

THE RISE OF PRO SE LITIGATION

What the Numbers Reveal About Courts, Counsel, and GAI

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Courts across the country are experiencing a sharp and measurable rise in pro se litigation. A recent study examining twenty years of federal filing data found that pro se plaintiff filings rose to 27,370 in FY2023, 31,478 in FY2024, and 41,490 in FY2025.¹ That increase reflects a sharp rise from the pre-FY2023 average, and significant rise in what had been a steady rate of 11% of non-prisoner pro se representation for almost 20 years to 16.8% in FY2025.

The increase is not simply a reflection of broader docket growth. During the first 180 days after filing, docket activity generated by pro se cases rose approximately 158 percent above pre-AI levels. At the same time the cases were not being resolved quicker, and the researchers found little change in case quality.²

KEY FINDINGS

41,490 pro se plaintiff filings in FY2025	16.8% of civil filings attributable to new pro se cases
158% increase in first-180-day docket activity	No faster resolution despite more filings and more activity

These trends raise an obvious question, answered with a similarly obvious answer: what changed?

While a variety of factors potentially contribute, the timing coincides with the widespread availability of generative artificial intelligence (GAI) tools capable of producing complaints, motions, legal research, discovery requests, and other litigation documents almost instantaneously. For the first time, individuals without legal training can generate work product that resembles attorney-prepared filings in format, organization, and apparent sophistication. This is true even when the pro se plaintiff may not understand underlying legal framework, legal authority, or the process of litigation.

GAI appears to be accelerating a historic increase in pro se litigation by lowering the barriers to filing and prosecuting lawsuits, while shifting significant evaluation, defense, and case-management costs to courts, defendants, insurers, and counsel.

I. The Numbers: Understanding the Rise in Pro Se Litigation

Before examining GAI's role, it is important to understand the magnitude of the underlying filing trend. Historically, focusing on federal court civil dockets, pro se litigation has constituted a significant but relatively stable portion of the dockets. According to federal filings from 1999 to 2018, there is a documented civil litigation pro se representation (non-prisoner) rate of approximately 11%, stable across that time and notably unimpacted by events like the 2008 financial crisis.³

Historically pro se litigants faced procedural complexity, limited access to legal research, drafting difficulties, and ultimately the possible expense of retaining counsel. Those barriers often discouraged litigation altogether or limited the scope and longevity of the disputes that reached the courthouse. The recent data, however, suggests that equilibrium has changed. FY2025 produced the highest total in pro se filings in the twenty-year study period, exceeding even the post-2008 financial-crisis wave of litigation. Perhaps more importantly for members of the judiciary and practitioners, pro se filings are generating substantially more docket activity early in their life cycle.⁴

The growth in pro se filings is concentrated in categories like civil rights complaints including employment litigation, consumer credit disputes, and foreclosure proceedings and is virtually absent in categories like patent and securities law.⁵

The increased filings matter not simply because more cases are reaching the courthouse. Its greater significance lies in what the activity in those cases require from judges, clerks, defendants, insurers, and attorneys responsible for processing them.

This is not an issue that is lost on practitioners or the courts. U.S. Magistrate Judge Maritza Braswell of the District of Colorado and Co-Founder of the Judicial AI Consortium (JAIC), indicated to Law.com that pro se cases will likely accumulate and negatively impact other court functions if the growth becomes too much for courts to take on without the matter being addressed.⁶

II. The Impact on Courts

The increase in pro se litigation creates operational challenges regardless of the merits of any particular case. Modern pro se complaints may contain extensive factual allegations, multiple legal theories, lengthy exhibits, and result in extensive motion practice. Courts must evaluate jurisdiction, pleading sufficiency, procedural compliance, discovery disputes, and dispositive motions while preserving fairness and neutrality.

Clerk's Office	Judicial Chambers
<ul style="list-style-type: none"> • Process increasing volumes of filings and exhibits. • Review deficiencies and issue corrective notices. • Address procedural inquiries without giving legal advice. • Manage service-related issues and filing logistics. • Triage questions from pro se parties. 	<ul style="list-style-type: none"> • Conduct initial screening and jurisdictional review. • Prepare tailored scheduling and case-management orders. • Address expanding motion practice and discovery disputes. • Apply appropriate consideration to self-represented parties while maintaining neutrality.

Again, the challenge is not merely the ever-increasing number of additional cases, it is the amount of judicial attention consumed within each case. As filing and docket activity increase, the resulting strain affects represented and self-represented litigants alike.

III. Court Response

Courts across the country are evaluating the increasing need to address and manage this influx of pro se litigation. Some courts have already issued standing orders governing the use of GAI, increased the use of sanctions or other methods to address frivolous litigation, while others have banned its use altogether. It is unlikely, however, that blanket bans will be productive moving forward amid the widespread acceptance of GAI. Potential legislation focused on governing GAI is being considered, and we have recently seen lawsuits and congressional testimony on the need for swift regulation of this field. In the meantime, however, it is up to the courts and lawyers to manage the impact that GAI has had on pro se litigation.

While many courts already have pro se handbooks or guidance to help pro se litigants navigate the legal system, updating those resources to address the use of GAI is already a consideration for many. Other courts are piloting revised pro se intake procedures using structured questionnaires that help litigants articulate and frame their claims.⁷ Likewise, the JAIC has been created to clarify use cases of GAI and its role in the judiciary.⁸

Other options like early screening, initial case-management conferences, staged discovery, and concise orders identifying threshold issues can prevent peripheral disputes from consuming the case. These are all available tools to help balance the influx of non-lawyers into the system. And while helpful, all of these options undoubtedly increase the resources necessary to manage dockets, navigate litigation, and maintain a playing field that is open to everyone.

IV. The Impact on Defense Attorneys

The growth in pro se litigation continues to have a significant impact on defense counsel. An AI-assisted complaint may contain multiple causes of action, extensive factual allegations, numerous citations, mixed federal and state theories, and broad requests for relief or alternatively a laundry list of claims with no meaningful set of factual allegations to justify the claims raised. Even where substantial weaknesses exist, defendants cannot ignore allegations merely because they appear overinclusive or unsupported. Defense counsel must spend considerable time doing each of the following:

- Analyze every asserted claim and identify the factual core.
- Verify cited authority for existence, jurisdiction, currency, and support.
- Preserve threshold and merits defenses.
- Address procedural deficiencies without waiving arguments.
- Manage broad discovery, meet-and-confer obligations, and motions to compel.

The practical consequence is familiar to litigators: a weak complaint can require substantial effort to address. Seemingly professional presentation using GAI may increase defense costs because a pleading that appears sophisticated demands careful review and thorough response. In other words, defense cannot assume that citations are accurate, authorities exist, or legal theories are viable.

Broad GAI-generated discovery creates an additional asymmetry. Requests can be produced at little cost to the requesting party while imposing substantial review, collection, and response costs on the receiving party. In short, the cost of generating litigation activity has fallen dramatically; the cost of defending against it has not.

V. Ethical Challenges for Counsel in an Era of Expanding Pro Se Litigation

The increase in self-represented litigation also places defense counsel in a more frequent and uncomfortable position: communicating directly with an adverse party who lacks legal representation. GAI-generated pleadings and correspondence can make a litigant appear legally sophisticated while masking misunderstandings about procedure, substantive rights, or opposing counsel's role. These issues often become apparent when the parties are significantly into the litigation, even after discovery during dispositive motion practice. At this point, the defense has prepared its case, presented it for consideration in the form of a dispositive motion, and can be met with new information or evidence outside of the discovery period. This creates the necessary motion practice being seen across the courts. Defendants are regularly seeking guidance from the courts on how to address these issues.

A. Rule 4.3 and the Limits of Assistance

While practitioners may typically be inclined to pick up the phone and address these issues with counsel on the other side, that becomes more difficult with a pro se litigant. ABA Model Rule of Professional Conduct 4.3, “Dealing with Unrepresented Person,” supplies the governing framework for such interactions.⁹ That rule generally prohibits giving legal advice to an unrepresented person whose interests have a reasonable possibility of conflict with the client’s interests, other than the advice to secure counsel.¹⁰

A self-represented litigant may use legal terminology and cite authorities while misunderstanding pleading standards, jurisdiction, limitations periods, remedies, evidence, service requirements, or the consequences of a proposed action. Counsel may recognize a curable defect immediately but explaining how to repair it may cross the line from procedural communication into legal advice. In an effort to avoid even the semblance of impropriety, especially with a legally unsophisticated party, lawyers must look to the courts for guidance in these situations. The ethical tension reflects the broader gap at the center of AI-assisted self-representation: access to legal information has expanded dramatically, but access to professional legal judgment has not.

VI. Traditional Barriers Facing Pro Se Litigants

The traditional barriers facing pro se litigants have long been criticized as impediments to access to justice. In many respects, that criticism was accurate and justified. Individuals with legitimate grievances frequently lacked the resources necessary to retain counsel or navigate a complex legal system. And while GAI, removes the vast majority of those barriers, it does little to provide a necessary screening function to evaluate legitimate causes of action and provide a meaningful understanding of the litigation process for the pro se party.

While historical constraints imposed costs on plaintiffs before costs were imposed on courts and defendants, not all claims screened out by those barriers lacked merit. Many potentially valid claims likely never reached the courthouse before GAI because of a lack of resources or understanding, and the tools offered by GAI have made a positive impact on those challenges.

VII. Generative AI: The Answer

The timing of the filing surge naturally raises the question of causation and the available data establishes a correlation, not that GAI alone caused the increase. Economic pressures, changing legal needs, online court access, and broader public familiarity with legal information may also contribute. Still, GAI offers a plausible mechanism for the sudden change because it sharply reduces the cost and difficulty of producing legal documents.

Lawyers are even seeing this with their clients. Before the client comes to them with a case, they have already run the issues through GAI and have an idea, correct or not, of what the claims/defenses may be, exposure, and path forward.

What GAI Can Do

- Draft complaints, motions, and correspondence within minutes.
- Generate legal theories, research leads, and requests for relief.
- Explain procedural concepts in conversational language.
- Create interrogatories and document requests at low marginal cost.
- Revise and regenerate filings repeatedly.
- Produce polished formatting and dense citation structures.

Most significantly, however, GAI lowers the psychological barrier to litigation for non-represented parties. It can transform a narrative of frustration into a formal-looking pleading and provide the confidence to proceed without counsel. The challenge obviously being that confidence and legal judgment are not the same thing.

As we continue to see, GAI-assisted filings may be overinclusive, internally inconsistent, jurisdictionally defective, based on inapplicable law, reliant on outdated authority, or supported by fabricated citations.¹ The resulting paradox is increasingly familiar: a pleading may be sophisticated enough to demand a comprehensive response while flawed enough that substantial attorney and judicial resources must be devoted to untangling it.

A. Benefits That Should Be Preserved

The reality is this is the new world and we are not taking steps away from GAI, so we must figure out how to manage its prevalence in our judicial system. Any balanced response must acknowledge that GAI-assisted self-representation can produce significant public benefits. The objective should not be to restore cost and complexity as barriers to the courthouse.

Benefits of GAI

- Improved access to legal information where full representation is unavailable.
- Better organization and readability when tools are accurate and appropriately constrained.
- Earlier recognition of potentially meritorious claims and defenses.
- Support for legal-aid triage, court self-help, and limited-scope representation.
- Greater public understanding of legal terminology and procedure.

For many individuals, the relevant comparison is not between attorney representation and GAI assistance. It is between GAI assistance and no assistance at all. Reform should therefore focus on accuracy, reliability, and proportionality rather than discouraging participation.

VIII. Conclusion

Perhaps the most significant development in modern civil litigation may not be artificial intelligence itself, but the measurable growth in self-represented litigation that has accompanied it. The reality is that the courts are seeing more pro se cases and substantially more activity within those cases. The increase is reshaping court administration, increasing litigation costs, and creating new practical and ethical challenges for attorneys who interact with self-represented adversaries.

GAI continues to play an increasingly important and necessary role by reducing the barriers to entering the legal system. It provides drafting power, legal vocabulary, speed, and confidence to individuals who previously may have lacked the resources or knowledge to proceed. Those benefits should undoubtedly be preserved.

At the same time, easier access does not eliminate the costs of litigation. It simply redistributes them. Courts must still manage cases. Defendants must still respond. Lawyers must still verify authority and protect their clients' interests. Judges must still resolve disputes fairly and efficiently.

The question facing the legal system is no longer whether technology can help individuals reach the courthouse. It clearly can and has. The question is whether and how courts and practitioners can adapt quickly enough to ensure that increased access is matched by accuracy, efficiency, and fairness.

Notes

1. Anand V. Shah (Massachusetts Institute of Technology) and Joshua Y. Levy (University of South Carolina), “Access to Justice in the Age of AI: Evidence from the U.S. Federal Courts” (April 2026).
2. Id., pp. 3-4.
3. Id.
4. Id.
5. Id.
6. Ella Sherman, “Rising Pro Se Filings Push Federal Courts to Examine Case Management in the AI Era.” Law.com (July 14, 2026).
7. “Federal courts examine case management as pro se filings rise.” CompleteAITraining.com (July 15, 2026).
8. www.aiforjudges.com.
9. Model Rules of Professional Conduct r. 4.3 (Am. Bar Ass’n 2023), “Dealing with Unrepresented Person.”
10. Id.
11. Krista Colbert, “The Surge of Pro Se Plaintiffs,” Minnesota Journal of Law & Inequality (Feb. 5, 2026).