

Electronic Public Access User Group Conference Call

July 21, 2021

Electronic Public Access (EPA) Public User Group Members Present:

Christopher Allman	Assistant U.S. Attorney, Kansas, Department of Justice
Adam Angione	Midwest and Northeast Bureau Chief, Courthouse News Service
JoAnn DiSanti	Associate Director of Managing Clerks, White & Case LLP
Nicholas Goldrosen	Student, Institute of Criminology, University of Cambridge
Todd Higey	Representative, National Association of Professional Background Screeners
Seamus Hughes	Deputy Director, Program on Extremism, George Washington University
Margo Kirchner	General Counsel and Development Director, Wisconsin Justice Initiative
Tyler Mills	Team Lead, Bloomberg Law
Robert Patrick	Reporter, St. Louis Post-Dispatch
Theresa Reiss	Law Librarian, Congressional Research Service, Library of Congress
Gabriella Sarnoff	Assistant Managing Attorney, Debevoise & Plimpton LLP

Administrative Office of the United States Courts (AO)

Aicha Campbell	Program Analyst, National Programs Branch, Court Services Office
Angela Jaffee	Chief, National Programs Branch, Court Services Office
Chris Vagner	Group Chair and Chief, Programs Division, Court Services Office
Dena Eaton	Chief, CM/ECF Division, Case Management Systems Office
Emily Poland	Public Affairs Specialist, Office of Public Affairs
Eva Roeber	Clerk of Court, District of Nebraska
Jane MacCracken	Deputy Chief, Court Services Office
Jason Edwards	Chief, Court Services Office
John Pike	CM/ECF Chief Engineer, CM/ECF Division, Case Management Systems Office
Julie Neville	Attorney Advisor, National Programs Branch, Court Services Office
Linda Melchor	Program Analyst, National Programs Branch, Court Services Office
Michelle Gardner	Attorney Advisor, National Programs Branch, Court Services Office
Roy Varghese	Chief, Case Management Systems Office
Stephanie O'Banion	Senior Attorney, Court Policy Staff, Court Services Office

Conference Call Summary

Welcome from Jason Edwards, Chief, Court Services Office, and Jane MacCracken, Deputy Chief, Court Services Office. Introduction of Chris Vagner, newly appointed Programs Division Chief, Court Services Office.

Update on AO Activities, including Highly Sensitive Documents

The AO's Electronic Public Access Program is pleased to announce Christopher Vagner's appointment as the Programs Division Chief.

The judiciary continues to ensure the protection of Highly Sensitive Documents (HSDs) in the wake of the Solar Winds breach. Some members felt that court HSD policies were resulting in an over-sealing of documents that would have traditionally available to the public. However, preliminary data from courts suggest that parties in civil cases are not requesting HSD designation (which results in sealing) in significant numbers. Courts have been encouraged to carefully balance public access and safety considerations when determining whether to designate a filing as an HSD.

EPA Services Assessment Update

Group members tested and provided feedback on the EPA Services Assessment Survey before it was administered to 15,000 PACER users in June 2021. The survey was still being fielded at the time of the Group's call, and closed on July 22, 2021. Survey results will be shared with the Group at their next meeting.

Refining Search by Judge Requirements

The AO will move forward with providing the public the ability to search by judge in CM/ECF. Members requested that the new search functionality:

- be included in PACER Case Locator;
- work in conjunction with existing search functionality (such as nature of suit code);
- allow additional ways to narrow searches, such as unique identifiers for judges with similar names; and
- include additional result data, such as a judges' role(s) in cases they are associated with.

Members will seek feedback from the users they represent to identify additional features to include in this functionality.

This request will now be assigned to an AO development team to conduct a full technical analysis, and this Group's current and future feedback will be included in that analysis.

Status of Public User Group Recommendations

The following Public User Group recommendations have been completed:

- New Pro Se User Page on PACER.gov has been released that makes it easier for the public to understand how to access and use PACER.
- PACER Case Locator now has "coverage dates" available by court that indicates the date range of cases that users can find when searching that court's system.

- Enhanced Case Title and Party Name fields in PACER Case Locator that allow the public to search using one character in combination with a wildcard character.
- Encouraging court use of RSS feeds. The AO has conducted outreach to courts to help them overcome obstacles with, and raise awareness of the public access benefits of, using RSS feeds more fully.

The following Public User Group recommendations are in progress:

- Using iPads to view PDFs. Issues with viewing PDFs on iPads (for District CM/ECF) will be resolved in NextGen Release 1.7 (scheduled for Fall 2021).
- Ability to select which case documents to view or download is scheduled for NextGen Release 1.8.
- Ability to view or download all documents in a case with one click of a button is scheduled for NextGen Release 1.8.
- Application Programming Interfaces (APIs) for PACER Case Locator (PCL) and Authentication.

The following Public User Group recommendations have been deemed not feasible in the current CM/ECF and PACER ecosystem:

- Making additional data (e.g., date of birth) available in CM/ECF to identify individuals;
- Improving naming conventions (e.g., standardizing use of abbreviations, etc.);
- Adding document number to file and document name; and
- Docketing exhibits in all courts.

The Group's remaining recommendations require additional analysis.

Update on PACER Website Project

The Group was briefed on data and performance metrics from the new PACER website, which was launched in June 2020.

Alternative Pay.gov Workflow for NextGen CM/ECF

The Group was briefed on upcoming changes to the Pay.gov workflow in NextGen CM/ECF. Several courts have reported issues with duplicate payments or dropped processes while making a payment in NextGen CM/ECF. A root cause analysis revealed a need to redesign the pay.gov workflow in NextGen CM/ECF to improve performance and maintain data integrity.

Once changes have been made to the workflow, PACER will no longer store saved credit card information. Instead, each court will have the option to turn on the "Digital Wallet" feature,

which will allow users to pay via PayPal or Amazon Pay; store multiple credit cards; and save credit card information without the need to log into PACER a second time to pay.

CM/ECF Modernization Efforts

The AO has been working with 18F to assess legacy and NextGen CM/ECF. 18F is a technology consultancy within the General Services Administration's Federal Acquisition Service that specializes in helping federal agencies successfully deliver modern, efficient, and easy-to-use digital services. 18F staff are all federal employees who bring cutting edge IT and software development expertise to the table.

18F concluded that CM/ECF is not sustainable in its current form, and recommended the Judiciary build a new, modern system to replace CM/ECF.

When building the new system, 18F recommends that the AO use:

- modern technology and architecture,
- agile software development and acquisition practices,
- user-centered design,
- improved cybersecurity, and
- other modern software development methodologies.

According to 18F, implementing these recommendations will ultimately improve the CM/ECF user experience, and lead to a system that is more reliable, easier to maintain, and more secure. The Group's recommendations that were not feasible in the current CM/ECF and PACER ecosystem will be reconsidered as the judiciary moves forward with this modernization effort.

Open Discussion

Members asked whether the Judiciary would continue allowing remote access to court proceedings after the pandemic emergency subsides because it has improved public access. AO staff explained that continuing this practice beyond the current national emergency status would require changes to statute and Judicial Conference policy that have not occurred. Along the same lines, members asked whether the AO planned to recommend a date by which courts should return to full onsite operations. The AO does not have authority over courts, but rather, each court has discretion to assess local conditions and make such determinations. Most courts, however, have begun or are working toward full onsite operations.

Members reiterated their concerns relating to HSDs and sealed documents in CM/ECF generally, and identified the problem of being charged a fee for selecting documents that are sealed HSDs, but which have no indication of that designation before the user is charged. AO staff will research possible remedies, other than the PACER credit/refund request process.