

'It's More Like Judge Judy'
Self-help in a Hybrid Legal Forum

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Legal Self-Help

3-year research project

- Series of case studies including:
 - Residential Tenancies Authority;
 - Legal Kits of Victoria;
 - Legal Aid Queensland;
 - Web-based services.

Legal Self-Help

3-year research project

- Content analysis of each resource
- Interview users
- Interview service providers
- Observation of use of resources.

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How effective is self-help?

- 3 key variables:
 - Characteristics & capabilities of the self-helper;
 - Nature of the legal task or transaction;
 - Context in which self-help is performed – voluntariness, adversarialism, roles of 3rd parties.

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The Small Claims Tribunal – *Like Judge Judy?*

- ‘Maybe it would be good to know a bit more ahead of time what happens in the courtroom because it’s not like you see on TV. Well maybe it’s more like Judge Judy because she does all the talking and asking questions and you just tell her the facts.’

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The Small Claims Tribunal – *Like Judge Judy?*

- ‘They make it sound like a proper court with evidence and getting to ask questions and that sort of thing. And it’s nothing like that. It’s more like what happens on Judge Judy, do you know that show?’

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The Small Claims Tribunal

- Parties are obliged to self-help
- Emphasis on promoting settlement
- All proceedings remain private
- SCT not required to give reasons
- Very limited appeal rights

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The Small Claims Tribunal

- Lack of scrutiny of the operation of the jurisdiction
- What has been written has tended to be 'lawyer-focussed'
- Australian literature on tribunals focuses on administrative tribunals

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This Case Study

- Interviews with 15 SCT parties
 - recruitment was a challenge
- Content analysis of LAQ Guide
 - accessibility
 - comprehensibility
 - relevance

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Legal Aid Queensland Guide

- *Small Claims Tribunal – A Consumer Guide*
- 36-page resource – written in a clear style
- Protocol whereby SCT provides a copy to potential claimants
- Understandably, the focus is on basic instruction for a standard SCT consumer matter

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User comments on using the guide

- Seven of 15 had used the guide
 - Value as a general resource
 - Lack of specific detail – adjournments, evidence
 - Duplication of SCT website materials
- Need to know more about what happens at the tribunal hearing

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Approach of the Small Claims Tribunal

- Particular concern at being cut off by Referee
 - ‘just kept cutting me off and didn’t want to hear my side of the case.’
 - ‘We thought we were going to lose because we didn’t really get to say what we wanted and all.’
- This approach is not anticipated by the LAQ Guide

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You need help from somewhere

- Tribunal or Court Registry
- Queensland Office of Fair Trading
- Local Council
- 3 cheers for Dad!

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You need help from somewhere

- Community legal centres
- LAQ Call Centre
- Private lawyer

Those who accessed legal services expressed that they were better prepared

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Difficulties for older consumers

- 2 of the interviewees were elderly people who believed they had made an SCT claim
- It transpired they had made complaints to Office of Fair Trading & OFT had determined to take no further action
- Equated the complaint with taking it to court

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‘Finding out about it all’

- A simple statement requiring the formulation and answering of a series of complex questions
- Much depends on the particular claim
- It is not realistic to expect a self-help guide to provide such detail

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Preparation for the Small Claims Tribunal

- Perhaps there is a need for a process like the intake work done in preparation for mediation
 - Assess suitability
 - Advise on the need to gather documentation
 - Encourage parties to consider settlement possibilities

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In tight times, you still need a good fit

- Insights from users will be valuable