

Digital Court Initiative for the Massachusetts Small Claims Courts

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THE PROBLEM

Massachusetts enjoys a process for adjudicating disputes for amounts of money less than \$6,000 called Small Claims Court. This process involves some 100,000 claims and responses annually throughout the state, occupies enormous individual and personal resources, and has not effectively changed since before the discovery of transistors. Not only is there no process for electronic filing of claims, many courts do not even accept facsimile transmissions. The small claims processes in Massachusetts are effectively the land that technology forgot.¹

THE SOLUTION

Against a similarly blank technology canvas, a small court in Cherokee County, Georgia, began the Digital Court Initiative. The goals were to reinvent the ways in which individuals interacted with the entry-level judicial branch of government, reduce the load on staff, lower the total cost per file of services, and do so nearly for free. Our plan was to build an informational web interface that functioned as an electronic filing desk. The task was spearheaded by Chief Judge Charles Robertson, a newly elected judge in his mid-40s with a strong technology background. At that time, there were no models to follow, no off-the-shelf technology designed for entry-level courts, and no money to pay for either even if they had existed.

The direct target population served by the Digital Court Initiative is limited to those individuals capable of accessing the Internet. Handling many cases more efficiently provides more individual time to serve constituents who, by choice or fortune, do not have technological resources available.

Judge Charles Robertson was a fan of Deming Management while an undergraduate economics student, and quantitative analysis was applied to each step of the program. Initially, a baseline was developed to capture the operating budgets of the office from calendar years 1999 through 2003. Due to different accounting procedures and budget categorization through various administrations, the budgets showed substantial variations. To establish a clear baseline, the budgets for each year were “normed” to reflect the budget categories and amounts in 1999. Next, files were divided into three primary categories: civil, criminal, and municipal. It was determined that the normal practice



¹ Although all 210,000 records were not individually confirmed, a Google search revealed literally dozens of courts in Massachusetts where actions can be filed, and an online handbook, but none of the courts in our research appeared to have online filing on their radar or to provide PDF forms for manual composition. Instead, each court provided instructions for physical visits. A national survey by HALT, An Organization of Americans for Legal Reform, rates the Massachusetts small claims courts at or near the worst in the nation (http://www.halt.org/reform_projects/small_claims2004_small_claims_rc/pdf/04SC-ReportCardNational-C.pdf).

The small claims processes in Massachusetts are effectively the land that technology forgot.

Since 2000, total costs per file have dropped more than \$1 and are down nearly to the cost level incurred five years ago. Gross court revenue has increased by some \$360,000, and net revenue is up \$175,000 (both nearly doubled), while costs of processing increased by only about \$80,000.

during each year was to assign file numbers to each submission, even though beginning in 2001 criminal cases began to be consolidated, with multiple counts reflected in a single warrant. Direct file numbers for each year were used for comparison purposes even though a more favorable assessment may have been gained using individual criminal charges.

The court underwent an exhaustive three-month analysis of every single inquiry, whether by phone or in person. At the conclusion of the inquiry, the issues that represented the most common sources of questions were coordinated and integrated into the court web property.

The design had three initial phases. The first phase established the web property and provided “basics” such as directions, operating hours, outlines of the various court process, and contact information. Phase two expanded into true online filing with e-commerce integration. Phase three provided true real-time case tracking.

The program is now into a “maintenance and perfection” phase, in which each integrated component is subject to regular review and improvement. Each step along the way has required that an equivalent “pencil and paper” alternative be available for the technologically disenfranchised and that appropriate security and privacy concerns are balanced with the performance of a public trust.

COSTS AND BENEFITS

The Digital Court Initiative is beginning its third year; telephone calls and physical visits have been reduced by more than one-third, and the cost of processing individual files has been reduced by more than one dollar per file.

For individual citizens doing business in small claims court, the most important achievement of the Digital Court Initiative is that the court is open every day of the year and every hour of the day, through the comfort and security of their own homes or offices. A uniformly unpleasant experience dealing with institutionalized bureaucrats in a foreign environment involving potentially thousands of dollars has been humanized. Over 1,700 Cherokee County residents have used the court’s online filing system, more than 50,000 have visited the court without starting a car or taking a moment from work, saving on travel time and expense, and over 200,000 total pages of information have been provided to citizens in every state in the Union, soldiers at war, and querists from six of the seven continents.

The staff have a different view. With inbound call volume reduced by 50 calls per business day, they have saved nearly 3,500 hours of phone time, representing a full year and a half of full-time employment. Despite a doubling of file claims in the same period, desks are clear, files are processed immediately upon delivery, and judicial orders are executed in minutes rather than months. Weekend desk sessions are long forgotten, a child’s phone call can be taken without remorse, and injected into staff members’ daily operating environment is the certainty that they exceed the performance of any comparable agency of government and, in fact, compete with private industry.

As an elected official, the judge has a markedly different vantage point: Every single visit to the Internet property shows his smiling face and provides a pleasant experience, which by extension reflects positively on him. And, last but not least, the county manager has yet a different vision. As the focus of incredible pressure to improve services in

an environment of spiraling costs and dwindling revenues, he believes that the most important aspect of the Digital Court Initiative is that twice the volume of cases can now be efficiently handled with no increase in clerical staff or any substantial investment of shrinking tax revenues.

In court, every file carries certain associated costs. Each filing fee represents some money that is available to the court itself, and other funds collected for other departments. This produces both net and gross revenue streams. As figure 2 shows, there has been a distinct increase in the dollar volume handled by the court, as well as in the total volume of filings. Comparing the two provides an objective analysis of the financial performance of the court after implementation of the Digital Court Initiative. Total costs per file have dropped more than \$1 since 2000 and are down nearly to the level of cost incurred five years ago. Also compared to 2000 data, gross court revenue has increased by some \$360,000, and net revenue is up \$175,000 (both nearly doubled), while costs of processing increased by only about \$80,000.

Equally important are areas that are more difficult to submit to quantitative analysis. For example, in 1999 it was normal to reach a voice mailbox when calling the court; one's call may or may not ever be returned. Now there are no voicemail messages. Staff are able to respond to phone calls immediately. Finally, the constituents are generally content, despite the pressures inherent in dealing with an unpleasant and little understood bureaucracy.

OBSTACLES

The established inertia of entrenched bureaucracies is an impediment to any innovation. The first, and most substantial, challenges were in the integration of technology solutions to a government workforce with incipient institutional inertia. Without the staff buying in, it never would have happened. Second, the physical planning and implementation of e-commerce were not easy, and a number of blind alleys were explored. Figuring out the export process for other counties and states was exhausting, and streamlining the process to handle transactions such as traffic tickets more quickly has been difficult. Finally, the combined challenges of indigent and multilingual access have presented some serious moral and philosophical hurdles as we try and broaden accessibility. A conceptual solution involves providing free access codes for nonprofit groups, but that programming is still in the planning stage.

Figure 1. Annual civil filing growth

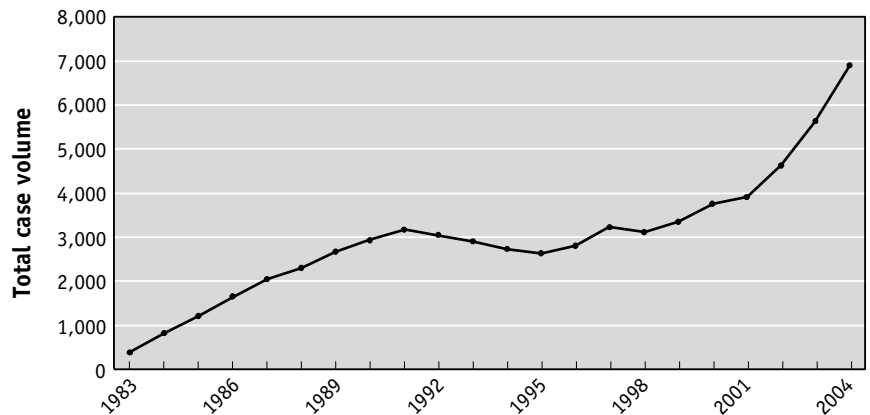
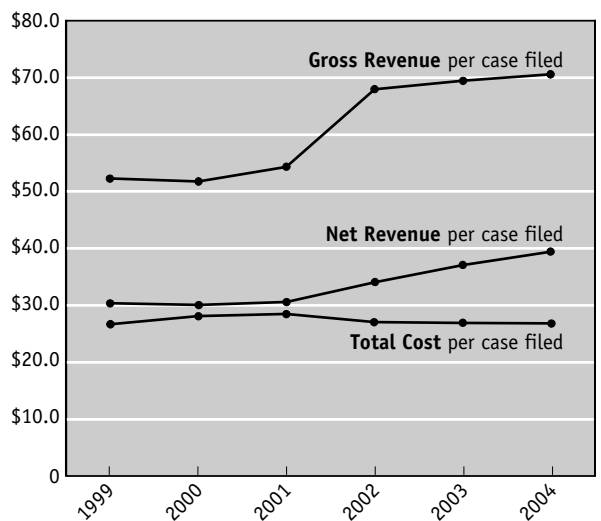


Figure 2. Revenue vs. cost per filing in Georgia applications



The Digital Court Initiative could be ported to Massachusetts without a dollar of taxpayer investment. One small claims court in the state with the ability to accept e-mail messages could implement the process and a 30-day testing cycle, then launch it to all interested courts with no cost to taxpayers.

An unbiased eye probably would have a number of criticisms, chief among them that the bandwidth requirements make the more sophisticated services most effective on high-speed Internet connections. It is true that the e-commerce platform has a higher “failure to finish” (FTF) rate with dialup connections than it does with DSL or T1. Every challenge has been addressed, although the entire enterprise was developed on a shoestring and the maxim “adequate today is preferable to excellent at an indefinite date” has become the operational philosophy. Each solution set could be improved. We know there are better training programs for staff, better technologies for faster access, and smarter programmers, but improvement is a function of research and development investment.

REPLICATION

The initiative is currently extended to 29 other Georgia small claims courts and seven traffic courts, serving populations of roughly 1.8 million. It has also been approved for launch in Ohio and Florida counties to serve populations totalling in excess of 3.5 million people. These numbers do not include the anticipated inclusion of the municipal interlocutory processes planned for New York City.

The Digital Court Initiative in its present form could be ported to Massachusetts without a dollar of taxpayer investment. Implementation would require one small claims court in the state with the ability to accept e-mail messages to take the initiative to implement the process, a 30-day testing cycle, and then launch to all interested courts with no cost to taxpayers. Obviously all progress has a cost of some type, and this system is fully user paid. The patent-pending system for other jurisdictions has been designed to provide substantial content with all of the costs covered by a convenience charge assessed only on the parties who voluntarily choose to use the court’s online filing capabilities, with all other services (including forms) provided at no cost to the court or taxpayers.

ABOUT THE AUTHOR



Charles T. Robertson II was senior partner at Robertson & Walker LLC, a business, property, and family law firm, before being elected Chief Magistrate of the Cherokee Magistrate Court. His term ended earlier this year. He has published two books, *How to File for Divorce in Georgia* and *How to Start and Run a Georgia Business*. He holds two trademarks and two federally registered copyrights, and owns over 40 nationally recognized Internet domains. In 2003, he received recognition as one of the nation’s premier forward-thinkers in government by the JFK School of Government at Harvard University in its Innovation in American Government Awards Program.

Judge Robertson studied at Georgia State University and the University of Maryland prior to completing his undergraduate studies at Kennesaw State University, where he earned a Bachelor of Business Administration degree in economics and finance. He received his J.D. from John Marshall Law School and is currently pursuing additional postgraduate studies in taxation at Washington Law School.