

Lopsided Justice? Self-Representation: A Blessing or a Curse?

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Abstract

The right to self-representation is a cornerstone of democratic legal systems, affording individuals the autonomy to advocate for themselves without the assistance of legal counsel. However, the increasing prevalence of self-represented litigants (SRLs) has exposed a paradox in access to justice. While self-representation ostensibly promotes inclusivity within the legal system, it simultaneously generates imbalances that compromise fairness, procedural efficiency, and substantive justice. This paper critically examines the legal framework underpinning self-representation, the theoretical advantages associated with the practice, and the numerous disadvantages that often arise when litigants lack formal legal training. Through an analysis case law, this paper demonstrates how self-representation can negatively impact case outcomes despite judicial efforts to mitigate procedural inequities. Additionally, this paper highlights an overlooked consequence of self-representation—the burden placed upon legal professionals who must rectify flawed legal documents, agreements, and procedural errors made by SRLs, leading to litigation delays, increased costs, and compromised legal remedies.

1 Introduction

Access to justice is a foundational principle within legal systems governed by the rule of law. However, for many individuals, the exorbitant costs associated with legal representation render the justice system technically inaccessible, forcing individuals to navigate complex legal proceedings without professional assistance. In response to these financial barriers, self-representation has emerged as a mechanism for ensuring that individuals—regardless of their economic standing—can assert their legal rights. The rise in self-represented litigants is particularly pronounced within family law, where legal aid funding is often insufficient, and litigants must contend with highly personal disputes involving financial and emotional stakes. While courts uphold the right to self-representation, the reality is that navigating the intricacies of legal proceedings without formal training frequently transforms a constitutional right into a practical disadvantage. While some self-represented litigants possess the competence to effectively argue their cases, the majority struggle with procedural formalities, evidentiary burdens, and legal

reasoning. This challenge is heightened by the adversarial and technical nature of legal proceedings, wherein one party may be represented by experienced legal counsel, while the other lacks the requisite expertise to advance their legal arguments effectively and the training to understand the far-reaching effects of innocent looking clauses and agreements. Furthermore, the systemic burden placed upon legal professionals—who are frequently, eventually required to rectify the errors made by SRLs particularly when the SRL realize that they need legal expertise in order to navigate the legal process—creates inefficiencies within the justice system, detracting from its equitable administration.

1.1 Legal Framework for Self-Representation

In Canada, the right to self-representation is constitutionally protected and affirmed through multiple judicial decisions. The Supreme Court's ruling in *R v McGibbon*¹ solidifies the principle that litigants possess the right to advocate for themselves in both civil and criminal matters also, In *R. v. Rowbotham*² the court recognized at pp. 63-4 that an accused, of course, has the right to defend himself and no one has the right to force counsel on him against his wishes. Subsequent jurisprudence has established that, although judges must take proactive steps to ensure fairness when dealing with SRLs, their role remains limited to procedural assistance rather than substantive advocacy.

The Canadian Judicial Council's *Statement of Principles on Self-Represented Litigants and Accused Persons*³ further clarifies the judiciary's approach to SRLs. Courts are encouraged to accommodate procedural gaps caused by self-representation while maintaining impartiality and safeguarding judicial integrity. However, this framework presents significant limitations, as judges must strike a delicate balance between assisting SRLs in understanding procedural requirements and refraining from providing

¹ [1988] 1 S.C.R. 402

² 1988 CanLII 147 (ON CA)

³ Canadian Judicial Council, *Statement of Principles on Self-Represented Litigants and Accused Persons* (2006).

legal advice. Although court clerks, duty counsel, or amicus curiae may offer limited support, these resources are insufficient to bridge the profound knowledge gap that exists when SRLs attempt to litigate sophisticated legal claims.

1.2 The Advantages of Self-Representation

Self-representation is often celebrated as a means of promoting access to justice, particularly for individuals who lack the financial means to retain legal counsel. In specific contexts, SRLs may experience advantages such as greater autonomy over their legal matters, the ability to present arguments in their own words, cost savings due to the avoidance of legal fees, and increased engagement with the legal system.

For individuals with sufficient legal literacy, self-representation provides direct participation in legal proceedings, allowing them to assert their interests without relying on third-party advocates. In relatively straightforward legal matters, such as small claims cases or uncontested divorces, self-representation may streamline procedural requirements and alleviate the burden on judicial resources. Many jurisdictions have responded to the increasing number of SRLs by implementing simplified procedural mechanisms, developing online legal guides, and establishing self-help centers, all of which reflect institutional recognition of the phenomenon.

However, despite these perceived benefits, the disadvantages of self-representation often outweigh the advantages, particularly when litigants lack formal legal education or familiarity with courtroom advocacy.

1.3 The Disadvantages of Self-Representation

Despite the theoretical appeal of self-representation, in practice, litigants who lack legal training encounter significant obstacles throughout the litigation process. Legal proceedings are highly technical, and effectively navigating procedural requirements, evidentiary burdens, and substantive law requires expertise that the average individual does not possess.

One of the most critical disadvantages of self-representation is the imbalance in adversarial proceedings. When one party is represented by legal counsel while the

other is self-represented, the disparity in legal knowledge, legal expertise and courtroom experience often results in an inequitable adjudication of the case. This issue is especially pronounced in family law disputes, where SRLs frequently lack the emotional detachment necessary for objective legal reasoning. The absence of procedural knowledge often leads SRLs to misinterpret court orders, submit incomplete or improperly drafted documents, and fail to meet statutory deadlines without having the requisite knowledge to understand the legal implications of these shortcomings.

Furthermore, an often-overlooked consequence of self-representation is the burden it places upon legal professionals, who are frequently approached as a last means to rectify flawed legal documents, agreements, and procedural errors made by SRLs. Lawyers commonly encounter contracts drafted without adequate knowledge of legal principles, renegotiations of unenforceable agreements, and procedural defects that prolong litigation timelines. These inefficiencies result in complication of the already technical legal process even in the simplest of cases, in increased costs for all parties involved and contribute to court congestion.

1.4 Conclusion

Self-representation remains a constitutionally protected right, yet its practical consequences expose profound systemic challenges within the justice system. While SRLs benefit from greater accessibility to legal proceedings, the disadvantages associated with inadequate procedural knowledge and legal expertise frequently outweigh these benefits, leading to inefficiencies, delays, and compromised legal outcomes. Moreover, the burden placed upon legal professionals to remedy the procedural shortcomings of SRLs represents an often overlooked but significant strain on the judicial processes.

Unless institutional reforms are undertaken to enhance support mechanisms for SRLs, the systemic inequities associated with self-representation will persist, straining judicial resources and exacerbating access-to-justice concerns.

2 Case Studies

2.1 Case Study 1: *Pintea v Johns*, 2017 SCC 23

The Supreme Court of Canada's decision in *Pintea v Johns*,⁴ provides a compelling illustration of the challenges self-represented litigants (SRLs) face when navigating complex legal proceedings. The ruling underscores the importance of procedural fairness while acknowledging the inherent difficulties litigants encounter when they lack formal legal training. This case offers further insight into the systemic disadvantages SRLs face, particularly regarding procedural compliance, court attendance, and evidentiary obligations.

2.1.1 Background and Procedural Missteps

The plaintiff, Valentin Pintea, was a self-represented litigant involved in a civil matter concerning a motor vehicle accident. During litigation, Pintea failed to attend two case management conferences, prompting the case management judge to hold him in contempt of court. As a result, his statement of claim was struck, effectively terminating his case, and he was ordered to pay costs totaling \$83,000. The court reasoned that failure to comply with procedural orders warranted severe consequences, even for a litigant without legal representation.

Upon review, the Supreme Court of Canada found that Pintea had inadvertently failed to attend the conferences because he had moved residences but had not filed a change of address form with the court (*understandably because he did not know of the proper court process – emphasis mine*). Consequently, court notices and orders continued to be sent to his previous address, leaving him unaware of the requirement for his attendance. The Supreme Court held that a litigant cannot be deemed in contempt for failing to comply with an order they were not aware of.

This procedural misstep highlights a fundamental disadvantage faced by SRLs without an understanding of court administrative procedures, they may unknowingly violate

⁴ 2017 SCC 23

procedural rules, resulting in significant legal consequences. Had Pinteá been represented by legal counsel, his lawyer would have ensured that court records reflected his updated contact information, thereby preventing this procedural failure.

2.1.2 Judicial Consideration of Self-Represented Litigants

The Supreme Court's ruling emphasized that judges must ensure actual knowledge of orders before holding a litigant in contempt. The Court vacated the contempt finding, reinstated Pinteá's claim, and reaffirmed the importance of procedural fairness when dealing with SRLs. This decision underscored the judiciary's obligation to accommodate procedural deficiencies stemming from self-representation while maintaining adherence to fundamental court rules.

Notably, the Court took an additional step by unanimously endorsing the Canadian Judicial Council's *Statement of Principles on Self-Represented Litigants and Accused Persons* (2006)⁵. These principles guide judges in ensuring SRLs receive fair and reasonable treatment, while also ensuring judicial impartiality. The endorsement reinforced the judicial duty to facilitate access to justice for SRLs by mitigating disadvantages caused by their lack of legal knowledge. However, the ruling also made clear that judicial accommodation does not exempt SRLs from complying with procedural obligations.

While the ruling protected Pinteá from disproportionate legal consequences, it reaffirmed that self-represented litigants must still comply with procedural rules. The Court stopped short of absolving SRLs from personal responsibility, instead emphasizing that access to justice requires a balance between judicial accommodation and procedural compliance. Another disadvantage with being a SRL as observed in this case is that because Pinteá did not have the necessary legal knowledge, what could have been a simple legal process had to take the long route all the way to the Supreme court just to correct an error that should not have been made in the first place with proper legal knowledge.

⁵ Canadian Judicial Council, *Statement of Principles* (2006)

2.2 Case Study 2: *Jonsson v Lymer*, 2020 ABCA 167

The case of *Jonsson v Lymer*,⁶ further illustrates the systemic challenges posed by self-represented litigants in Canadian courts. Neil Alan Lymer, a self-represented litigant, engaged in prolonged litigation involving an investment scheme that had led to financial disputes. Lymer had solicited funds from investors in violation of the Alberta Securities Act,⁷ resulting in legal action against him. As part of the proceedings, Lymer was ordered to disclose financial documents but repeatedly failed to comply with court directives. His continued non-compliance led to a contempt finding, which was later escalated to a vexatious litigant order.

The Alberta Court of Appeal reviewed the case and noted that SRLs must be given fair access to the legal system, but they are not exempt from procedural obligations. The Court stated:

"[The Court] recognizes the increasing presence of self-represented litigants in the legal system. However, procedural fairness does not absolve litigants of their duty to comply with court orders and disclosure requirements."

Lymer's failure to provide financial disclosure despite multiple court orders highlighted the importance of procedural compliance, with the Court stating:

"[The appellant was ordered to disclose documents, and when he failed to do so, he was found in contempt. He failed to fully purge his contempt, leading to further sanctions.]"

The judgment reinforced the principle that self-representation does not excuse procedural non-compliance, stating:

"[Rule 1.1(2) of the Alberta Rules of Court⁸ states that all persons who come before the Court—whether self-represented or represented by counsel—are subject to the same procedural obligations. There is no excuse for abuse of court procedures.]"

⁶ 2020 ABCA 167

⁷ RSA 2000, c. S-4

⁸ Alta Reg 124/2010

2.3 Case Study 3: *DJ v SN*, 2025 ABKB 214

The Alberta Court of King's Bench decision in *DJ v SN*⁹, provides a compelling illustration of the disadvantages associated with self-representation. This family law case involved a self-represented mother who repeatedly failed to provide legally adequate responses to the father's interrogatories, leading to significant procedural inefficiencies and judicial intervention. Justice Eamon, presiding over the case, highlighted the serious procedural consequences that can arise when litigants lack legal counsel and fail to comply with court-ordered disclosure obligations.

2.3.1 Disclosure Failures and Procedural Missteps

One of the fundamental issues in this case was the mother's failure to comply with disclosure obligations, particularly in relation to her financial records. Justice Eamon noted:

"[140] Apart from providing her 2023 NOA, the Mother's response to all other requests was wholly deficient. A sampling of the interrogatories followed by the Mother's reply is reproduced below from the Mother's November 28, 2024 affidavit."

One critical interrogatory required the mother to provide credit card statements showing payments related to their child's orthodontic treatment. However, her response demonstrated a lack of understanding of disclosure requirements:

"[Mother's Response] I paid half of the payments, and [the Father] doesn't want to pay for his son's half of orthodontic treatment. I don't have statements. Following still outstanding. Exhibit B."

Justice Eamon criticized this response, emphasizing that the mother had a legal obligation to provide the statements:

"[142] Notably, the ledger indicates that this payment was made by the Mother on her Visa. Against this context, it is not acceptable for the Mother to say she doesn't have credit card statements. She was under a legal obligation to provide them, whether she reprinted them through online access to her banking or attended a branch to have them reproduced. She did neither."

⁹ 2025 ABKB 214

Another interrogatory required her to confirm her employment status and provide supporting evidence. Instead of submitting the required disclosure, she dismissed the request:

"[Mother's Response:] I provided previously."

Justice Eamon found this response inadequate, inferring that the court was not satisfied with prior disclosure and that the mother had no right to refuse a simple and direct answer:

"[143] In ordering the Mother to provide this information, I infer that Justice Eamon was not satisfied that the Mother had done so previously. Even if she had, the response to this interrogatory would have been a one-line answer. Given the legal compulsion to respond, it was not open to the Mother to refuse, and it was unreasonable for her to do so."

This pattern continued across further interrogatories, including one inquiring whether the mother received government assistance to meet her daily expenses. Instead of providing the required disclosure, she dismissed the relevance of the question entirely:

"[Mother's Response:] Unrelated question."

Justice Eamon firmly rejected this approach, ruling that the interrogatory was directly relevant to child support determinations:

"[144] As above, I infer Justice Eamon was satisfied as to the relevance of this interrogatory. On its face, this question speaks to other potential sources of income and bears on the veracity of the Mother's claim that her income for the past number of years was zero."

Financial disclosure continued to be an issue throughout the proceedings. The father requested bank statements dating back to their separation, but the mother refused, claiming she did not have them. The court ruled this response wholly unacceptable:

"[146] As with her credit card statements, the Mother was under a legal obligation to make her best efforts to obtain her bank statements. It was unreasonable for her not to do so."

[...]

"[148] In my view, the totality of the Mother's response demonstrates disdain for the Court's authority and works to frustrate the Father's attempt to obtain relevant information aimed at a fair determination of the parties' respective child support obligations."

Justice Eamon's ruling illustrates the inherent difficulties faced by self-represented litigants in complying with procedural and disclosure requirements. The mother's inability to meet the legal standards imposed upon her affected the fairness of the proceedings, forcing judicial intervention to mitigate the deficiencies in her submissions.

2.3.2 Systemic Challenges of Self-Representation

Had the mother retained legal counsel, her responses to interrogatories would have met judicial standards, ensuring compliance with disclosure obligations and preventing procedural inefficiencies. Her failure to adhere to these rules exemplifies the systemic challenges SRLs face, as well as the broader issue of courts compensating for procedural missteps caused by self-representation.

This case strongly reinforces the argument that self-representation—though constitutionally protected—often leads to substantial disadvantages, particularly in family law proceedings. It also illustrates the burden placed upon both courts and opposing counsel, who must navigate legal complexities resulting from incomplete disclosures, misunderstood legal obligations, and procedural errors.

2.4 Broader Implications: The Burden on Legal Professionals

Beyond the individual circumstances in the cases cited above, the cases highlight a broader systemic issue—the burden placed upon legal professionals in rectifying procedural errors made by SRLs. While courts recognize the need to accommodate self-represented litigants, lawyers frequently bear the burden of correcting legal missteps resulting from self-representation. Improperly drafted legal documents, unenforceable agreements, and procedural failures often lead to litigation delays, requiring opposing counsel to intervene and rectify deficiencies before substantive issues can be addressed.

This challenge is particularly pronounced in family law matters, where SRLs often draft settlement agreements without fully understanding their legal implications. Lawyers representing the opposing party must then renegotiate, amend, or clarify defective agreements, consuming additional time and resources. In extreme cases, poorly drafted legal documents can result in contractual disputes, requiring further court intervention to

resolve ambiguities in the terms agreed upon. The Supreme Court's acknowledgment of the challenges SRLs face in procedural compliance suggests that institutional reforms are necessary to reduce the systemic burden placed upon legal professionals.

2.5 Conclusion

The challenges surrounding self-represented litigants (SRLs) continue to highlight the delicate balance between procedural fairness and judicial efficiency. Cases such as *Pintea v Johns*, *Jonsson v Lymer*, and *DJ v SN* demonstrate that while courts must accommodate SRLs to ensure equitable access to justice, self-representation remains inherently disadvantageous, especially for litigants lacking legal expertise.

Although self-representation promotes accessibility, it also introduces inefficiencies that strain judicial resources and place a burden on legal professionals tasked with correcting procedural deficiencies. The Supreme Court's recognition of accommodative judicial principles marks progress, but without institutional reforms, systemic challenges will persist. The need for clearer support mechanisms, improved legal education, and more structured guidance for SRLs is evident.

Unless meaningful reforms are undertaken, the complexities of self-representation will continue to compromise judicial efficiency, prolong litigation, and create undue hardships for both SRLs and the broader legal system.

3 Improving Access to Justice

3.1 Institutional Efforts to Address the Gap

Recognizing the challenges associated with self-representation, Canadian courts have introduced several initiatives to assist SRLs, including:

- Self-help centers
- Judicial training programs
- Amicus curiae appointments
- Standardized legal templates

However, these measures remain insufficient in addressing the complexities of legal proceedings. While they provide SRLs with general guidance, they cannot substitute for substantive legal training or the expertise that experienced counsel brings to litigation.

3.2 Restoring Balance: Reducing the Cost of Justice and Simplifying Access to Legal Representation

One of the fundamental barriers to equitable access to justice is the prohibitive cost of legal representation. Self-represented litigants (SRLs) often resort to navigating the legal system without professional assistance not by choice, but out of necessity, as retaining legal counsel is financially inaccessible for many individuals.¹⁰ While reforms aimed at guiding SRLs through procedural complexities have been introduced, a more comprehensive solution would involve addressing the underlying causes of legal inaccessibility—namely, the high cost of obtaining legal representation and the expensive, restrictive process of entering the legal profession itself.¹¹

3.3 Simplifying the Path to Legal Representation

A critical step toward reducing the cost of justice is simplifying the process of becoming a lawyer while ensuring rigorous legal training remains intact. Several structural barriers exist within the current framework of legal education and professional licensing, which contribute to inflated costs and limited access to legal representation:¹²

3.3.1 High Cost of Legal Education

The expense of law school tuition is a significant barrier to entry, limiting the number of aspiring lawyers and inflating the cost of legal services due to reduced competition in the profession.¹³

¹⁰ Canadian Forum on Civil Justice, *Everyday Legal Problems and the Cost of Justice in Canada: Overview Report* (2018).

¹¹ Canadian Bar Association, *Access to Justice Initiatives* (2020).

¹² Slaw, *The Cost of Becoming a Lawyer* (2019).

¹³ Law Students Society of Ontario, *Report on Tuition and Licensing Fees* (2022).

Potential Reform: Government subsidies, tuition caps, or expanded financial aid programs could mitigate the financial burden on law students, increasing the number of qualified practitioners and enabling more affordable legal services.¹⁴

3.3.2 Extended Duration of Legal Training

The lengthy qualification process, which includes obtaining an undergraduate degree before attending law school, articling, bar examinations, and continuing professional development, imposes substantial financial and time burdens on aspiring lawyers.¹⁵

Potential Reform: Legal education could be streamlined through accelerated degree programs, reducing the number of years required to become a lawyer while still ensuring competency standards are met.¹⁶

3.3.3 Costly Licensing and Membership Fees

Once licensed, lawyers are required to pay high membership dues to professional associations, bar societies, and mandatory continuing education fees, all of which contribute to the overall cost of legal services for clients.¹⁷

Potential Reform: Regulatory bodies could explore tiered or discounted membership fees for practitioners serving low-income clients, thereby lowering legal fees for underrepresented populations.¹⁸

3.3.4 Insurance Liability and Operational Costs

Lawyers incur substantial costs related to professional liability insurance, firm overhead, and malpractice coverage, all of which are passed on to clients, further increasing the price of legal services.¹⁹

¹⁴ University of Toronto Faculty of Law, *Becoming a Lawyer in Canada* (2021).

¹⁵ Canadian Forum on Civil Justice, *Cost of Justice Project* (2017).

¹⁶ Justice.gc.ca, *Legal Education Reform* (2020).

¹⁷ Canadian Bar Association, *Membership Fees and Licensing Costs* (2021).

¹⁸ University of Windsor, *Access to Justice Initiative* (2023).

¹⁹ Law Society of Alberta, *Professional Liability and Legal Costs* (2020).

Potential Reform: Governments and legal societies could introduce subsidized insurance programs or public-interest law initiatives that ease financial pressures on practitioners willing to serve lower-income individuals.²⁰

3.3.5 Broader Impacts of Reforming Legal Costs

Lowering the cost of entry into the legal profession has direct implications for access to justice:²¹

1. Increase in Available Lawyers – A lower-cost pathway to becoming a lawyer would increase the number of practitioners, leading to greater competition and more affordable legal fees for clients.²²
2. Diversification of the Legal Profession – Reducing financial barriers would broaden participation, allowing individuals from marginalized communities and lower-income backgrounds to enter the profession, thereby expanding legal access for underrepresented populations.²³
3. Reduction in Self-Representation – If legal representation becomes more affordable, fewer individuals will be forced to represent themselves, mitigating the procedural inefficiencies caused by SRLs and easing the burden on courts and legal professionals.²⁴
4. Incentives for Pro Bono and Low-Cost Services – Lawyers relieved of excessive financial burdens may be more willing to offer pro bono services or implement sliding-scale fee structures, further enhancing legal accessibility.²⁵

Addressing the issue of self-representation requires long-term solutions that reduce financial barriers to legal representation.²⁶ While court assistance programs help SRLs navigate procedural complexities, they do not resolve the core issues—the the potential

²⁰ Government of Canada, *Access to Justice Strategy* (2022).

²¹ University of Toronto, *Barriers to Entry in the Legal Profession* (2021).

²² Canadian Forum on Civil Justice, *Legal Services Affordability Study* (2018).

²³ University of Windsor, *Diversifying the Legal Profession* (2021).

²⁴ Justice.gc.ca, *Impact of Legal Costs on Self-Representation* (2020).

²⁵ Slaw, *Reducing Costs for Legal Practitioners* (2019).

²⁶ Canadian Bar Association, *Equal Justice Report* (2017).

disadvantage a SRL faces because of lack of knowledge of the law, high cost of legal services due to expensive legal education, licensing fees, and financial burdens imposed on lawyers.²⁷ Reducing the cost of becoming a lawyer—through reforms to legal education, professional licensing, and liability insurance requirements—would broaden access to legal representation, allowing more individuals to obtain competent legal counsel rather than facing the disadvantages of self-representation.²⁸ Without such reforms, the scales of justice will remain imbalanced, disproportionately affecting low-income litigants, congesting the courts with procedural inefficiencies, and placing unnecessary strain on legal professionals.²⁹

4 Conclusion

Self-representation is a necessary and constitutionally protected right that expands access to justice. However, it remains a double-edged sword—while it enables individuals to participate in legal proceedings, it frequently results in procedural missteps, substantive errors, and judicial inefficiencies. Courts must continue to innovate in their support for SRLs, but the reality remains that there is no adequate substitute for competent legal representation.

Unless legal aid programs are expanded or new affordable legal service delivery models are developed, the scales of justice will remain lopsided, with self-represented litigants bearing the brunt of systemic disadvantages.

²⁷ Law Society of Ontario, *Legal Fees and Public Interest Law* (2022).

²⁸ Government of Canada, *Legal Aid Funding and Access to Representation* (2021).

²⁹ Canadian Forum on Civil Justice, *Cost of Justice Project* (2019).