fair trials, it is not always the case, especially regarding self-representation. When self-represented litigants go against attorney-represented litigants, they are at a disadvantage. First, they do not know the specific court guidelines to follow to access information. Second, they lack the power and knowledge to review legal materials. From the interviews, the respondents established that accessing legal information affected their civil cases. The problem is exacerbated by the lack of practical, procedural, and legal advice associated with court proceedings.

Participants who quickly accessed legal information during court proceedings succeeded and attributed their success to assistance from court officials. Equal access to justice can be facilitated through innovative programs to assist self-represented litigants (Gray, 2007). Some of the fundamental approaches that can be used include electronic filing of court documents and training and support materials. Training of court staff and community outreach programs can ensure that self-represented litigants access justice and understand the prerequisite procedures. However, not all self-represented litigants have the chance to be assisted. Though it is required that they have such assistance, court officials can only help as much as they can due to inadequate staffing in civil courts. The bureaucratic processes in the courts also make it difficult for the self-represented litigants to access the crucial information required to support their cases. The wait times and lack of guidance complicate the work of self-represented litigants. From the interviews, it is

apparent that the court system needs remodeling to address existing structural barriers. Primarily, the inability of self-represented litigants to access information during civil court proceedings must be addressed as an urgent factor impeding fairness and equality in the justice system.

Limits to Knowledge and Understanding of Legal System (Doctrinal and Structural Barriers)

Findings from the literature review illustrate doctrinal barriers in civil courts as impediments to accessing justice (Davis, 2012; Greacen, 2014; Janku & Vradenburg, 2015; Landsman, 2012; Medows, 2014; Painter, 2011). Such barriers include language, remedy, and evaluation of court cases. Similar responses were attained from the interviews. The respondents argued that the difficulty in understanding the legal system affected their arguments in civil court proceedings. Although some self-represented litigants said they became more knowledgeable about the legal system after representing themselves, others asserted that self-representation was a significant challenge in their lifetime. The attorneys and judges also explained that it was difficult dealing with self-represented litigants in civil courts. Judges explained that whenever they dealt with self-represented litigants, they had to spend more time guiding them in their presentations. In addition to the legal language, self-represented litigants cannot effectively evaluate court cases. In this regard, limited knowledge and understanding of the justice system are critical barriers experienced by self-represented litigants in civil courts.

Self-represented litigants explained that they dreaded civil court proceedings, especially the fear of facing professional attorneys. The respondents argued that they

were confident that they would not win cases against attorneys. The reason for such an assumption is the difference in the knowledge level between self-represented litigants and attorneys. Most often, the legal system suits attorneys since they understand the procedures, which fit their needs and no one else (MacDowell, 2015). From the interviews, it was evident that the knowledge gap between attorneys and self-represented litigants compromised fair negotiations. Self-represented litigants explained that the opposing counsel often shortchanged them due to the inability to understand the complex legal language. In some cases, attorneys would provide large documents, and self-represented litigants expected to read them within a short time before appearing in court. Even for self-represented litigants who have acquired some legal training argued that it was almost impossible to deal with attorneys as opposing counsels. With limited knowledge of the legal system, self-represented litigants may not put forward the best defense. Thus, the limitation of legal expertise, which is a doctrinal barrier, affects access to justice. Addressing the limitation of knowledge requires stakeholders in the justice system to invest in training and outreach programs. Through training programs, self-represented litigants can be exposed to prerequisite necessary procedures in courts and understand what is expected of them during court proceedings.

Personal Issues: Emotions, Anxiety, and Nonattendance (Doctrinal and Structural Barriers)

Doctrinal and structural barriers contribute to increased emotions, anxiety, and nonattendance in civil courts. Legal proceedings require the control and management of emotions. However, emotions adversely affect the participation of self-represented

litigants in court proceedings. Individuals with difficulties in dealing with anxiety or anger during court proceedings cannot argue their cases. Often, litigants express their frustrations in courts. Legal processes such as divorce, property, and child support are emotional, and litigants can lose control of their emotions. Additionally, when self-represented litigants fail to get the relevant information to support their cases, they may overreact. At the same time, the burden of attending court proceedings and facing more informed and organized opposing counsels may take a toll on a self-representing litigant. The respondents explained that they experienced fear and anxiety during civil court proceedings. Their emotions were connected to limited knowledge of the legal system, poor access to information, and the prospects of facing trained attorneys during court proceedings. Court procedures are designed to benefit those with the knowledge and skills in the legal system, especially attorneys (MacDowell, 2015).

Court attendance is also a significant problem when litigants have the impression that they will not get justice. Due to structural and doctrinal barriers, some litigants expressed concerns about the fairness of the civil courts. Unprepared self-represented litigants could not attend some court proceedings as they assumed they would eventually lose the cases. Although nonattendance is unjustifiable, it demonstrates the severity of the barriers affecting self-represented litigants in civil courts. It is beneficial for those attempting to represent themselves to have access to simplified forms and procedures (Cantrell, 2002). Preparedness enhances the confidence of self-represented litigants and enhances the control of emotions. The significance of innovative methods to assist self-represented litigants access justice (Gray, 2007). Training programs can offer self-

represented litigants the skills and knowledge to manage civil court cases (Gray, 2007). Improved preparedness among self-represented litigants will facilitate emotional control and management. Litigants can manage or control their anxiety during court proceedings since they will have the confidence to argue their cases. Further, getting rid of structural and doctrinal barriers in civil courts will improve the role of self-represented litigants in the justice system. For example, by ensuring that litigants have access to legal information or understand the civil court language and remedies, their court attendance will improve due to enhanced confidence in their legal prowess and fairness of the justice system.

Costs of Litigation (Financial Barriers)

Costs of litigation influence access to justice. For most low and middle-income earners, the cost of hiring attorneys is a significant barrier to accessing justice. From the interviews, it was evident that the self-represented litigants felt they could not afford legal representation, making it necessary to represent themselves in civil courts. Typically, the cost was the primary factor for self-representation. Various authors share a similar argument. Gustafson, Gluek, and Bourne (2012), Medows (2014), and Painter (2011) agree that financial barriers influence the decisions of litigants. The cost to retain an attorney, lack of funding for LSC, cost of legal software, and limited scope of legal services provided by attorneys are among the cost factors affecting access to justice among low and middle-income groups. Evidence shows that approximately 80% of the legal needs of the poor go unmet in the U.S. (Medows, 2014; Painter, 2011). Similar results were attained in the current study, where more than 90% of the respondents

attributed the lack of access to justice due to financial limitations. Although the LCS often steps in to assist self-represented litigants, it is not adequately resourced to help most people. Paid subscriptions to legal research websites like LexisNexis barely benefit self-represented litigants, and yet they are the ones who require such services to defend themselves in civil courts (Blankley, 2013). Litigants with attorney representation may not need paid subscriptions since most of the activities are handled by professionals.

The Constitution demands fair and equal access to justice for all. However, it does not provide specific guidelines on how fairness and equity can be attained in the justice system. Although the courts recognize people's constitutional rights to access justice, the promise is usually shattered for the low and middle-income groups in society. With substantial financial burdens, these individuals cannot afford even the essential legal representation in civil courts. The lack of affordable counsel means that most litigants have to represent themselves in civil courts (Steinberg, 2011). Unfortunately, these litigants lack the necessary skills, knowledge, and experience to guarantee a positive outcome in civil courts. The problem is heightened by the self-represented litigant's inability to hire attorneys to represent them in civil court cases (Blankley, 2013). In addition, low and middle-income people have limited access to information about the legal system. At the same time, they have few options to choose from in non-profit systems used in defending people's rights. While the sixth Amendment supports providing defendants in criminal cases the right to counsel, it does not do so in civil cases. However, the liberties of parties in civil cases are maintained. However, self-

represented litigants' ability to develop solid defense is adversely limited, especially when they face attorneys as part of the opposing counsel.

In response to the increasing cost of attorneys, some private agencies developed low bono and sliding fee scale services to target middle-class clients. The approach is meant to improve legal service affordability. Attorneys charging slide scale fees can attract clients who may not have any other option for legal representation. However, the approach does not entirely address the needs of low and middle-income litigants. Increased funding for legal aid services is another technique that can assist low-income litigants (Smith & Stratford, 2012). Without it, low-income litigants will be forced to represent themselves in family law matters. In this regard, legislators need to provide guidelines to improve equality in legal issues, no matter the economic status of a litigant. Legal insurance is another option that middle-class individuals can use to access justice in the country. However, this model is often limited to employed individuals or those in unions. It leaves out the low-income earners, who in most cases are the ones who need legal assistance to access justice. In this regard, low-income groups can use LSC, income from family and friends, and programs supported by churches or other civic organizations. The incorporation of non-governmental agencies in the legal process is vital in bridging the justice accessibility gap. Such agencies enhance the education of people on their legal rights and most often provide financial and professional assistance in civil and criminal cases. Thus, they play a critical role in limiting the financial barriers, which plague the legal system, especially civil courts.

Inequality of Arms (Doctrinal and Structural Barriers)

The principles of fairness and equity are synonymous with the legal system. When self-represented litigants are involved, equity and farness tend to vanish due to imbalanced representation in civil cases – inequality of arms. Equality of arms refers to attaining a fair balance between opportunities given to all parties involved in litigation. Typically, equality of arms is easier to achieve in criminal cases due to the legal requirement that assigns attorneys to litigants who cannot afford legal services. However, a different scenario is experienced in civil cases, where the courts do not provide attorneys. In civil courts, self-representation is allowed by the courts. The complexity of self-representation is heightened by existing structural and doctrinal barriers in the legal system. While attorneys have the power and experience to file and present cases, self-represented litigants lack the prerequisite knowledge to do so and most often are at the mercy of opposing counsels. From the interview, the self-represented litigants outlined various instances where attorneys and judges held private conversations during court proceedings without their involvement. As peers, judges, and attorneys have professional relationships, which can be exploited for personal gains. In this regard, it is justifiable for self-represented litigants to feel sidelined in civil courts.

The administrative processes in the courts make it difficult for self-represented litigants to access court information or become equal parties with attorneys in civil cases. At the start of civil cases, court officials can be a barrier to self-represented litigants, who have poorly written complaints or briefs. Judges may be sympathetic to self-represented litigants but are reluctant to depart from court procedures to prevent appearing impartial

and avoid appearing to assist self-represented litigants (Gary, 2007). Some judges view self-represented litigants as nuisances due to their conduct in civil court proceedings (Blankley, 2013). Although self-represented litigants can learn to defend themselves in civil courts, their learning curves are steep, and few in the courts, including attorneys and judges, have the patience to help them acquire the necessary skills. Limitation of time to interact with the courts is another problem. self-represented litigants have limited time to present their cases and interact with the court system. Hence, with little experience, they cannot raise their claims better than attorneys can – self-represented litigants lack the knowledge to judge the value of their cases and allocate enough time to their arguments. Alternative dispute resolution methods can be used to enhance access to justice for those who cannot afford full representation (Blankley, 2013). Adopting outside-of-court civil case resolution methods would save self-represented litigants the time and resources used in courts.

Political Barriers

Political barriers are the least visible factors affecting self-representation in civil courts. Although they were not identified as crucial factors from the interviews, the literature review showed the need to consider them in developing policies to address access to justice in civil cases. Local and state legal agencies work to maintain the current structure of the legal system, making it difficult for self-represented litigants to understand the process and provide input on laws that affect civil cases. The U.S. does not give the right to counsel in civil cases (Meadow, 2014). Hence, self-represented litigants cannot adequately access justice. In this regard, reforms are required to simplify

the legal system as part of fulfilling the constitutional provision of fairness and equality in accessing justice for all.

Limitations of the Study

A small sample size could be viewed as a limitation in the current study. Although it is ideal for conducting in-depth qualitative interviews, it could draw the researcher away from the intended meaning. The shortcoming was addressed by involving the findings of existing studies in the current research. By comparing the results of previous authors, it was possible to determine the authenticity of the present findings. At the same time, the research focused on a small geographical region, which adversely affects the generalization of the results. However, the study site's demographics mimic other locations in the country. It exhibits the same characteristics in different areas due to the country's similarity of civil court proceedings. The choice of interviews as instruments of data collection made it possible for the researcher to seek clarifications by asking follow-up questions. The method used in data collection ensured the analysis of multidimensional data that cannot be limited to a specific location.

Recommendations

With increasing self-representation in civil courts, there is an urgent need to foster fairness and accessibility to the legal system. A primary consideration to make is limiting financial barriers in the justice system. The cost of litigation has led to the increase of self-represented litigants in civil courts. Hence, the foundation to resolving the problem is ensuring affordable access to the legal system. To achieve this, attorneys need to adopt the low bono or sliding fee scale services system, which enhances affordability. It should

be supported by adequate funding of the LSC; the largest single funder of civil legal services in the U.S. Increasing its budget will ensure more self-represented litigants have access to legal representation or information. Due to the complexity of court cases, litigants need to pursue alternative means of accessing justice. For example, out-of-court resolutions should be embraced to ensure negotiated terms are implemented. Alternative dispute resolution methods save time and cost, which would be used in civil courts.

The absence of a system that provides legal assistance equal to the needs of the litigants is another area of concern (structural barriers). Revamping the pro bono work in the justice system enhances access to justice for self-represented litigants (Greacen, 2014 and Landsman, 2012). Changing law students' and attorneys' paradigms will assist self-represented litigants in getting access to a fair trial in civil courts. Other approaches to combating structural barriers include offering training and ensuring access to legal information. Reducing subscription costs to programs like LexisNexis will offer self-represented litigants a legal reference source to develop their arguments in civil courts. In addition, court officials need to provide routine assistance to self-represented litigants by exhibiting impartiality and professionalism. In proceedings with self-represented litigants, judges must ensure equality of arms as much as possible. They should directly ask questions, simplify legal language, explain procedures, and ensure that self-represented litigants understand what is going on. By providing a relaxing atmosphere, judges can encourage self-represented litigants to argue their cases without feeling intimidated by the opposing counsel. Re-orienting the norm to accept the legitimate presence of self-represented litigants is vital. Court users, especially judges and attorneys,

need to accept that self-represented litigants behave differently and have unique requirements, which vary from standard procedures used by professionals. For example, self-represented litigants need more time to prepare for cases, lack familiarity and understanding of the court procedures and possibly suffer from mental or behavioral issues. In this regard, reforms should include multiple perspectives, including offering training to court officials on how to handle self-represented litigants and enhancing community outreach programs. Courts should use community programs to promote transparency and ensure no single stakeholder group is dominant in civil courts. Like other court users, self-represented litigants should be involved in the decision-making process – support the plurality of stakeholders.

Any development of changes in the court system will incur additional costs. Hence, more studies should be done to explore sources of funding streams for the development and evaluation of self-represented litigants' initiatives. The inclusion of new advisory models in the court system will pave the way for the increased role of self-representation. Further, the management of the expectation of litigants requires setting out a charter that outlines the roles and responsibilities of court actors. self-represented litigants need to know what to expect from court officials and the agreed behavioral standards. Thus, offering training to all court officials on self-representation and handling litigants' needs, including recognizing behavioral or mental challenges is integral. Establishing a task force to create a charter of rights and responsibilities, which guides the actions and roles of all court officials and litigants, is required. By following the established guidelines, officials and litigants can be held accountable for their actions in

civil courts. Typically, the charter needs to have an independent complaints mechanism. Another intervention to implement is developing and publishing operational guidance on dealing with standards of behavior. There must be a policy on how the court's support staffs are disciplined. Due to the need to streamline access to legal information, a multi-sectoral approach should be taken to change the system, including information materials and advice models.

Civil courts need to have consistent and reliable methods for contacting self-represented litigants, especially when absent from proceedings. Adopting means to track self-represented litigants will allow timing their cases and inform resource allocation. Court officials need to identify self-represented litigants at successive stages of court proceedings to facilitate direct contact. In addition, digital scheduling techniques should be implemented in courts to ensure timely responses to appointments. In most cases, self-represented litigants are left to look online for information to support their claims. However, such information may not be easy to understand or use. In this regard, courts need to develop samples of what is expected of self-represented litigants. By accessing such samples, self-represented litigants can understand what to do to support their cases. Online provision of court documents will facilitate the interaction of stakeholders. There is an option of exploring how courts can use interactive apps to help self-represented litigants. Measures should be taken to evaluate individuals who need legal aid. Conducting a cost-benefit analysis will determine persons with financial or emotional challenges that may require representation. Apart from offering basic orientation courses to assist self-represented litigants' courts need to develop user-focused design principles

to guide self-represented litigants. Through a variety of media, self-represented litigants can access information provided by the courts. Providing continued professional legal education and training for judges, attorneys, and other court officials will pave the way to enhancing the emotional support needs of self-represented litigants.

Implications for Positive Change

Change is needed in the justice system, and it is the primary approach to addressing the root cause of inequality. The exploration of the barriers affecting access to civil courts among self-represented litigants illustrates the areas of concern. The current study contributes knowledge towards developing a fair and equality-driven justice system. It depicts the challenges affecting self-representation in civil cases. As the findings of this study demonstrated, policymakers can make changes in the justice system to acknowledge the rights of self-represented litigants as equal partners in the court system. Adherence to the constitutional provisions on fairness in the justice system is the starting point for making radical changes to address the needs of self-represented litigants. The research demonstrates that fairness and equality in the justice system are possible if structural, financial, doctrinal, and political barriers affecting self-represented litigants are controlled. Typically, the transformation of the civil court system is possible if policymakers and other stakeholders take measures to encourage inclusivity and participation of self-represented litigants in civil court proceedings.

Conclusion

The findings depict a scenario where self-represented litigants are at a disadvantage for various reasons. self-represented litigants' problems are simply due to

the lack of legal representation. In addition to lacking adequate knowledge, self-represented litigants is not entirely accepted as legitimate court users. At the same time, they have little understanding of the law and procedures used in civil courts. Unlike attorneys, they are more emotionally involved in their civil cases, to the extent of affecting their judgment. From the research, most self-represented litigants choose self-representation due to financial limitations. With the high cost of living and the rising legal fees, low and middle-income earners have no option but to choose self-representation. Although the law acknowledges self-representation in civil cases, it does not provide specific guidelines on engaging self-represented litigants. In this regard, self-represented litigants are mainly at a disadvantage, especially when they face attorneys as opposing counsel. For the justice system to adhere to its principles of fairness and equality there is an urgent need to address structural, financial, doctrinal, and political barriers.

Like attorneys, self-represented litigants should be treated as equal partners of the courts. They must have access to relevant information to support their cases. Hence, equality of arms for self-represented litigants must be protected alongside their participation in the court proceedings. During civil court cases, legal language should be simplified, and self-represented litigants given enough time to make their presentations. Judges must ensure that attorneys do not intimidate self-represented litigants during court proceedings. Typically, the rights of self-represented litigants must be respected and legitimized in the court system. From the research, it was clear that radical changes are required in the civil courts. Officials in the justice system should be trained on engaging

self-represented litigants. In addition, new policies should be implemented to support routine communication with self-represented litigants during court proceedings and carry out disciplinary measures on actions that threaten fairness. In other circumstances, the courts should recommend alternative dispute resolution methods to lower the cost and time burden of civil cases. The proposed recommendations must be implemented to improve the experience of self-represented litigants in civil courts. Generally, the findings illustrate that the internal mechanism of engaging self-represented litigants needs to be reevaluated to give litigants equal rights in the court system to those accorded to the attorneys and other professionals.

References

Abel, L. K. (2009). Evidence-based access to justice. *University of Pennsylvania Journal of Law and Social Change, 13*(3). https://scholarship.law.upenn.edu/jlasc/vol13/iss3/3

Albiston, C. R., & Sandefur, R. L. (2013). Expanding the empirical study of access to justice. *Wisconsin Law Review, 2013*(1), 101–120. https://heinoline.org/HOL/Page?public=true&handle=hein.journals/wlr2013&div=7&start_page=101&collection+journals&set_as_cursor=0&men_tab=srchresults

Aspers, P. (2009). Empirical phenomenology: A qualitative research approach. *Indo-Pacific Journal of Phenomenology, 9*(2), 1–12. https://doi.org/10.1080/20797222.2009.11433992

Barton, B. H., & Bibas, S. (2012). Triaging appointed-counsel funding and pro se access to justice. *University Of Pennsylvania Law Review, 160*(4), 967–994. https://scholarship.law.upenn.edu/faculty_scholarship/377

Blackburne-Rigsby, A. (2014). Ensuring access to justice for all: Addressing the justice gap through renewed emphasis on attorney professionalism and ethical obligations in the classroom and beyond. *Georgetown Journal of Legal Ethics, 27*(4), 1187–1202. https://articleworks.cadmus.com/geolaw/zs000414.html

Blankley, K. M. (2013). Adding by subtracting: How limited scope agreements for dispute resolution representation can increase access to attorney services. *Ohio State Journal on Dispute Resolution, 28*(3), 659–708. https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1174&context=lawfacpub

Busetto, L., Wick, W., & Gumbinger, C. (2020). How to use and assess qualitative research methods. *Neurological Research and Practice, 2*(1). https://doi.org/10.1186/s42466-00059-z

Cantrell, D. J. (2002). Justice for interests of the poor: The problem of navigating the system without counsel. *Fordham Law Review, 70*, 1573–1590. https://scholar.law.colorado.edu/articles/548

Creswell, J. (2009). *Research design: Qualitative, quantitative, and mixed methods approaches* (Laureate Education, custom ed.). Sage Publications.

Davis, M. F. (2012). Participation, equality, and the civil right to counsel: lessons from domestic and international law. *Yale Law Journal, 122*, 2260–2281. https://digitalcommons.law.yale.edu/ylj/vol122/iss8/7

Eldh, A. C., Årestedt, L., & Berterö, C. (2020). Quotations in qualitative studies: Reflections on constituents, custom, and purpose. *International Journal of Qualitative Methods, 19*. https://doi.org/10.1177/1609406920969268

Engler, R. (2014). Access to justice and the role of the private practitioner. *Kansas Journal of Law & Public Policy, 24*, 554. https://Heinoline.org/HOL/Page?handle=hein.journals/kjpp24&div=26&g_sent=1&casa_token=&collection=journals

Forero, R., Nahidi, S., De Costa, J., Mohsin, M., Fitzgerald, G., Gibson, N., McCarthy, S., & Aboagye-Sarfo, P. (2018). Application of four-dimension criteria to assess rigour of qualitative research in emergency medicine. *BMC Health Services*

Research, 18(1). https://doi.org/10.1186/s12913-018-2915-2

Fraser, N. (1998). Social justice in the age of identity politics: Redistribution, recognition, participation. https://doi.org/10.4135/9781446218112.n2

Gideon v. Wainwright, 372 U.S. 335 (1963). https://doi.org/10.4135/9781452240213.n79

Gorham, U. (2014). Facilitating access to legal information by self-represented litigants: An exploratory case study of the people's law library of Maryland. *JOAL, 2*(1). https://ojs.law.cornell.edu/index.php/joal/article/view/8/35

Gray, C. (2007). Reaching out or overreaching: Judicial ethics and self-represented litigants. *Journal of the National Association of Administrative Law Judiciary, 27*(1), Article 4. https://digitalcommons.pepperdine.edu/naalj/vol27/iss1/4

Greacen, J. M. (2014). Self-represented litigants, the courts, and the legal profession: Myths and realities. *Family Law Review, 52*(4), 662–669. https://doi.org/10.1111/fcre.12118

Gustafson, D., Gluek, K., & Bourne, J. (2012). Legal costs in Minnesota: Pro se litigation and the costs of access to justice. *William Mitchell Law Review, 39*(1), 32–54. https://open.mitchellhamline.edu/wmlr/vol39/iss1/4

Hatch, J. A. (2002). *Doing qualitative research in education settings*. SUNY Press.

Janku, A. D., & Vradenburg, J. A. (2015). Self-represented litigants and civil case dispositions in Missouri: An impact analysis. *Court Review, 51*(2), 74–80. https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1506&context=ajacourtreview

Johnson, J. L., Adkins, D., & Chauvin, S. (2019). A review of the quality indicators of rigor in qualitative research. *American Journal of Pharmaceutical Education, 84*(1), Article 7120. https://doi.org/10.5688/ajpe7120

Judiciary Act of 1789, Ch. 20, 1 Stat. 73, § 35 (1789) https://doi.org/10.4135/9781452240213.n103

Knowlton, N. A., Cornett, L., Gerety, C. D., & Drobinske, J. (2016). *Cases without counsel: Research on experiences of self-representation in U.S. family court*. https://iaals.du.edu/sites/default/files/documents/publications/cases_without_counsel_research_report.pdf

Korstjens, I., & Moser, A. (2017). Series: Practical guidance to qualitative research. Part 4: Trustworthiness and publishing. *European Journal of General Practice, 24*(1), 120–124. https://doi.org/10.1080/13814788.2017.1375092

Kuckartz, U. (2019). Qualitative text analysis: A systematic approach. *ICME-13 Monographs*, 181–197. https://doi.org/10.1007/978-3-030-15636-7_8

Landsman, S. (2012). Pro se litigation. *Annual Review of Law & Social Science, 8*(1), 231–253. https://doi.org/10.1146/annurev-lawsocsci-102811-173911

Lassiter v. Department of Social Svcs., 452 U.S. 18 (1981). https://supreme.justia.com/cases/federal/us/452/18/

Lucas, L. S. (2014). Deconstructing the right to counsel. *American Constitution Society of Law and Policy*, 1–14. https://acslaw.org/sites/default/files/Lucas_-_Deconstructing_the_Right_to_Counsel.pdf

MacDowell, E. L. (2015). Reimagining access to justice in the poor people's courts. *Georgetown Journal on Poverty Law & Policy, 22*(3), 473–543. https://scholars.law.unlv.edu/cgi/viewcontent.cgi?article=1962&context=facpub

Medows, D. B. (2014). Justice as a luxury? The inefficacy of middle class pro se litigation and exploring unbundling as a partial solution. *BYU Journal of Public Law, 29*(1), 149–182. https://digitalcommons.law.byu.edu/jpl/vol29/iss1/5

Miles, M. B., Huberman, A. M., & Saldana, J. (2014). *Qualitative data analysis: A methods sourcebook* (3rd ed.). Sage Publications.

Moustakas, C. (1994). *Phenomenological research methods*. Sage Publications.

N.C. General Statue § 84-2.1 (1985). https://www.ncleg.net/enactedlegislation/statutes/html/bysection/chapter_84/gs_84-2.1.html

New York City Bar Association, Committee on Professional Responsibility. (2013). Narrowing the "justice gap": Roles for nonlawyer practitioners. https://www2.nycbar.org/pdf/report/uploads/20072450-RolesforNonlawyerPractitioners.pdf

Nicholson, L. H. (2013). Access to justice requires access to attorneys: Restrictions on the practice of law serve a societal purpose. *Fordham Law Review, 82*(6), Article 8. https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=4999&context=flr

Nyirenda, L., Kumar, M. B., Theobald, S., Sarker, M., Simwinga, M., Kumwenda, M., Johnson, C., Hatzold, K., Corbett, E. L., Sibanda, E., & Taegtmeyer, M. (2020). Using research networks to generate trustworthy qualitative public health research findings from multiple contexts. *BMC Medical Research Methodology, 20*(1).

https://doi.org/10.1186/s12874-019-0895-5

Painter, R. W. (2011). Pro se litigation in times of financial hardship—A legal crisis and its solutions. *Family Law Quarterly, 45*(1), 45–94.

Patton, M. Q. (2015). *Qualitative evaluation and research methods*. Sage.

Raskind, I. G., Shelton, R. C., Comeau, D. L., Cooper, H. L., Griffith, D. M., & Kegler, M. C. (2018). A review of qualitative data analysis practices in health education and health behavior research. *Health Education & Behavior, 46*(1), 32–39. https://doi.org/10.1177/1090198118795019

Ravindran, V. (2019). Data analysis in qualitative research. *Indian Journal of Continuing Nursing Education, 20*(1), 40–45. https://doi.org/10.4103/IJCN.IJCN_1_19

Rawls, J. (1971). *A theory of justice*. Belknap.

Rhode, D. L. (2008). Whatever happened to access to justice. *Loyola Law Review, 42*(4), Article 2. https://digitalcommons.lmu.edu/llr/vol42/iss4/2

Rhode, D. L. (2016). Access to justice: A roadmap for reform. *Fordham URB Law Journal, 41*(4), 1227–1257. https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2544&context=ulj

Rubin, H. J., & Rubin, I. S. (2012). *Qualitative interviewing: The art of hearing data.* Sage Publications.

Sandman, J. (2017). Legal services corporation fiscal year 2018 budget request. https://www.lsc.gov/our-impact/publications/budget-requests/fiscal-year-2018-budget-request

Smith, J. M. (2016). Rationed justice. *Suffolk University Law Review, 49*, 353.

Smith, L. F., & Stratford, B. (2012). DIY in family law: A case study of a brief advice clinic for pro se litigants. *Journal of Law & Family Studies, 14*, 167.

Steinberg, J. K. (2011). In pursuit of justice-case outcomes and the delivery of unbundled legal services. *Georgetown Journal on Poverty Law and Policy*, *18*, 453. https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?article=2112&=&context=faculty_publications

Turner v. Rogers, et al., 564 U.S. 431 (2011). https://supreme.justia.com/cases/federal/us/564/431/

U.S. Const. amend. XIV. https://law.justia.com/constitution/us/amendment-14/01-rights-guaranteed.html

Xu, W., & Zammit, K. (2020). Applying thematic analysis to education: A hybrid approach to interpreting data in practitioner research. *International Journal of Qualitative Methods, 19*. https://doi.org/10.1177/1609406920918810