



THE LEGAL RESEARCH CORNER

Using Docket and E-Filing Retrieval Systems for Legal Research

by Linda Fields

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Author's Note: *The emphasis of this article is on how various docketing and e-filing systems could be used for legal research in a law firm setting. Because of space restrictions, the author of this article does not present a detailed discussion of all the features and functions of each system. Readers are advised to access the system websites of interest or contact a representative of the relevant companies for more information and to find out about changes that have been made after this article was written.*

Since the early 1990s, attorneys have had access to online docket retrieval systems that provided docket sheets and case information from the courts. Previously, obtaining this information from the courts had been an inconvenient and time-consuming process.

The U.S. Judiciary provided attorneys with another research tool with the introduction of Public Access to Court Electronic Records ("PACER") in 1992.¹ Attorneys could monitor court dockets in federal courts and search for activities in a federal case without physically going to the court or having to beg a court clerk to mail a copy of the docket.²

When Web-based commercial vendors such as CourtEXPRESS and CourtLink® became available,³ other useful features and functions were added.⁴ Search capabilities were enhanced from basic searches by party name or docket number to searches by nature of suit, firm name, attorney name, and judge. Recently, e-filing retrieval systems have been introduced as not only a convenient way for attorneys to file and serve documents in courts, but also as another useful research tool.

As docket systems became more sophisticated, researchers adopted ingenious methods of using the information from the docket. This article discusses various docket and electronic filing ("e-filing") systems and how the legal researcher can use the information provided by these systems.

Federal Docket Systems

PACER, CourtEXPRESS, CourtLink, and WestDockets⁵ are the major docket systems used by researchers to retrieve federal court dockets. Case Management/Electronic Case Files ("CM/ECF") is the system implemented by the Federal Judiciary for e-filing in federal courts.⁶

PACER

PACER has docket and case information from most federal district, bankruptcy, and appellate courts, plus the U.S. Federal Claims Court. In 1997, the U.S. Judiciary introduced the U.S. Party/Case Index.⁷ The U.S. Party/Case Index is a national locator index for PACER that can be used to find out if a party is involved in federal litigation in one or more courts. The index also can be used to search for cause of action in single or multiple jurisdictions.⁸

Docket sheets retrieved from PACER provide researchers with the names of all parties, judges, attorneys, dates of events entered, judgments or case status, and types of documents filed. A relatively recent addition to PACER is the availability of scanned images of documents in some courts.

PACER is quite inexpensive compared to the other Web-based docket services. The Judicial Conference placed a cap of

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seven cents per page with a maximum of \$2.10 per document.⁹ However, PACER is not as flexible as the other docket systems, and has limited search capabilities. Researchers can search by case number, party name, filing date, or last update, but not a combination of these items. Also, researchers cannot set up alerts or tracking to receive e-mail notifications when pleadings or cases are filed.

Although it is not as flexible as other docket systems, practitioners can still use PACER to monitor docket entries to avoid missing litigation deadlines, to respond to pleadings filed by opposing counsel, and for orders entered by the courts.¹⁰ Researchers can search on a scheduled basis to track or monitor changes or updates to the docket in existing cases. To simply track cases or search to see if a scanned image of a filed pleading is available, PACER is probably the best option.¹¹

CourtEXPRESS

CourtEXPRESS has dockets from most of the same courts listed under PACER, plus some state courts.¹² This third-party vendor has plenty of enhanced search features. One of these is CaseTracker, which is an alert that notifies the user of new activity in pending federal district or circuit court cases. Another, ClearCASE, is used to find a list of cases involving a particular company, judge, law firm, or attorney; identify documents similar to a document that an attorney is drafting; and find cases with partial information.

Business development searches are alerts that can be used for client watch, due diligence, attorney or law-firm tracking, and client development. Users can search by multiple party names or nature of suit.¹³ Litigation Trend Reports is another recent addition that can be used to discover more about a firm's clients and pending litigation, other law firms representing them, and the types of cases in which they are involved.¹⁴

LexisNexis CourtLink

LexisNexis™ CourtLink, like CourtEXPRESS, has dockets from most of the same courts as listed under PACER, plus some state courts.¹⁵ CourtLink allows the researcher to search all U.S. district courts or all bankruptcy courts at the same time, and to search by litigant, judge, attorney, subject (statute, cause, or nature of suit), and date filed. Researchers can set up alerts and tracking services to learn about newly filed cases. Alerts can be set up by types of cases and individuals or companies of interest. Active federal and state cases can be tracked on a scheduled basis.

An additional feature of CourtLink is the Strategic Profiles of litigants, judges, and attorneys. The report is a layout in charts and graphs of litigation history of companies, law firms and attorneys representing companies, nature of suits filed against companies, and courts in which cases have been filed.¹⁶

WestDockets

Westlaw® WestDockets has information from federal courts and some state courts.¹⁷ WestDockets can provide litigation histories of particular judges and courts, adverse parties, and prospective clients. WestDockets Alert is a service that monitors new case filings and developments in ongoing cases. Results are e-mailed or sent to a printer.¹⁸ Depending on the type of contract a researcher might have with West, WestDockets might be more expensive to use than the other docket retrieval systems. However, the ability to search either all district, all circuit, or all bankruptcy courts can be a valuable option to re-

searchers. CourtLink has a similar feature, but neither PACER nor CourtEXPRESS offers this full service.

Federal E-Filing Systems (CM/ECF)

CM/ECF, as noted above, is the system being implemented by the Federal Judiciary for e-filing in federal courts.¹⁹ CM/ECF allows courts to accept filings and to provide access to filed documents over the Web. Bankruptcy courts have led the way in implementing e-filing, followed by district courts. Attorneys must: (1) register to file in each court; (2) be admitted to each court; and (3) use a CM/ECF identification ("ID") and password to file documents. Researchers can use their regular PACER ID and password to search CM/ECF filings.

State Dockets and E-Filing Retrieval Systems

Some state dockets are found on WestDockets, CourtEXPRESS, and CourtLink. State dockets also are available by direct access by some state courts on the Web or by dial-up. Researchers can check Legal Dockets Online, a commercial site with comprehensive listings for all Web-accessible federal and state courts or LLRX's detailed lists of federal and state dockets, to find out if a particular state docket is online.²⁰ LexisNexis File & Serve is the system used for e-filing in state courts in Colorado.²¹ Practitioners also can e-file in courts in other states in this LexisNexis File & Serve system.

Colorado Docket and E-Filing Systems

Colorado has been a leader in implementing docket and e-filing systems in state trial courts. Colorado began, as most courts do, with a pilot project. However, e-filing has become mandatory in some Colorado trial courts (Adams County, Arapahoe County, Boulder County, Broomfield City and County, Douglas County, El Paso County, Teller County, and Denver Probate Court). Several systems are helpful with e-filing research. These include Cocourts.com and LexisNexis File & Serve.

CoCourts.com

CoCourts.com has Register of Action sheets from Colorado state courts.²² These sheets are similar to docket sheets. Domestic relations, civil, water, and criminal case information are in the database. The Register of Action sheets do not usually contain descriptive information about the individual filings other than the type of document filed.²³ Researchers can track a case to be aware of new action in the case, find out types of cases being filed in Colorado courts, and check to see if their clients are being sued in other courts.

LexisNexis File & Serve—Colorado Courts

E-filing is available in Colorado district and county courts, as well as Colorado water courts. Attorneys and law firms can file documents online with courts, and serve other attorneys registered with the system. With the LexisNexis File & Serve system, attorneys receive e-mail alerts for case activity in their cases, and can set up alerts for cases of interest with which they are not associated, but want to monitor.²⁴ Practitioners can search for sample pleadings and track particular cases that are similar to a case in which they are involved. They also may use this service as a current awareness tool to find out who is suing whom, and to determine the "hot areas" of practice.

Using Systems for Legal Research

By using the information on court dockets and e-filing systems, practitioners can find out if a client is being sued in another area of practice, track a particular case to be aware of similar suits that might be filed against a client, use nature of suit codes in federal civil cases to keep abreast of what is occurring in a particular area, and generally keep up with who is suing whom. For example, researchers can use nature of suit code 365 to keep abreast of personal injury-product liability cases in federal cases. Searches can be narrowed further in specific kinds of cases in CM/ECF's Civil Cases Report by "cause." In a "cause" search, researchers can find cases dealing with job discrimination (race) instead of the broader nature of suit code 442, employment.

Types of Searches

Regarding obtaining sample pleadings, practitioners who are drafting a writ of *certiorari* in a Colorado trial court for the first time could search LexisNexis File & Serve-Colorado Courts-Denver District Court for sample writs of *certiorari*. Sometimes, a practitioner may think he or she has filed a pleading or that the opposition has filed a pleading, but cannot locate the pleading. When searching for missing documents, a practitioner can search PACER or one of the other systems to verify whether it has been filed.

For background information, a practitioner may want to check the types of cases a judge or a particular court typically hears. Alternatively, a practitioner could research types of cases an opposing attorney typically deals with or check to see how a particular judge has ruled in the past on summary judgments or other types of motions.

Practitioners also may use the information on court dockets or e-filing systems for client development. Background checks can be conducted on prospective clients to find out if the prospective client: (1) has been involved in a bankruptcy; (2) is litigious; (3) has filed a malpractice lawsuit; or (4) has been sued for legal fees. Perhaps a law firm is representing a client in an environmental matter. To enhance the possibility of generating more work from that client, the practitioner may want to run a "Strategic Profile and Litigation Trend Report." If such a report happens to reveal that the client is being sued in various courts regarding § 1983 cases, for example, the law firm might want to market its employment law practice to the client. Finally, a search could help with hiring decisions. Information in these e-filing systems can be used to conduct background checks on prospective employees or partners.

Conclusion

Using the information found in docket and e-filing systems for legal research is an interesting trend that appears to be ac-

celerating. Practitioners and other researchers should become familiar with using these resources. There are advantages in monitoring docket databases and using the documents in e-filing systems to access the latest cases affecting clients. This type of information can be used to create opportunities for gaining new clients and should not be overlooked by law firms and practitioners.²⁵

NOTES

1. See <http://pacer.psc.uscourts.gov>.
2. For information on docket sheet retrieval, see "Zimmerman's Research Guide: Docket Sheets" (2004), available at <http://www.lexisnexis.com/infopro/zimmerman/disp.aspx?z=1396>.
3. See <http://www.courtexpress.com> for CourtEXPRESS, and <http://www.lexisnexis.com/courtlink/online> for CourtLink.
4. "Keeping up with Electronic Docket and Document Retrieval" (Oct. 2001), available at <http://www.legaldockets.com/art102201b.html>.
5. WestDockets™ is a database on Westlaw. See <http://west.thomson.com/documentation/westlaw/wlawdoc/wlres/litwd4b.pdf>.
6. For more information, see <http://www.uscourts.gov/cmecf/cmecf.html>.
7. See <http://pacer.psc.uscourts.gov/uspci.html>.
8. *Id.*
9. *Supra*, note 1. Users should note that in January 2005, the cost will be eight cents per page. Also, the thirty-page cap on case-related documents and reports (excluding transcripts) will remain in effect, but the maximum cost will be \$2.40. See http://pacer.psc.uscourts.gov/announcements/general/fee_notice.html.
10. See an article on the Washington, D.C. Bar Association's website about the ethics of doing this kind of research online: Adams, "Research Strategies for Seasoned Lawyers: The Ethical Imperatives of Going Online" (2001), available at http://www.dcbar.org/for_lawyers/bar_services/practice_assistance/ethical.cfm.
11. See Bayer, "Tracking Federal Cases with Pacer" (May 2002), available at <http://www.law.com/jsp/statearchive.jsp?type=Article&oid=ZZZ679KLP0D>.
12. See <http://www.courtexpress.com>.
13. *Id.*
14. *Id.* See also "CourtExpress Unveils New Litigation Trend Reports," *AALL Hub Convention Newspaper* (July 2004) at 2B, available at <http://www.aallnet.org/events/local04/hub/issue2b2004.pdf>.
15. See <http://www.lexisnexis.com/courtlink/online>.
16. *Id.*
17. *Supra*, note 5.
18. *Id.*
19. See note 6, *supra*.
20. See <http://www.legaldockets.com>; LLRX at <http://www.llrx.com>.
21. For more information, see <http://www.lexisnexis.com/fileandserve>.
22. See <http://www.cocourts.com>.
23. See "Online Background Searching in Colorado—Part III," 32 *The Colorado Lawyer* 61 (Nov. 2003) at 62.
24. Note 21, *supra*.
25. See Larson, "Docket Databases and Attorney Training in a Private Law Library Context," 46 *Law Library Lights* 15 (Spring 2003). ■

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