

PUBLICATION

The Rise of AI-Assisted Pro Se Borrower Litigation: What Lenders Need to Know

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Artificial intelligence (AI) is rapidly reshaping the litigation landscape, and commercial loan enforcement is no exception. While much attention has focused on how law firms and corporate legal departments are leveraging AI, a quieter but increasingly consequential trend is emerging: Borrowers, particularly unrepresented or resource-constrained borrowers, are using generative AI tools to "lawyer up."

For banks and other lenders, this development has meaningful implications. Even borrowers lacking the financial means to retain experienced counsel can now generate pleadings, motions, and legal arguments that are more sophisticated, at least superficially, than traditional pro se filings. The result is a new category of AI-assisted pro se litigation that may increase costs, delay enforcement, and introduce procedural complexities.

This alert highlights key risks and practical considerations for lenders navigating this evolving environment.

AI Is Lowering the Barrier to Entry for Litigation

Historically, pro se borrower litigation in loan enforcement matters often involved informal, legally deficient filings that were easier to address procedurally. That paradigm is shifting.

AI tools now enable borrowers to draft complaints, answers, and counterclaims using correct legal terminology; generate citations to statutes and case law (though accuracy remains inconsistent); and mimic the tone and formatting of prior court filings well enough that court clerks and judges perceive them as legitimate, attorney-prepared pleadings.

While these submissions frequently contain errors, misapplied law, or even fabricated authority, they still require substantive responses, particularly in the early stages of litigation.

Practical impact: Lenders should anticipate more frequent, more voluminous, and more procedurally complex pro se filings in loan enforcement actions.

Increased Litigation Activity and Strategic Delay Tactics

The availability of AI tools may also embolden borrowers to pursue litigation strategies that were previously impractical without counsel.

In particular, lenders may see increased filings of affirmative lawsuits seeking to enjoin foreclosure or collection efforts; expanded counterclaims alleging lender liability theories; repetitive or serial filings designed to delay enforcement; and motions practice that, while perhaps legally and tactically weak, requires briefing and adjudication.

Even when ultimately unsuccessful, these tactics can impose meaningful delay and cost burdens on lenders.

Key takeaway: AI-assisted filings can function as a force multiplier for delay-oriented litigation strategies.

Heightened Risk of Procedural Irregularities and Defective Filings

AI-generated pleadings often suffer from critical deficiencies, including incorrect or inapplicable legal standards, citations to nonexistent or mischaracterized authority, failure to comply with jurisdiction-specific procedural rules, and improper party representations.

Courts are becoming increasingly aware of these issues, but lenders should not assume that defective filings will be summarily rejected without appropriate motion practice.

Unauthorized Practice of Law Issues in Corporate Borrower Filings

One particularly important issue for lenders arises when corporate borrowers attempt to rely on AI-generated filings submitted by non-lawyer officers or employees. Even prior to the proliferation of AI tools, courts often grappled with this issue when corporate borrowers attempted to contest a lawsuit without a lawyer. While an individual generally has the right to represent him or herself in legal proceedings, a corporation or limited liability company cannot.

In most jurisdictions, it is well established that:

1. a corporate entity cannot appear pro se in court;
2. only a licensed attorney may represent a corporation or limited liability company in litigation; and
3. filings submitted by non-lawyers on behalf of entities may constitute the unauthorized practice of law.

AI tools may embolden debtors to believe that a corporate officer, or a limited liability company member, can effectively represent the entity without counsel. But this representation is prohibited in most circumstances. It is therefore incumbent upon lenders in enforcement litigation to clamp down on such attempts.

Implications for lenders:

4. Pleadings filed on behalf of a corporate borrower by a non-attorney are often legally invalid.
5. Courts may strike such filings or require the entity to obtain counsel.
6. Failure to challenge improper filings can prolong litigation unnecessarily.

Recommended response:

Lenders should consider promptly filing motions to strike unauthorized pleadings, require the corporate borrower to appear through licensed counsel, and enforce applicable procedural rules governing representation.

Early action on this issue can prevent confusion and streamline the litigation process.

Practical Considerations for Lenders and Servicers

To address the growing use of AI by pro se borrowers, lenders should consider the following strategies.

1. Adjust Litigation Expectations: Assume that pro se borrowers may produce more sophisticated filings than in the past, requiring more detailed responsive pleadings, increased motion practice, and closer judicial scrutiny.

2. Scrutinize Filings Carefully: Do not assume pleadings are accurate, particularly when they appear to have been generated by AI. Instead verify cited authority, identify procedural defects, and highlight inconsistencies and unsupported claims.

3. Act Promptly on Representation Issues: Where a corporate borrower appears without counsel, raise the issue early, and move to strike improper filings.

4. Leverage Procedural Tools: Use available mechanisms to manage and streamline litigation:

7. Motions to dismiss or for judgment on the pleadings
8. Motions to strike defective or improper filings
9. Sanctions, when appropriate

5. Coordinate with Outside Counsel: Ensure that litigation counsel are aware of AI-related risks and trends, prepared to address novel arguments and flawed authorities, and positioned to respond efficiently to increased filing volume.

Looking Ahead

AI is unlikely to reduce borrower litigation risk; in fact, it is more likely to expand it. By lowering the cost and complexity of drafting legal documents, AI tools are enabling a broader range of borrowers to actively engage in litigation, regardless of their ability to retain counsel.

For lenders, this means that the traditional assumptions about pro se litigation no longer apply. The combination of increased filing sophistication, procedural irregularities, and unauthorized representation issues requires a proactive and strategic response.

Lenders that recognize and adapt to this trend will be better positioned to control litigation costs, minimize enforcement delays, and maintain procedural clarity in borrower disputes.

Conclusion

AI-assisted pro se litigation represents a meaningful shift in the borrower enforcement landscape. While these tools may improve access to legal information, they also introduce new risks for lenders – particularly in the form of increased litigation activity and improper filings by unrepresented corporate entities.

By taking a disciplined approach to procedural enforcement, methodically responding to AI-generated pleadings, and remaining vigilant about unauthorized practice of law issues, lenders can effectively navigate this evolving challenge while protecting their rights in loan enforcement proceedings.

Should you have any questions about AI-assisted pro se litigation, please contact [Joseph P. Briggett](#). To read more on this topic, see our previous publication, [The Rise of AI Assisted Pro Se Employment Litigation: What Employers Need to Know](#).