

# Electronic Public Access User Group Conference Call

March 29, 2022

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

Christopher Allman	Assistant U.S. Attorney, Kansas, Department of Justice
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
Warren Thomas	Principal, Meunier Carlin & Curfman

## 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
Eva Roeber	Clerk of Court, District of Nebraska
Jane MacCracken	Deputy Chief, Court Services Office
Julie Neville	Attorney Advisor, National Programs Branch, Court Services Office
Linda Melchor	Program Analyst, National Programs Branch, Court Services Office

## Conference Call Summary

Angela Jaffee, Chief of the National Programs Branch, Court Services Office, welcomed the group and announced that Chris Vagner, former Programs Division Chief in the Court Services Office has been promoted to Chief of Staff for the Department of Program Services. Jane MacCracken, Deputy Chief, Court Services Office, is serving as the acting Programs Division Chief and chair of this Group.

## Status of Public User Group Recommendations

Since the July 2021 call, the following additional recommendations have been completed:

- The issue with viewing PDFs on iPads in District Case Management/Electronic Case Files (CM/ECF) has been resolved in NextGen release 1.7, which was released Fall 2021.
- The Public Access to Court Electronic Records (PACER) Authentication and PACER Case Locator Application Programming Interfaces (APIs) were released last fall.

Currently, the AO is working on:

- Adding the ability to select which case documents to view or download, and the ability to view or download all documents in a case with one click of a button in upcoming releases of NextGen CM/ECF. The next release of District CM/ECF (1.7.1.) will include the ability to view/select attachments from the docket sheet, which is expected to be released later this spring. Similar functionality will be added to Bankruptcy and Appellate systems in future releases.
- Exploring what additional PACER training can be made available for users, such as modules on how to search.
- A guidance memorandum addressing best practices for sealing and unsealing court documents has been drafted and is in the clearance process for release to the courts soon.

The Group's remaining recommendations, which would still require evaluation and technical analysis prior to development and implementation in the CM/ECF applications for all court types, have now been deferred to be addressed as part of the modernized electronic case management, filing, and public access system. This includes the recommendation for search-by-judge functionality, which has already been endorsed for inclusion in the upcoming modernized system and further refined by this Group.

Additional recommendations about search functionality, such as full-text searching, are still undergoing policy review and, if approved, will be deferred for consideration of inclusion in the modernized system.

**18F Report Discussion: How to get started building a new CM/ECF. Today.**

The AO has now received three reports from its partnership with 18F, the most recent of which was released to the public this month online at <https://www.uscourts.gov/court-records/electronic-filing-cmecf>. The AO agrees with 18F's recommendations, except for the recommendation to develop exclusively using open-source technology. While the AO is not opposed to using some open-source development, it would also like to explore the possibility of incorporating commercial off the shelf (COTS) solutions and leveraging court-developed innovations.

Development of a cloud-based system using a user-centered DevSecOps model requires the AO to modernize operations, focusing first on four areas:

1. Setting up empowered product teams with product owners;
2. Research with real users, both public and internal to the judiciary;
3. Build based on data, risk, and security standards; and

#### 4. Incrementally release solutions.

The AO will engage representative groups of users for product teams that will be created and disbanded as functionality is developed and rolled out. This will create many continuing opportunities for stakeholders to participate in requirements gathering, development, and testing.

#### **Update on CM/ECF Modernization, Platform Market Research, and Unified Search Request for Information (RFI)**

The modernization of CM/ECF is a major initiative being undertaken by the judiciary. This complex initiative requires significant resources and time for planning and developing the new system. The AO is currently engaged in two market research efforts. First, the AO engaged the National Center for State Courts to conduct market research for a platform that could be bought or built for modular development. Second, the AO issued a Request for Information for industry sources to provide demonstrations of current technologies that could be used to search and retrieve court dockets and documents.

The AO seeks a platform that would require low or no code on which to build the new application's modules. Having a common platform would likely enhance consistency between courts, but still allow important local case management-related configurations. Regarding search functionality, the AO seeks a modern system that can deliver a one-system experience for users, and have more modern search capabilities, and near real-time sync with filings. The culmination of market research efforts will give more definition around the project to solidify next steps.

Members asked questions and provided feedback regarding the market research initiatives:

- Members plan to encourage their IT vendor contacts to respond to the RFI and/or to survey their organizations to get feedback on modernization and change processes in the state courts, noting that unintended consequences happen when user groups are not engaged up front. Members will provide feedback on which modernized state court systems work well, and which are difficult to use. The AO will set up a platform for easier exchange of this information.
- Members asked why the AO has decided not to exclusively use open source technologies. The AO will research both commercial off-the-shelf and open source products. There are data security concerns, and a desire to research what works for state judiciaries.
- Members asked whether the AO anticipates that the move to a third-party cloud-hosted service will result in faster patching of potential security breaches and better protection for highly sensitive documents (HSDs). The AO is conducting market research to

determine the options that may be available to meet requirements. The AO will evaluate whether technology can solve that issue to a sufficient level for judiciary HSDs, and this is a question the AO will pose to vendors.

- Members asked about the counterbalance between privacy and allowing full text search in the modernized system. The modernized system must operate in a manner consistent with the Federal Rules of Procedure (including privacy protections), and does not foresee those rules changing. Still, any new system could change the way litigants engage with courts regarding redaction of personal identifiers and the protection of other sensitive information. One of the goals of market research in this area is to determine how to enable compliance with rules, statutes and policies in such a modern system.

### **Looking Forward & Upcoming Brainstorming Session**

The EPA Public User Group Charter has been renewed, and the Group will be reconstituted for a full two-year term beginning on July 1, 2022. The application information and materials are posted on [uscourts.gov](https://uscourts.gov), and applications are due by April 30, 2022. Current members may choose to apply for a second term, but those applications will be considered as part of the regular applicant pool from each user type.

The current members' service on this Group has been very valuable both to the Judiciary and to other public users. In two short years, during a time of global pandemic, the Group's input has resulted in numerous real improvements, both policy-related and technical.

In February 2020, this Group participated in a facilitated brainstorming exercise to make the recommendations that the AO has been following up on since that time. The AO will conduct a similar exercise in June 2022, focused on the modernization path forward. In particular, the AO will ask members, as representatives of the various user type constituencies, what search functionality and public access capabilities a modernized system should have. While the AO cannot commit up front to building any specific feature, this group's input, as well as other public stakeholders, will be considered at the outset of this project. Members expressed a preference for this session to be held as an in-person meeting in Washington, D.C.

### **Open Discussion**

- Members reiterated their concerns about court practices relating to HSDs and sealed documents in CM/ECF generally, noting that it does not appear to users that any district has released an unsealed HSD since implementation of the policy.
- Members suggest that the AO include a recommendation in communications to courts that unsealed documents be made available on CM/ECF.

- Members request that the AO remind courts of the group's recommendation that courts fully and consistently enable CM/ECF RSS feeds.