

Tracking the Trends of the Self-Represented Litigant Phenomenon:

Data from the National Self-
Represented Litigants Project,
2021-2023

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Introduction

What is the National Self-Represented Litigants Project?

From 2011-2013 the founder of the National Self-Represented Litigants Project (NSRLP), Dr. Julie Macfarlane, studied the experiences of self-represented litigants (SRLs) navigating the justice system in three Canadian provinces: Ontario, British Columbia, and Alberta. She conducted detailed personal interviews, as well as focus group interviews, with a total of 259 self-represented litigants.¹ After the publication of Dr. Macfarlane's initial study in 2013, self-represented litigants wished to continue sharing their stories and experiences with the legal system. It became clear that there was a significant gap in existing organizations and systems, and that self-represented litigants' contributions and experiences were going unheard. The National Self-Represented Litigants Project was created in 2013 to fill that gap.

The NSRLP is committed to advancing understanding of the challenges and hard choices facing the large numbers of Canadians who now come to court without counsel. The NSRLP works to promote dialogue and collaboration among all those affected by the self-represented litigant phenomenon, both justice system professionals and litigants themselves. We regularly publish resources designed specifically for SRLs, as well as research reports that examine the implications of the self-representation phenomenon on the justice system.

Our data

In 2013, after the conclusion of Dr. Macfarlane's original study, the NSRLP research team developed an SRL Intake Form survey (using SurveyMonkey) in order to continue collecting information from self-represented litigants from across Canada. The Form tracks SRLs' demographic data using variables such as income, education level, and legal party status. It also asks questions about the litigant's experience generally in the legal system, including questions regarding prior legal services, mediation services, and bringing a support

¹ Julie Macfarlane, "The National Self Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants" at 31, May 2013, online (pdf): < <https://representingyourselfcanada.com/wp-content/uploads/2016/09/srlreportfinal.pdf> > [2013 report]

person to court. The Intake Form provides a glimpse into the personal experiences of self-represented litigants.

Previous intake reports are available via the following links:

1. [Original SRL Study](#) (published 2013)
2. [Intake Report 2014-2015](#) (published 2015)
3. [Intake Report 2015-2016](#) (published 2017)
4. [Intake Report 2017](#) (published 2018)
5. [Intake Report 2018-2019](#) (published 2020)
6. [Intake Report 2019-2021](#) (published 2021)

Part 1: Who are SRLs?

The data analyzed in this report comes from 268 Intake Forms completed between July 1st 2021 and September 30th, 2023.

Age and gender breakdown

256 of the 268 respondents provided information related to their gender identity. 49.2% of the respondents (n = 126) identified as female, 48.8% (n = 125) identified as male, and 1.9% (n = 5) either preferred to self-describe or not to say. The male and female percentage split is largely consistent with NSRLP data over the years. However, there is a slight increase of 2% in the number of male respondents compared to the 2019-2021 Intake Report.²

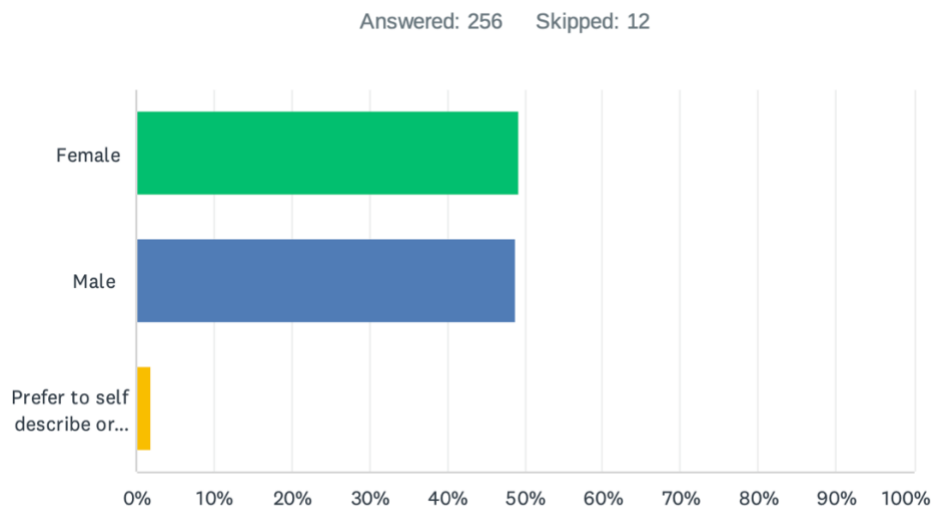


Table 1 - Gender of respondents

257 of 268 respondents provided information related to their age. The data indicates that 44.4% of the respondents were over 50 years of age (n = 114), 32.7% were between the ages of 40 and 50 (n = 84), 20.6% were between the ages of 30 and 40 (n = 53), 2% between ages of 25 and 30 (n = 5), and 0.39% under the age of 20 (n = 1). None of the respondents

² Charlotte Sullivan and Julie Macfarlane, “Tracking the Trends of the Self-Represented Litigant Phenomenon: Data from the National Self- Represented Litigants Project, 2019-2021” October 2021, online (pdf): < <https://representingyourselfcanada.com/wp-content/uploads/2021/10/Intake-Report-2021-FINAL.pdf> > [2019-2021 report].

indicated they were between the ages of 20 to 25. The presence of a respondent under the age of 20 is a first in the NSRLP’s history of collecting data about age.

The largest age group is still (in line with previous intake reports) those over the age of 50. Given that older individuals are more likely to be engaged in civil disputes, it may explain their disproportionate representation in the data over the years. In the 2019-2021 Report, 51.5% reported their age to be over 50 and now there is a decrease of about 7% in our current statistics for that age group. The results for the other age groups have also remained fairly consistent over the years. We are not sure why there is a lack of younger respondents in this data – younger individuals may have fewer legal problems, or may be handling their legal disputes outside the justice system or through informal dispute resolution, or there may be other reasons at play. This question could be a line of future inquiry for the NSRLP.

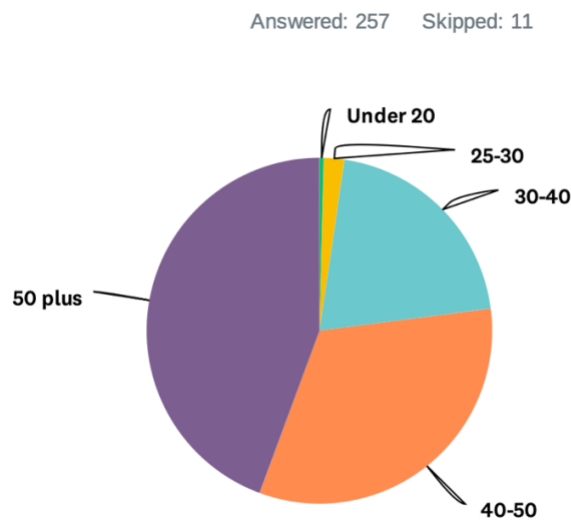


Table 2 - Age of respondents

Identification as a person with a disability

Around 43.1% of respondents identified as a person with a disability. 9% of these respondents specified that they had a cognitive disability, while 6.7% stated that they are physically disabled. Some respondents specified that they are dealing with long-term mental health issues, injuries from the workplace, are immunocompromised, and more.

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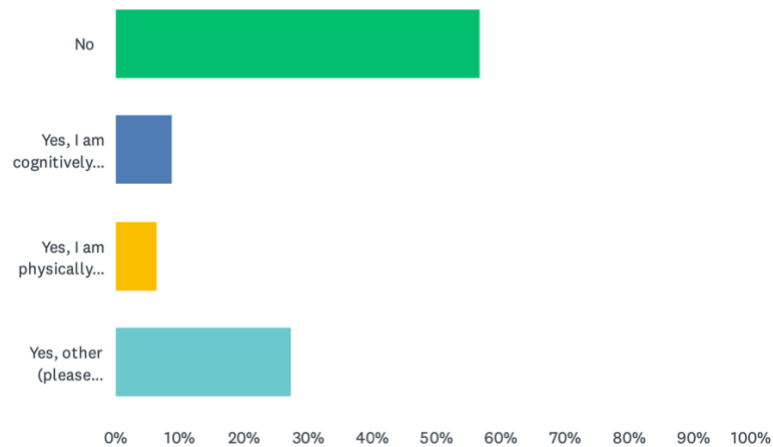


Table 3 - Disabilities of respondents

These numbers are very similar to 2019-2021 Report statistics. In that report 41.3% of respondents stated that they identified as having a disability. Additional data suggests that disabled self-represented litigants continue to struggle with seeking accommodations from the courts.³ The NSRLP provides some guidance for navigating the justice system for litigants with a disability.⁴

Legal party status

60.3% of respondents reported that in their case, they were the plaintiff or petitioner (n = 146). 39.7% of respondents stated that they were the defendant or respondent (n = 96). This 2:1 split is consistent with the 2019-2021 Report and prior reports as well.

Was the other side represented?

89.3% of respondents said that the other side in their case was represented by counsel, while 10.6% percent stated that the other side was also self-representing. This data

³ Shannon Meikle, Silvia Battaglia, and Julie Macfarlane, “Struggling for accommodation: Barriers to Accessibility faced by Cognitively Disabled Self-Represented Litigants” National Self-Represented Litigants Project < <https://representingyourselfcanada.com/wp-content/uploads/2021/11/PWCD-Report-FINAL.pdf> > [2021 report]

⁴ National Self-Represented Litigants Project, “A Guide for SRLs with Disabilities” < <https://representingyourselfcanada.com/wp-content/uploads/2021/04/PWD-Primer-March-2021.pdf> >

is similar to other Intake Reports – in the 2019-2021 report, around 91% reported that the other side was represented.

Annual income levels

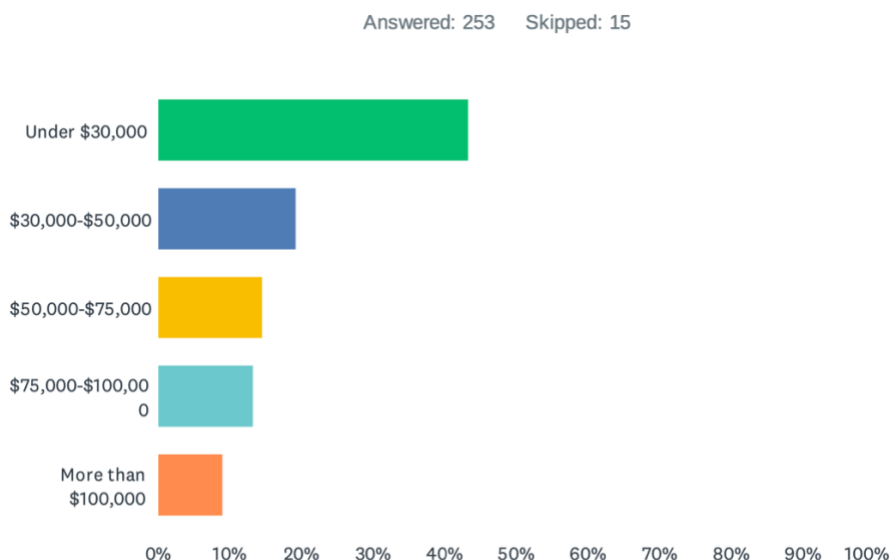


Table 4 - Annual Income Levels of Respondents

253 out of 268 respondents provided information about their annual income. The majority of respondents in the data reported lower income levels (annual incomes below \$50,000). 43.5% of respondents (n = 110) reported their annual income to be below \$30,000. 19.4% of respondents reported an annual income between \$30,000 and \$50,000 (n = 49). 14.6% stated their annual income was between \$50,000 and \$75,000 (n = 37). 13.4% shared that their income was between \$75,000 and \$100,000 (n = 34). Lastly, 9.1% reported that their income was more than \$100,000 (n = 23).

It is interesting to note that in Ontario, the threshold income to qualify for Legal Aid is \$18,000 to \$32,000, depending on the number of family members.⁵ This threshold coincides with the medium income of most respondents in this data. When examining whether these individuals used legal aid services at any point, some reported that they did

⁵ See details on Legal Aid Ontario's financial eligibility increase for 2020, Legal Aid Ontario, March 27, 2020. <<https://www.legalaid.on.ca/news/details-on-legal-aid-ontarios-financial-eligibility-increase-for-2020/>>.

work with Legal Aid but were unsatisfied by the services, and some said they did not contact a Legal Aid lawyer at all. This data is consistent with previous reports.

The data also suggests that there is a clear gap between those eligible for Legal Aid and those who can afford legal services. Despite around 22.5% of the respondents having an annual income of \$75,000 or more, they are self-represented. It suggests that even individuals with medium to high incomes struggle to afford legal services. As noted in the 2019-2021 report, this data is consistent with studies which show that most people self-represent because they cannot afford to pay for legal services for the entirety of their matter, but do not qualify for Legal Aid.

First language

255 respondents out of 268 answered this question. 80.78% of respondents stated that their first language was English (n = 206). This is a 3% increase from the 2019-2021 Report. The question listed other language options such as French, Mandarin/Cantonese, Punjabi, Spanish, Urdu, German, and Polish. 8.2% of respondents said they spoke one of these languages as their first language. There was also an “Other” option which allowed respondents to write in their response. The languages reflected in these responses included Russian, Vietnamese, Malayalam, Somali, Bangwa, Tamil, Albanian, Slovak, Romanian, Tagalog, Ukrainian, Italian, Bengali, Portuguese, Farsi, Korean, and Greek.

The diversity of languages represented in the data has long been a feature of previous intake reports. In the 2019-2021 Report, 21% of people stated that they spoke a non-English language. Additionally, it should be noted that the Intake Form is currently only available in English. As such, there may be much more diversity in languages spoken by self-represent litigants that the current NSRLP data cannot capture, particularly if these litigants use translators or other language services.

The Intake Form also specifically asks respondents whether they speak or read fluent French. About 88% of people stated that they did not speak or read French fluently (n = 223), while 11.9% of respondents stated that they did speak or read French fluently (n = 30).

Ethnic identity

On trend with prior Intake Reports, 65.9% of respondents stated that they are Caucasian. 5.9% stated that they are Asian or East Asian, 5.56% identified as South Asian, 4.76% as Black, 2.78% as Metis, 1.98% as a member of a First Nation, 1.59% as Latino or Latina, and 1.19% as Middle Eastern or Arab. In the “Other” category, a further 10.32% specified their ethnic identity. Some clarified that they identify as biracial or multiracial, while others preferred to identify by their nationality.

These results are mainly in line with the 2019-2020 report where 65.3% identified as Caucasian, 8.2% as East Asian, 6.6% as South Asian, 4.7% as Black, 1.6% as Latino or Latina, 1.6% as Middle Eastern or Arab, 0.8% as First Nations, and 0.8% as Inuit. One slight difference in the new data is the rise in Metis and First Nations representation.

The purpose of this question is to highlight the fact that there are racialized self-represented litigants, and to raise awareness about the specific challenges and problems that racialized self-represented litigants may face. NSRLP recognizes that institutional racism in the legal system poses additional challenges and barriers for racialized self-represented litigants.

Educational level

40.4% of respondents stated that they have a university degree or other professional qualification (n = 103). A further 27.45% reported that they possessed a college diploma (n = 70), 15.3% said that they have a high school diploma (n = 39), and 4.3% stated that they do not have a high school diploma (n = 11). These trends correspond to previous intake reports, which suggests that most respondents have high educational attainment. In the 2019-2021 report, around 43% of respondents held a university or professional degree.

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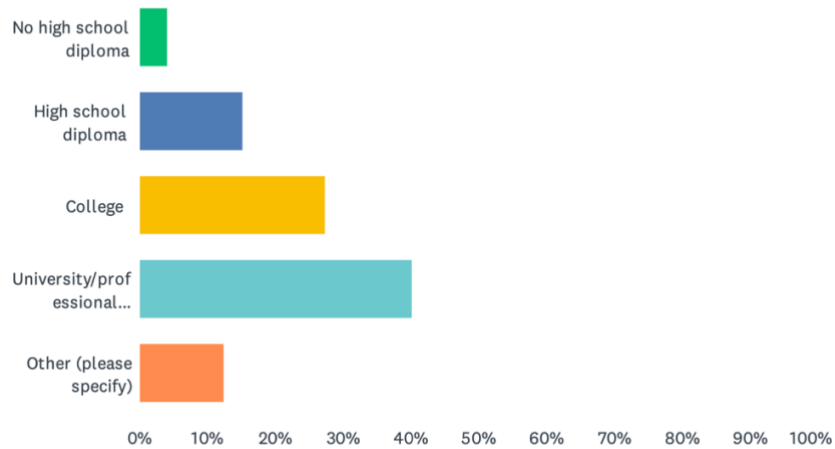


Table 5 - Educational Attainment of Respondents

This question also had an “other” option where respondents could write their own answer. This category represented 12.5% of responses (n = 32). Some respondents mentioned that they completed a real estate education course, others stated that they began their university or college programs but did not complete their degree or diploma. Additionally, some respondents used the ‘other’ category to elaborate on the type of university program or college diploma they attended. This further reinforces the trend that the majority of respondents tend to be educated.

Part 2: Where do SRLs file their claims?

Civil or family litigants

51% of respondents stated that they were involved in a case involving a civil matter, while 49% stated that they were involved in a case with a family law matter. These statistics reflect those of the 2019-2021 Report where 57.8% of respondents were involved in civil matters and 42.2% were involved in family law matters. This more recent data reflects a shift from the original 2013 study, where about two thirds of the respondents were involved in family law matters. The 2017 Intake Report found 53% of respondents in a case involving family law matters. This trend suggests that the number of SRLs in civil law cases is continuing to rise in proportion to the number of family law cases.

Provincial jurisdiction

This question pertains to which province or territory the respondent's case was filed in. The majority of respondents stated that their case was filed in Ontario (50%). 17.9% said their case was filed in Alberta, 16.7% in British Columbia, 3.7% in Saskatchewan, 2.9% in Manitoba, 2.4% in Newfoundland and Labrador, 2% in Quebec, 2% in Nova Scotia, 1.2% in Yukon, 0.4% in New Brunswick, 0.4% in Prince Edward Island, and 0.4% in the Northwestern Territories. Amongst this group of respondents, no claims were filed in Nunavut.

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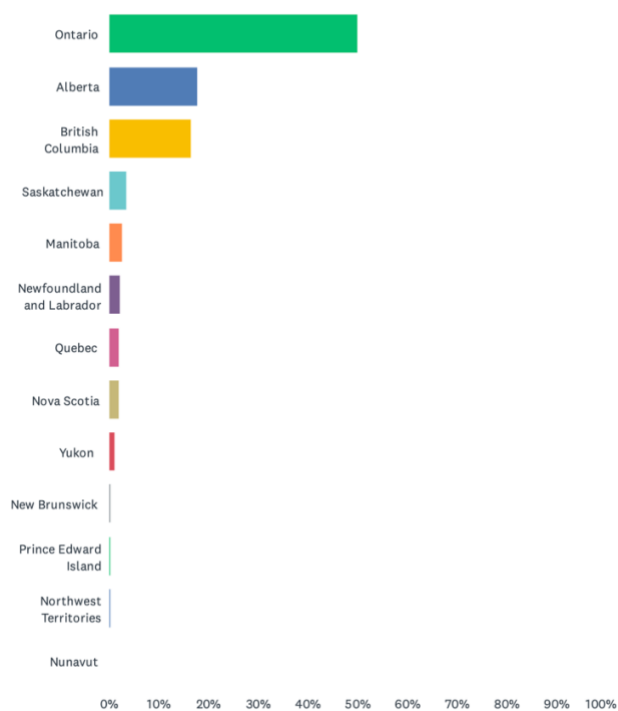


Table 6 - Table 6 - Provincial Jurisdiction of Respondents

Court level

Given that the majority of respondents stated that they filed their claims in Ontario, it is not surprising that the greatest number of legal claims were filed in the Ontario Superior Court of Justice (42.60%). Additionally, in descending numbers respondents reported filing legal claims at the following courts:

- 17% Court of Queen's Bench of Alberta
- 14.4% Supreme Court of British Columbia
- 3.6% Federal Court
- 3.14% Court of Queen's Bench of Manitoba
- 3.1% Supreme Court of Newfoundland and Labrador
- 3.1% Court of Appeal
- 3.1% Supreme Court of Canada
- 2.24% Court of Queen's Bench for Saskatchewan
- 1.8% Supreme Court of Nova Scotia

- 1.8% Quebec Superior Court
- 1.8% Small Claims Court
- 1.35% Supreme Court of the Yukon Territory
- 0.45% Supreme Court of the Northwest Territories
- 0.45% Supreme Court of Prince Edward Island

There were no reported claims filed at the Court of Queen's Bench of New Brunswick, the Nunavut Court of Justice, and the Tax Court of Canada. These statistics also suggest that most claims are being filed at the trial level, however SRL claims are present at nearly all courts in the country.

Part 3: What help do SRLs Seek?

Assistance from lawyers

The majority of respondents stated that they had received assistance from lawyers in some capacity (68.9%), while 31.1% stated that they had not received any assistance. These numbers precisely mirror the 2019-2021 Report where 68.9% of respondents also stated that they worked with a lawyer to represent them at some stage over the course of their matter. These numbers reflect the frequency with which self-represented litigants begin their process with legal representation but along the way are forced to drop their representation and represent themselves, primarily due to costs.

Respondents who worked with a lawyer were asked to elaborate on whether they privately retained lawyer, received a lawyer through Legal Aid, or found a lawyer who worked for them *pro bono*. 74.25% of respondents who had worked with a lawyer stated that they had privately retained a lawyer. 19.8% said they worked with a lawyer from Legal Aid, and 6% said a lawyer helped them on a *pro bono* basis. These percentages are quite similar to those in the 2019-2021 Intake Report.

When asked whether respondents were satisfied with the level of service they received from their lawyer, 55% said they felt the service was poor. 19.6% said the service was moderate, and only 14.3% said that they were well-satisfied with the service. These statistics are fairly similar to the 2019-2020 report, where 58.7% of respondents indicated that they were not satisfied with the legal help they received, 22.4% said they were moderately satisfied, and 10.6% stated that they were well-satisfied. There is, however, a slight increase in the number of people who reported feeling satisfied with the help they received. These statistics seem to suggest that many self-represented litigants not only feel that legal services are unaffordable, but also that they are unsatisfactory.

Unbundled legal services

Unbundled legal services, also known as limited scope services, are services provided by a lawyer or other legal professional for specified parts of a client's legal matter, as

opposed to a traditional, full scope retainer. Unbundled legal services provide a more affordable option for people who may not be able to afford a traditional retainer for their legal matter. They can be particularly helpful for people who are primarily self-represented, but who wish to consult a lawyer on issues and procedures with which they particularly struggle.

When asked whether the lawyer they worked with in the past offered unbundled legal services, the majority of respondents said their lawyer did not provide such services (65.9%). Only 34.1% of respondents said unbundled legal services were made available to them. The respondents were then asked whether they found the unbundled legal services satisfactory, if they used them. 48% of respondents said they had a poor experience with unbundled legal services, 32% said they had a moderate experience, and 20% said they were well-satisfied with the services. These statistics suggest that despite attempts to make unbundled services more affordable and to increase people's accessibility to legal representation, many people still either cannot access these services or simply do not find them satisfactory. When asked to explain why unbundled legal services were unsatisfactory, some respondents said that the services were still expensive or that they felt unimportant to the lawyer due to the limited nature of the work.

There also remains the problem that unbundled legal services are not widely available. For example, when asked whether respondents tried to seek limited scope services 52.6% said they looked for them without success. 47.4% did successfully manage to find unbundled legal services. These numbers are similar to the 2019-2020 Intake Report data, where 50.5% were unsuccessful in finding limited scope services.

Virtual or remote legal services

During the COVID-19 pandemic, many court procedures migrated to video conference and teleconference formats. Therefore, NSRLP added a question to the Intake Form inquiring whether respondents might be interested in accessing virtual or remote legal services. The vast majority of respondents stated that they are interested in virtual or remote legal services (86.6%), while 13.42% stated that they are not interested in these types of

services. The respondents who said they were not interested spoke of technical issues and some said they simply do not have the capacity to virtually call in due to slow internet or other technical challenges. Some respondents said they would only be in favor of such services if they were cost-free. Those who were in favor of such services said they appreciated the immediate technical support that was available on these platforms and that it saved travel time. The availability of virtual or remote legal services may increase accessibility and access to justice. However, it also raises concerns about access to technology and other equipment needed to use these services.

Mediation services

The majority of respondents stated that they had never been offered mediation services (64%), while 36% stated that they had. This is a slight drop from the 2019-2021 Intake Report statistics, where 39% of respondents said they had been offered mediation services before.

When asked whether they had ever used mediation services, 33.2% of respondents said that they had, while 66.3% had not. These numbers can be explained by the above statistic where only 36% of people stated that they had been offered mediation services. This perhaps suggests that there is not much knowledge and awareness of mediation services and the alternatives they can offer. When respondents who have used mediation services were asked whether they settled the claim, 75.3% stated that they did not settle the claim, 19.59% stated that they settled in part, and 5.15% stated that they completely settled the legal matter.

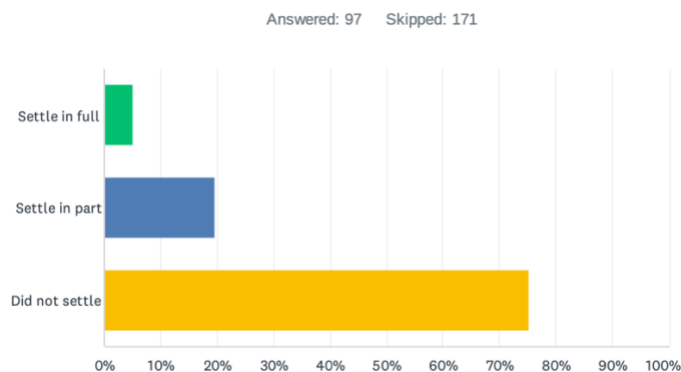


Table 7 - Outcomes of Mediation Among Respondents

McKenzie Friends and support persons

A McKenzie Friend is a support person an SRL may bring into the courtroom with them. They can sit with the litigant, take notes, hand the SRL documents, and otherwise provide practical and emotional support to the SRL. They cannot address the court, but instead act as a kind of silent helper. The majority of respondents in this data period have never brought a support person into court with them (67.6%). 20.7% said they sometimes brought a support person with them, and 11.7% said they brought someone most of the time. In comparison to the 2019-2021 Report numbers, there is an increase of nearly 10% of respondents here saying that they have never brought a support person with them. This data perhaps suggests that many SRLs are unaware of the fact that they can ask to bring a McKenzie Friend into court with them. Given that many SRLs express feeling isolated and unsupported in court settings, bringing in a support person may improve the experience SRLs have in court. To this end, the NSRLP has created support materials for self-represented litigants to understand the purpose and benefits, as well as know how to make an appropriate request to the court for a McKenzie Friend.⁶

In the Intake Form, if the respondent did have experience bringing a McKenzie Friend, they were then asked whether the respondent chose to introduce the support person to the court as a McKenzie Friend. In response to this, the majority of people said that they do not introduce their support person as a McKenzie Friend (75.8%), while 24.2% of people said that they did. In 2017 only 12.5% of respondents indicated yes to this question and the 2018-2019 report then showed that this number had increased to 22%. The 2019-2020 report then showed a slight drop to about 19% of respondents who introduced their support person as a McKenzie Friend. These trends do seem to indicate that as SRLs become more aware of the rules surrounding McKenzie Friends, they are more likely to introduce them as such. However, the advent of virtual hearings and teleconferencing may create difficulties for SRLs bringing support persons with them to hearings.

⁶ The National Self-Represented Litigants Project, “The McKenzie Friend – Bringing a support person to court with you” < <https://representingyourselfcanada.com/wp-content/uploads/2020/10/The-McKenzie-Friend.pdf> >

Part 4: SRL Perspectives and Stories

The final section of the Intake Form includes space for SRLs to provide, in an open format, personal testimonies about their experiences as self-represented litigants and their experiences in general within the legal system. This allows respondents to elaborate upon some of the positive and negative aspects of self-representation, as well as potentially offer tips to others who are considering or are currently self-representing. As the legal system presents many barriers, the stories, directly from SRLs themselves, also allow us to contextualize the challenges they face, and the strategies they use to surmount those challenges.

As mentioned above, this 2-year period saw the aftermath of the immediate effects of the COVID-19 pandemic and the changes the legal system made to respond to those challenges. Some testimonials from respondents are highlighted below.

Negative experiences

Many respondents described a multitude of issues with their experiences self-representing. 91.5% of respondents (n = 138) described their experience as a self-represented litigant as being negative or neutral. While some responses are highlighted below, many describe the feelings of confusion and isolation. Many suggest that they feel lawyers and judges are prejudiced against them by virtue of their being self-represented. Overall, the responses paint a bleak picture of a legal system that self-represented litigants feel is stacked against them from the very beginning.

“It is lonely and it is scary trying to find help when you cannot afford a lawyer. When you have mental disabilities, mood disorders, and fluctuating cognitive abilities it is harder. One of my biggest barriers in finding help is being understood.”

“I slowly was losing my savings and realized my only option was to self-represent.”

“I feel like court officials are dismissive of SRLs. I liken this experience to being gaslit, being made to question your perception of reality, being told constantly that you are wrong.”

“I have hired lawyers, had Legal Aid, and been self-represented. The worst outcomes have been when I was self-represented. A lawyer is considered an officer of the court, and therefore assumed to be honest. Self-represented persons are not given that courtesy.”

“When I was self-represented and unable to afford a lawyer, judges have assumed that I chose to appear before them self-represented rather than accept the advice of a lawyer.”

Many self-represented litigants described feelings of loneliness and isolation, and many expressed that they felt the deck was stacked against them and that they were not taken seriously by court officials. They suggest that many assumptions are made about SRLs. One frequent assumption reported was that a person was self-represented by choice. These problems are further exacerbated for SRLs with disabilities.

“As it relates to disabilities, and mental disabilities in particular, it has been very difficult at times. I have been exhausted and the court demands too much and too quickly to be provided by SRLs. The courts fail to consider the unique circumstances of SRLs with disabilities and the needs of SRLs with disabilities is not or does not appear to be a priority for them.”

Negative feelings seem to be compounded for disabled litigants and racialized litigants. Many feel the demands of self-representation to be too onerous when someone is disabled. Respondents suggest that placing the onus on disabled SRLs themselves to access court accommodations places extra burdens on them. The responses from disabled SRLs also suggest that COVID-19 presented unique challenges in regard to accessibility and accommodation. Some described feeling frustrated with online calls and video conferencing as the pandemic created an extra reliance on technology. This led to some disabled SRLs feeling like they were at a disadvantage due to the sudden transition to online services.

Within the responses, some SRLs took the opportunity to ask for more clarification about hiring and working with legal professionals who provide unbundled services. They inquired about how to effectively set expectations for quality of service and how to anticipate what scope of services they will need. The frequency of this question suggests that more work needs to be done to provide information about these services to self-represented litigants.

Positive experiences

A small percentage of respondents reported some positive experiences or feelings associated with self-representing (8.5%). Those who reported positive experiences typically talked about winning their case. They report that they typically had help from lawyers and other legal professionals (such as paralegals) through unbundled services, or the support of other SRLs or access to justice resources (such as those provided by the NSRLP).

“I’m just starting to be an SRL after using a private lawyer for 5.5 years. I am now out of money but thanks to the NSRLP course, I feel at least a tiny bit prepared for what is to come.”

“I was helped by a few SRLs before and I was very grateful as it made a big difference in my case.”

“In my opinion lawyers and judges are professional. They practice in accordance with the rules of their profession. However, it’s important that they be aware that not everyone has training like them.”

Advice to other SRLs

25.8% of respondents used the form as an opportunity to offer advice and guidance to other self-represented litigants. One common theme among these comments was that being an SRL was akin to a full-time job, and that a person should ultimately be prepared to do a “deep dive” into law. Some respondents expressed that one slight advantage to being self-represented was that no one would know their case better than themselves.

“Prepare yourself for a deep dive into the legal world. It is a full-time job. Dedicate time to learn the law, reading case law and when needed, get legal advice. Ask yourself questions - the main one: Am I reasonable? Be organized and prepared, believe in yourself as no one knows your case better than you.”

“The following are some actions that I think were helpful to us succeeding in court. Knowing my case inside and out. I studied the comments about lawyers winning high profile cases, and they always said that they knew their case better than their opponent. The advantage that a SRL has is knowing their case better than the lawyer on the other end.”

“I listened to lectures given by lawyers and prepared my own line of questioning. I carefully reviewed the affidavits of the other party's witness and scrutinized it for contradiction, and I used it to prove their dishonesty in the matter. I made a chart of the questions I planned to ask, along with citations to exhibits. Watching real courtroom cases dispels myths. The layperson's understanding of court is based on movies and television. Watching real courtroom proceedings can help give a better understanding of what actually happens in a trial.”

Some respondents discussed the importance of becoming educated about the realities of court procedure, and that it was important to dispel myths about the process. Others suggested that SRLs should inform themselves about their rights and the fact that there is a responsibility on court officials and legal officers to ensure self-represented litigants have equitable access to the legal system. Still others advised making use of all available resources, such as legal libraries.

“My tip would be this: Take advantage of the CJC statement of principle and use them when dealing with any aspect of the administration of justice. Therefore, judges, court administrators, members of the Bar, legal aid organizations, and government funding agencies each have a responsibility to ensure that self-represented persons are provided with fair access and equal treatment by the court.”

“The courthouse library is another life saver. I do my case research at the library. The library staff helped me with resources and case law.”

Calling for change

Many respondents took the opportunity to call for change within the legal system in its treatment of self-represented litigants, alluding to the fact that access to justice requires court processes to be accessible and understandable. Other responses called attention to the fact that COVID-19 has exacerbated the access to justice crisis by creating backlogs and problems of accessibility.

“Access to justice for self-represented persons requires all aspects of the court process to be, as much as possible, open, transparent, clearly defined, simple, convenient and accommodating. The court process should, to the extent possible, be supplemented by processes that enhance accessibility, informality, and timeliness of case resolution. These processes may include case management, alternative dispute resolution (ADR) procedures, and informal settlement conferences presided over by a judge. Information, assistance and self-help support required by self-represented persons should be made available through the various means by which self-represented persons normally seek information, including for example: pamphlets, telephone inquiries, courthouse inquiries, legal clinics, and internet searches and inquiries.

“In view of the value of legal advice and representation, judges, court administrators and other participants in the legal system should: (a) inform self-represented parties of the potential consequences and responsibilities of proceeding without a lawyer; (b) refer self-represented persons to available sources of representation, including those available from Legal Aid plans, pro bono assistance and community and other services; and (c) refer self-represented persons to other appropriate sources of information, education, advice and assistance.”

Some respondents suggested that despite being able to afford a lawyer, they felt that the lawyer was unable to understand their needs. They expressed that poor representation can also cause severe financial harm and that as a result, many have lost trust in the legal system. These respondents even go on to suggest that lawyers should have strict guidelines for ethical behaviour and actions that have an adverse impact on their clients. This comment is especially interesting given that lawyers are subject to ethical and professional standards through the Law Societies of various provinces and their Codes of Conduct. The Model Code of Professional Conduct from the Canadian Federation of Law Societies of Canada represents these ethical and professional obligations.⁷ In that regard, this comment is troubling as it suggests that clients and self-represented litigants may not be aware of the ethical obligations placed on lawyers, and that if lawyers are in breach of those duties, the client can rightfully lodge a complaint.

Several respondents expressed frustration with the lack of transparency regarding lawyers' fees. They mentioned that some lawyers did not discuss fees immediately or simply couldn't attach a price to the work. This left many SRLs uncertain about whether they could even afford legal services through the entirety of their legal matter. Some respondents explain that the shifting cost regime within civil disputes, for example, can be a tremendous source of stress, as it introduces uncertainty regarding costs associated with litigation. These respondents cite lawyers' fees and the uncertainty around them as one of the primary reasons they are now self-represented in their legal matter. They make the suggestion that more people would be able to afford legal services if lawyer fees were mentioned up front and charged on a one-time basis for the entire retainer. These responses reflect a disconnect between lawyers' communication of fee structures and the difficulty of giving a total cost up front, and clients' understanding of how costs are calculated and change depending on how a matter unfolds. We would suggest that lawyers could attempt to give a more realistic outline of the *likely* costs, while also taking more care to make it clear how costs are calculated, and that it is difficult to assign a total cost up front.

⁷ Federation of Law Societies of Canada, Model Code of Professional Conduct < <https://flsc.ca/what-we-do/model-code-of-professional-conduct/> >

A small percentage of respondents highlighted the fact that COVID-19 has caused massive backlogs that have downstream effects on people seeking access to justice. While these respondents appreciated the virtual hearings and other online features, they felt that COVID-19 caused an unprecedented backlog that has delayed access to the courts for many.

“A better system needs to be put in place, COVID-19 has been a disaster for an already backlogged system.”

“Expecting a SRL to familiarize themselves with the required laws, regulations, and policies and procedures is an unrealistic expectation. We wouldn't allow a pilot or bus driver to do this. Judges have an ethical duty to ensure that an SRL receives a fair trial and that should start well before the trial commencements.”

Part 5: Conclusion

Virtual hearings

COVID-19 has presented one of the biggest challenges and shifts to the legal system and its operation. It has transformed court proceedings, and as a result, created downstream effects on litigants and self-represented litigants in particular. Overall, many Intake Form respondents have positive feelings towards virtual hearings and the online availability of court services. They reported that virtual hearings reduced the time and cost of travel, and that the experience of self-representation was less onerous online. However, other respondents suggested that the sudden shift to online services has created its own host of problems, and perpetuates present inequalities. People who are not familiar with online systems, as well as those who need accommodation and special assistance, felt that they were sidelined by the shift. They suggest that there is a presumption by the courts that all Canadians have access to internet and technology, and can easily learn how to utilize new and unfamiliar tools and platforms. These comments illustrate the “digital divide,” and reflect statistics showing that nearly 6% of Canadians do not have access to internet.⁸ Operational barriers such as computer literacy and access, residence in rural and remote areas with limited or spotty internet, and the needs of particularly vulnerable communities need to be taken into account.⁹ While it is clear that virtual hearings and services are here to stay and present many positives, more work needs to be done to better accommodate the needs of litigants with disabilities, Indigenous communities, and those who lack access to technology.

(The NSRLP is currently undertaking a research project, supported by the McLachlin Fund, diving much more deeply into the experiences of SRLs with virtual hearings. A final report, including recommendations to the justice system, will be published in winter, 2024.)

⁸ Statistics Canada, “Access to the Internet in Canada, 2020” (Ottawa: Statistics Canada, 31 May 2020): < <https://www150.statcan.gc.ca/n1/daily-quotidien/210531/dq210531d-eng.htm#> >

⁹ Patricia Hughes, “Advancing Access to Justice through Generic Solutions: The Risk of Perpetuating Exclusion” (2013) 31:1 Windsor YB Access Just 1 at 10.

Barriers to access to justice

This report provides a glimpse into the lives of self-represented litigants and the barriers and challenges they face in accessing our legal system. The Supreme Court of Canada in 2014 called for a “culture shift” in the system, and suggested that ensuring access to justice was the greatest goal and challenge to the rule of law in Canada.¹⁰ The Court stated that, “most Canadians cannot afford to sue when they are wronged or defend themselves when they are sued and cannot afford to go to trial. Without an effective and accessible means of enforcing rights, the rule of law is threatened.”¹¹ Although this call to action is now 10 years old, it is difficult to say whether much has changed in the legal system to ensure genuine access to justice for all Canadians.

One of the primary barriers frequently cited by respondents to the survey was the high cost of lawyers’ fees and the general unaffordability of legal services. 84.3% of respondents in the open answer portion expressed that they could not afford legal fees. As a result, many cited costs as the primary reason they were self-represented. As mentioned above in Part 1, many respondents were ineligible for Legal Aid and other *pro bono* services, as they were above income thresholds, while still being unable to afford ongoing legal services. As in all NSRLP Intake Reports, this data reflects the access to justice gap in Canada. It also suggests that the standards of poverty and income eligibility thresholds used by Legal Aid are out of date with the current Canadian economic landscape and the income of the average Canadian.¹² Even individuals with incomes of \$75,000 to \$100,000 and beyond found legal services to be ultimately unaffordable.

The difficulties faced by SRLs with disabilities is another structural barrier. Within this survey data, around 43% of respondents identified as having a disability. This can be juxtaposed with data from Statistics Canada which showed that nearly 24% of adult

¹⁰ *Hryniak v Mauldin* 2014 SCC 7 at para 23.

¹¹ *Ibid* at para 1.

¹² See details on Legal Aid Ontario’s financial eligibility increase for 2020, Legal Aid Ontario, March 27, 2020. < <https://www.legalaid.on.ca/news/details-on-legal-aid-ontarios-financial-eligibility-increase-for-2020/> >.

Canadians had a disability in 2022.¹³ These statistics suggest that disabled Canadians are disproportionately represented within the SRL population. Issues with accessibility are rampant within the legal system, while seeking accommodation from the courts for mental and physical disabilities remains a challenge and structural barrier.¹⁴

In their responses to the open-ended question a concerning number of SRLs reported experiencing discrimination over the course of their case in relation to ability, gender, or race. As is the case in the vast majority of Canadian institutions, systemic discrimination and racism in the justice system remain significant issues. Combatting the effects of racism and systemic discrimination demands greater sensitivity and cultural awareness on the part of judges, lawyers, and other actors within the justice system. These responsibilities are arguably heightened in the context of self-representation, given SRLs' inherent lack of advocacy. Institutional trustworthiness is an important aspect of the legal system and is severely hindered by the discriminatory experiences litigants of color face.¹⁵

Further general advice for SRLs

As noted in Part 4, respondents to the Intake Form continue to provide detailed and useful advice for other self-represented litigants. These include tips for navigating procedure and paperwork, preparing for proceedings, and conducting legal research in order to present coherent legal arguments. Many respondents suggested that forming connections and speaking to other SRLs made a big difference.

As illustrated below, many respondents also stressed the importance of self-care while self-representing, given its significant toll on mental, emotional, and even physical well-being.

¹³ Statistics Canada, "Canadian Survey on Disability: From 2017 to 2022" (Ottawa: Statistics Canada, 1 December 2023): < <https://www.statcan.gc.ca/en/sc/video/canadian-survey-disability-2017-2022> >

¹⁴ Shannon Meikle, Silvia Battaglia & Julie Macfarlane, "Struggling for Accommodation: Barriers to Accessibility faced by Cognitively Disabled Self-Represented Litigants" (NSRLP, November 2021): < <https://representingyourselfcanada.com/wp-content/uploads/2021/11/PWCD-Report-FINAL.pdf> >

¹⁵ Reem Bahdi, "Arabs, Muslims, Human Rights, Access to Justice, and Institutional Trustworthiness: Insights from Thirteen Legal Narratives" (2018) 96:1 Can Bar Rev 73 at 120.

“TIPS: You're not alone: A growing numbers of citizens are choosing to self-represent (because we have to) and there is an ever-expanding network of help (and of hope) through the NSRLP. Stay calm: It can be a very, very, arduous process, even heart wrenching when it's a personally charged issue. Allow emotions to come, acknowledge them, then let them pass, so you can be most productive in your work. Steer your own ship: Be careful about lawyers, and lawyers' advice, as they don't all, or always, provide the advice that is best for you. It seems likely that nobody knows your case as well as you do, so consider all advice, then make the (your) decision.”

“The only tip I can give to other SRLs is to contact many lawyers in an effort to find one who can work within your budget.”

“Learn the basics about the different kinds of law: public law, civil law, criminal law, administrative law, etc. Be clear about: where your case lies, the procedures to challenge decisions in each type of law, the correct forms to use, the court rules that apply.”

“SRLs should take advantage of free online resources like CanLII, CLEO, and other sites.”

“I recommend getting get help from other SRLs, they share their sample forms for me to review and share information regarding next steps. The court house library is another life saver that other SRLs should use. I do my case research at the library. The library staff can help you find resources and case law.”

“I would recommend to make sure you get your papers reviewed by a professional lawyer before submitting. If you cannot afford to have a lawyer then at least show it to some other SRL to review critically.”

Final thoughts

The Intake Form and intake procedures at NSRLP are ongoing and evolving. The NSRLP is committed to continuously modifying Intake Form questions in order to respond to changes observed in the legal system, as well as the growth of new issues requiring investigation. Any questions regarding the data presented in this report may be directed to the NSRLP at representingyourself@gmail.com.

We sincerely appreciate the time respondents took to share their stories and provide guidance to other self-represented litigants. We value the information provided by all our respondents and do our best to reflect it authentically and comprehensively in these Intake Reports. We hope to continue to provide information and resources to self-represented litigants, and contribute to reducing the access to justice crisis within our legal system.

The NSRLP regularly hears from self-represented litigants through our public email address (representingyourself@gmail.com). We can also be found online on [our website](#), as well as on [Facebook](#), [X \(formerly Twitter\)](#), [Instagram](#), and [LinkedIn](#), where SRLs, legal system professionals, and members of the public can leave comments and engage in discussion. These communications are indicative of the general desire among self-represented litigants to better understand the justice system and the processes relevant to their cases. Although the NSRLP is unable to provide legal advice or review submission materials for SRLs, NSRLP staff are able to direct self-represented litigants to resources, including the [NSRLP primers](#), and give general legal information in order to provide assistance and support.