

E-Courts 2006

by the National Center for State Courts
December 11-13, 2006, Las Vegas, Nevada, The Aladdin

Notes – PART ONE

(Notes compiled by Roger Winters from live notes taken at E-Courts 2006, supplemented with PowerPoint presentations, and notes provided from other attendees. These notes will reflect the biases of the note taker and should not be construed as official opinions of the note taker or the National Center for State Courts. The notes are not a verbatim record of the proceedings. All errors are acknowledged and regretted and, we hope, forgiven.)

Monday, December 11, 2006

- **Welcome, Conference Introduction, Structure & Overview**

James McMillan, NCSC, Conference Education Director

Jim said he would walk through the Conference program as a "ship's tour guide." Ship's rules: Always start on time, hopefully end on time. Turn off mobile devices. Take offline conversations outside. Wait for the microphone for questions. We have a ton of expertise here - the cream of the e-filing, e-courts world is here. Be sure to ask your questions. NCSC staff can point you to resource people to help you with your issues.

We'll be posting all the presentation slides and Roger Winters' notes after the conference on the Web Site.

(December 11) Monday AM

Theme: **How e-filing and electronic documents have changed the way the courts work.** The federal courts are 10 years into e-filing, with 15 years since Delaware first started e-filing, dating from 1991. The first session will be from State Courts, with Federal Courts next, then a couple of other systems, and then Q&A to wrap up.

This afternoon, learn about new technology for electronic documents and communications. Theme: **new technology for electronic documents and communication.** We'll be passing on what is already being used in the justice system. First will be Colorado, with their e-filing and work with tablet PCs. Second, hear about new standards about GJXDM and NIEM - transmission communications standards being developed by the Department of Justice. If you don't use these standards, the chance of receiving federal

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funds is limited. Prepare yourself to use these standards. We will wrap up the day with real life examples: using the GJXDM and Electronic Signatures (Maricopa County, Arizona).

(December 12) Tuesday

First comes the Vendor Solutions Fire hose: Theme: **vendor solutions fire hose (or, just tell me what to do)**. 30 minutes each from the sponsors of the conference. In evaluations, some have said, "Why don't you tell me what to do?" This is somewhat like a training class. If you want this, this is the session for you. They will help you get started if you purchase their system. Thanks to: Lexis-Nexis; eFiling for Courts; Wiznet; Bull; Microsoft; Tybera; and EDS.

The companies all bring the latest and greatest. Lunch will be in the vendor hall. We have a nice, relaxed vendor show. Very friendly environment, so you can sit and talk with them to explore what the vendor community has for you.

Tuesday afternoon theme is **new technology** after which we'll have our reception with prize giveaways. We'll hear about completely new technology. It starts with New Microsoft Office 2007 tools and, probably, Vista. (Jim is using the new PowerPoint – the file size is much smaller, he said.) Digital rights management and electronic signatures will be up next: One of the issues, especially in criminal cases, is verification and validating that the document has not been altered...that it is the same as what was filed. The speaker will show how this is relatively easy to implement.

(December 13) Wednesday

Electronic Archives is the "tomb" in the 'womb to tomb" story of court filings. The Federal Archives has been working on the best way to store government records in electronic format. One of the directors of the project will be here from the US National Archives.

Wednesday, we then focus on "left-overs"—the public interface to the electronic filings and electronic e-courts worlds. There's to be a session on public access and the second will be made by the Clark County court on how they applied the principles in building their new courthouse in downtown Las Vegas.

Final session: The Future of E-filing, including the Meaning of 3.0 Standards.

In the beginning of September, John Doktor died from leukemia. He had been involved with many projects and, most recently, was working with Maricopa County. Jim said they would "pass the hat" for the Leukemia Foundation (www.leukemia.org) in John's memory. He was really an innovator.

- **How E-Filing Has Changed the Way State Courts Work**

Panelists

- Hon. Henry duPont Ridgely, Justice, Delaware Supreme Court
- Hon. Kenneth Fields, Judge, Maricopa County Superior Court
- Mr. Roger Winters, Program and Project Manager, King County Department of Judicial Administration

Seattle, Washington

Roger Winters

Program and Project Manager
King County
Department of Judicial Administration

Roger Winters began by saying the more correct title for this session would have been "How the Electronic Court Record Has Changed the Way that the State Courts Work." He recalled that at the first E-Courts, in 2000, John Greacen keynoted and said that "E-Filing," although the label everyone used, was not quite correct. Electronic court records is what makes all of this possible.

In his outline, Roger indicated he would go over:

- Basic principles
- ECR (Electronic Court Records)
- E-Filing in Washington courts
- The King County Way

Basic Principles

To have E-Filing, there needs to be an electronic court record. Otherwise, one would have to print out e-filings and place them into paper file folders, which is not at all efficient.

The electronic record should be the official record. People should be encouraged to think of a filed paper as the "source" of the record, not an "original" with some special status.

Managing paper is terribly expensive and, as we now know, largely avoidable. Today, we need to remember that paper is merely a surface for displaying information that is recorded in a computer.

E-filed documents are preferable to hard copy filings, for there is no document prep or scanning labor involved.

Another basic principle is that ownership of the system/record must be clear and the choice must be made wittingly at the local level.

Finally, none of this technology changes any judicial processes: We find the legal system and its people are still working with documents, forms, and legal papers as before.

Roger explained that Washington's Courts are headed by an elected State Supreme Court, three district Appeals Courts, and county-based Superior Courts, of which King County is substantially the largest, with 51 elected judges at 3 court locations. The Department of Judicial Administration, the official name for the Superior Court Clerk's Office, is the home of the Electronic Court Records (ECR) program.

Electronic Court Records (ECR)

ECR is an electronic document management system composed of TIF images and e-filings (PDF and TIF), with electronic workflow (for Clerk's actions), electronic access to case files (using an Internet browser) within the county government, and public access (using terminals at the Clerk's Office). Starting in 2005, ECR added E-Filing, and will soon add E-Service to that program. It includes a number of online forms and filings by the Courtroom Clerks and others in the court system. King County has also just begun its ECR Online service, providing for Internet access to recent criminal, civil, and probate cases at 10¢ per page – this is ECR's only user fee.

The electronic case record is "official," as is indicated by certified copies being made from electronic images even when the hard copy has been retained. The papers for most cases are recycled...after 30 days (with exceptions).

State law requires clerks to keep case files indefinitely, so doing this electronically is the Clerk's new mission.

E-Filing at King County

There is no cost to e-file, and no training is required to use it. One must begin by setting up one's UserID with the State Administrative Office of the Courts (AOC), for statewide use. Under the current authorizing rule, one signs electronically by logging on and clicking on a "Signing" button. In the E-Filing system, one can initiate new cases, file documents, with or without attachments, and pay any fees involved online (using credit card or Internet check). The State's official digital signatures are supplied for use by judicial officers.

Online forms are fill-in PDFs, which one then e-files. Electronic service (based on an opt-in system) is coming very soon. The state rule is now under review and we expect some of the impediments to lawyers using E-filing will be removed. For example, the method of handling documents signed by others or by multiple signers would be substantially easier. They don't distribute working papers through e-filing, so many law firms still use couriers and feel that if there is one set of hard copy going out, it might as well be hard copy for all sets going out (for Court or for service). This issue has been raised as an E-filing issue.

Matters of Size

The scope of ECR encompasses all Superior Court cases filed since the start of 2000. Many courts have implemented applications allowing for only some case types; King County's covers all case types, including sealed and public records. Closed case files have been imaged since 1997; previously they were microfilmed at a cost of over \$200,000 annually.

Daily filings are in the range of 7,000-8,000 new documents, of which about 100 documents are E-filed (given that there is limited use so far in a program where the rules are being revised and marketing has not yet taken place). Daily use of ECR shows that 20,000 images (pages) are added, while some 50,000 are accessed. This is unusual for imaging systems.

The King County Electronic Commerce website lets you put the fees to initiate lawsuits in your shopping cart. You can fill in a PDF document online and then file it electronically. Electronic service is an email message with a link to the document (however, the link expires after 15 days).

ECR contains around 10 million documents that have about 70 million pages. ECR is presently bigger than Costco (55 million) but smaller (so far) than Weyerhaeuser (80 million). King County Superior Court case records must be maintained indefinitely, so the size of ECR will only continue to grow.

Impact on the Work

ECR really saves money! In the Clerk's Office, 19 staff positions have been permanently eliminated (so far). By eliminating microfilming and customized file folders, another \$250,000 is saved each year. There have been many uncounted efficiencies particularly in the departments with heavy use of case files, who no longer had to assign staff to file services, going to and from the Clerk's Office.

DJA gained space for human use, not shelving. And everyone has saved time: The standard for getting a document from filing-to-file WAS 5+ days but NOW it is just 2 days. And, people try to remember dealing with lost and misfiled records. We have daily independent case file access by hundreds of users. No one touches the "original," but the system can deliver exact copies to desktops on demand. There is better security and privilege management, with access to sealed records fine-tuned based on one's job. There is real disaster recovery, Roger said. Previously, he had been fond of saying the disaster recovery program had two elements: Prayer and Denial. (Laughter.) Roger said, "Oh, I see some of you are using that system still." Roger noted that they had published an article in the *eFiling Report* in 2005 describing the hardware disaster they had that summer and how they coped with it.

The Clerk's office, thanks to ECR has learned to deal with ongoing change, tracking desired enhancements, upgrading softwares, systems, equipment, and the like.

King County's Way

Roger said that King County's approach to electronic court documents is the approach of maintaining complete control and ownership within the Court or Clerk's Office, without outsourcing services to a provider. What are the characteristics that apply to their approach?

Persistence was a hallmark of the program: from the early '90s there had been a widely shared vision of what was to be achieved. The system was funded and completely owned by the county. The system was also built from the CLERK's perspective, Roger stressed. This is important, he said, not just because their office is the Clerk's Office, it is significant because it directly helps all law, safety, & justice departments. The electronic workflow was designed by those who do the work and not a pre-programmed scheme. King County follows the Washington State AOC's technical standards, which point to and follow the OASIS LegalXML Electronic Court Filing specifications.

A hall mark of King County's approach has been its commitment to openness, accountability, and publicity throughout.

Finally, Roger said, he has been able to engage in a certain amount of what might be called "E-Evangelism," because they believe that every court that adopts electronic court records and/or e-filing will help create a legal community environment friendly to these practices. Your success is our success, etc.

What About You?

Is "E-Filing" a good idea for your court? Roger said each who hasn't started this should be asking this question now. It's not "The Paperless Court" we're after, it's "the Paperless Court Record," that this is about. ECR brings incredible gains in convenience that is beyond what is initially imagined.

At King County, how have we come to know that ECR is a success? The Court, staff, and the public USE IT all the time every day and they don't want to go back!

Phoenix, Arizona

Judge Kenneth Fields

Arizona Superior Court
Maricopa County

Judge Fields described the e-File options they have considered over the years. They first worked with scanned paper documents in 2001, and added in the LexisNexis application in 2003. They went into ICIS for 2006-2007.

Judge Fields stressed he is not the implementer of the system, so his presentation should be characterized as "A Consumer's View."

In 2000 they started scanning documents (OnBase). In 2002 the Supreme Court set up three complex courts – e-filing only, mandatory. The user pays (LexisNexis).

In 2003, they wanted ability to serve parties instantly and make the document part of the record, web-based so he could access files from anywhere. He experienced an emergency when in Europe, and no other

judge should handle it. He pulled up pleadings in an internet café in Cornwall, and made a ruling.

Maricopa also has the ICIS integrated system. User picks one of three vendors. Paper may be scanned into system, and from then on it's electronic. The rule is changing to make the electronic copy official, and won't be able to get the paper.

He got a larger monitor that could switch from portrait to landscape. He got a cordless trackball and a cordless keyboard. He has trained himself away from thinking about paper to thinking about data. Lexis research is available from hyperlinks.

It's a New World

Paper

Data

Paper

Integrated

Multiple independent Systems

Intranet

Web Based

Monitor

Paper now is a source of data, which is a non-traditional view of it. Documents, when widely accessible, help work against multiple independent systems being developed. Instead, we want integrated, Internet based systems that are web-based. There is a "Paper Mind-Set." To overcome it, one must think "Data." Don't pen/pencil, don't print, and figure out what hardware will facilitate the transition from one to the other. He got a larger monitor that could switch from portrait and landscape. He got a cordless trackball and cordless keyboard. He trained himself from thinking about paper to thinking about data. Lexis research is available from hyperlinks.

He has gotten staff to think of an electronic mailbox, so they would go there to look. He personally tries to stop printing things out, and does not write on documents. He has a clean desk but his in-box is a disaster. He signs his orders electronically, and that saves a lot of staff time. Attorneys wanted a football stadium dispute to be e-filed, so they could advise their clients immediately. This allows the judge to move on after it's decided. This will be a consumer's view of e-filing and e-service. He's a fan, not an expert.

Systems

Electronic Courtroom & Chambers

Electronic Research

Case Management Tools

Pleadings & Orders

All Compatible & Integrated for Users

Web Based

Internal v. External Users

How Electronic Filing Has Changed the Way Delaware Courts Work

Justice Henry duPont Ridgely

Delaware Supreme Court

eCourts 2006

December 11, 2006

The Genesis

Eleven environmental insurance coverage cases led to their initial e-filing. The underlying claims span five decades. How to manage (survive?) these mega cases and their demands upon the Court?

The Search for a Solution

7k docket entries in that case, so they were looking for ways to survive. Court appointed a complex litigation rules advisory committee. The initial concept was dial-up and a bulletin board in Ohio (Mead). It applied existing technology in a novel way.

Appointment of Complex Litigation Rules Advisory Committee

The Initial Concept—Dial-up and a bulletin board

The Complex Litigation Automated Docket – “CLAD”

Interim Rule 79.1

First eFiling was done on December 9, 1991, the beginning of what has been an eFiling Evolution.

The Asbestos Docket –1994

The attorneys didn't like the idea and sued the court, but all challenges were rejected. It matured, and expanded to other courts, using newer technology. All appeals now must be e-filed.

The Lawsuit in Delaware to stop eFiling was challenging:

- Payment of user fees
- Sufficiency of public access
- Compliance with competitive bidding
- Computer requirement restricts the practice of law

The Delaware Supreme Court Decision rejected each challenge and refused to issue an extraordinary writ.

"The use of computers to access information is a commonplace feature of modern law office operation. If the court system is to be able to respond to the demands of complex litigation, parties and their counsel who seek the intervention of the judicial system may be required to incur the reasonable expenses of participation in modern information systems."—In The Matter of the White Lung Association, 1994 Del. LEXIS 95 (Del. Supr. 1994)

The Maturation of eFiling as a Court Business Method

- Rule 79.1 becomes permanent rule January 1, 2003.
- Conversion from a dial-up system to Internet-based system began on January 27, 2003.
- Statewide eFiling required in Superior Court and Chancery in October 2003.
- Appellate eFiling starts October 27, 2005.
- Appellate eFiling of all appeals December 4, 2006.

Lessons Learned

- The Importance of Judicial Leadership: Rule changes are required: Rule changes are necessary, consider divergent interests, and it has to be mandatory from the beginning. In legal profession, people resist change.
- Divergent interests considered: Importance of law firm involvement, on advisory committees, and they bear the burden of creating and using electronic documents.
- Transition has its challenges, like learning the new system while using the old one – double work. Judicial leadership and TLC. There are time and money savings, storage and archiving benefits, worldwide access by multiple users, file security. E-filing is not a way to cut budget.
- Continuity of operations planning – think of avian flu pandemic. E-filing will keep people from coming to the courthouse. (2 million chickens in the state)
- Judicial workflow. The Presiding Judge is appointed by the governor for 12 years, as administrator of the courts. What to do with a judge who will use only paper? Watch how others improve their work. Clerk's office stays open until 11:59 pm.

Pro se appeals haven't changed, so they are handled the same way as federal courts – scan papers into the system.

Chancery court deals with tight deadlines – injunctions. They can decide cases in 24-48 hours, and being able to access the records electronically makes it possible.

Future expectations

In Delaware, they're beyond the tipping point. There will be continued growth. Courtesy copies for lengthy copies will diminish.

CMS is under development, and will link to it. So far, e-filing has been stand-alone.

There are 227 million internet users in North America, and retail sales over the Internet are at over \$100 Billion. Pro se litigants will want the electronic door open.

Transition has its challenges

- Time savings
- Money savings
- Storage/archiving benefits
- Worldwide access by multiple users
- File security
- Budget Planning
- Continuity of Operations Planning

The Latest Developments

Mandatory eFiling of Appeals

The Appellate process

How Appellate Case Processing has Changed

This is also the story of how judicial workflow has/has not changed.

The Appellate Process: Old Way v. New Way

- Notice of Appeal/Cross-Appeal
- Fee Processing
- Clerk Instructions to Trial Court/Court Reporter and Receipt of the Record
- Notices to Parties
- Motion Practice
- Review of Briefs and Oral Argument
- Opinion/Order Distribution

Future Expectations

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- Continued Growth of Electronic Filing
- Less and Less Paper/Courtesy Copies
- Meeting of "Customer" Expectations in an Electronic Business World.

Question & Answers

Can Delaware do legal research from the documents? Attorneys put briefs on CD with hyperlinks, at a cost of \$250 but they can't do this with briefs. In Maricopa, it's all linked by LexisNexis.

Mandatory e-filing? They may change court rules to allow local courts to make it mandatory, with allowances.

No courts certify electronically, but print out hard copy and handle it traditionally.

The transcript of the court reporter: Where does it fit in this scheme?

Maricopa County has real-time court reporting and video.

In Delaware, the Court Reporter voluntarily participates by electronically filing with the Supreme Court, where they allow the public to buy the transcript. King County does in-house scanning of documents and doesn't retain the hard copy for most matters. Transcripts from video courtrooms are handled by specialists and verbatim records are not part of the court file. They also take pains to be sure that confidential and sealed records are accessible only to or through deputized clerks.

How to safeguard against data mining? In King County domestic cases, there's a special document for all of the confidential information, and it is filed under seal. Only judges can access that data; it is not to be included in other papers. Regarding security of imaged case files, people have to know the case number in order to find a record, and one can't Google them for data. Making data mining more available is not a goal of electronic records. Delaware requires that if there is a need to submit the Social Security Number (SSN), we can show only the last four digits.

How do electronic records courts handle expungement? Maricopa seals cases, never heard of expungement. King County keeps all records electronically but maintains the capability of complete erasure if ordered by the court. Delaware supposes a digital expungement to mirror paper expungement could be designed if needed.

- **Federal Courts and E-Filing**

Monday, December 11, 2006

Hon. Thomas Vanaskie

He chairs the committee at the Federal Courts that sets policies, the Judicial Conference Committee on Information Technology. He sees this as a great opportunity to build a bridge with state courts because of mutual interest in electronic case filing and electronic court records.

They have entered a pilot project with Mississippi to share the code of the federal system and to learn what it takes to make the systems compatible.

He was a chief judge and on the first day on the job there was a demonstration of E-Filing. He is in a mostly rural district where e-filing should be of great advantage. They did a video conference and he said that within three years there would be electronic filing in their court. It wasn't yet certain what system the federal courts would use. The CM/ECF (Case Management/Electronic Court Filing) system was then developed. They started using it in three and a half years.

The development of CM/ECF

Since the late 80s, everything has been captured digitally. But what seems logical doesn't always work for the judiciary. But the mass tort cases provided the impetus for them to have an electronic case system. The Northern District of Ohio started it because they had 6,000 cases and had looked to Washington for a solution.

Another impetus was the aging case management system that had to be replaced. This led to the development of Case Management / Electronic Case Filing.

Two components: Case Management has nothing to do with filing. Electronic Filing handles the filing tasks.

While the federal courts are national, there are 96 courts that have to make the decision to go electronic themselves. Their decisions can't be made centrally. PDF is the format and there is no charge for filing documents. He guaranteed no one would lose their job and they didn't. In fact they increased their staff by several thousand, in effect, because the attorneys do some of the docketing. Data they enter goes into the court case management system.

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He showed a table (below) indicating growth from 6 courts in 2001 to 93 courts in 2006. Bankruptcy courts were first to embrace electronic filing. They have had tremendous success. There are 97 separate courts, and use of any system can't be mandated. It wasn't clear how many would opt in. PDF is the standard format, no charge for filing documents. He guaranteed that no one would lose their job, and actually increased staff by the several thousand attorneys who enter documents on the court docket.

DEVELOPMENT OF DISTRICT CM/ECF

DATES	Courts Live	Docket Entries	Entries From Outside
11/30/01	6	28,000	6,700
11/30/04	57	649,000	115,000
10/31/06	93	1,162,000	285,000

DEVELOPMENT OF BANKRUPTCY CM/ECF

DATES	Courts Live	Docket Entries	Entries From Outside
11/30/01	13	296,000	74,000
11/30/04	78	2,836,000	1,010,000
10/31/06	93	2,846,000	1,210,000

It started in 1996 but by 2001 only six courts live. Now 93 courts live (all but six use ECF), and 1.1M docket entries of which 285K from attorneys. It was embraced faster by bankruptcy courts.

Still addressing the deployment model – don't need a server in every court, or even maintained by the government. They still have a server in each court. There are centralized locations to replicate data. This helped overcome Katrina problems.

National Perspective

- Deployment Models
- Costs
- Revenues
 - No additional fees for filing electronically
 - Congress directed fees for electronic access to court files
 - One-time free access to documents filed in an attorney's case
 - 8 cents per page, with 30 page minimum
- Fees assist with development and support of electronic public access program

The technology is such that there is no need for a server in each court in order to have an electronic filing and document management system. The servers could be taken care of by a private vendor. The only model at the inception was a dispersed server model, where they put a server in each court. They also had to consider replication. They had centralized locations where they replicate data to a separate site so the content of the remote server isn't lost in a disaster.

Congress had established a charge that could be levied by the courts for accessing information. They already have PACER, through which people get access to the system. PACER charges 8 cents per page to review documents, and a cap of charging for 30 pages regardless of how many pages. There is data mining going on. Revenues are substantial and exceed forecasts, used to support the infrastructure and some local court expenses.

The courts mandated that all judges must use an automated conflict checking system. This is now a policy, because before then, judges were not always making themselves aware of what the case entails.

Laws provide for the payment of a court reporter; What do you do with the transcripts? If you file them, they are part of the CM/ECF system, but as sealed documents. Different courts have addressed this problem differently.

The Judicial Conference adopted a policy in 2003 on transcripts. They would cost a user 75 cents per page. They still have implementation issues, with each court doing it differently.

Other National Concerns

National Concern – Transcripts

- M.D. PA practice
- Judicial Conference policy adopted Sept. 2005
- Court-reporter generated transcripts at \$.75 per page
- Implementation issues

- Modification Requests & Future Releases
 - Ongoing
 - Working Group
 - Time Consuming
- Single Login identification process
- Archives

How do you modify the system to keep it? They do have informal ways to transmit information about cases. They also have "Ed's Place," which is a clearinghouse for questions.

He hopes there will be a single login. Now you have to get a different one for each court.

How does he use this daily? They get notices of all the electronic activity, either side gets instant notice of filings. They have their own personal mailboxes. Judges can choose what method they want for the new filings and such. He can get a list of all document activity. He won't do something electronic if it is more efficient in paper.

Work Processes in ECF

- Batch printing of selected documents from overnight notices
- Batch printing documents on demand
- Paperless orders
- Dual monitors or cinema type screens. He uses three monitors so he can have the document, the Lexis/Nexis on screen, and more on display in front of him.
- Text searches: Hyperlinks to other filed documents or exhibits, etc., but there is the problem of Internet sites going away.
- Cut and paste.

Appellate CM/ECF will be done as a pilot soon in one of the local courts.

Case Management in ECF

- Multiple Reports
 - Cases
 - Motions
 - CJRA Pending Motions
 - Ripe motions
- Queries
 - Parties
 - Attorneys

Should some cases be excluded from ECF? They exclude overly large sized documents. Limited size is encouraged or required, such as 2000 words. [Some documents are excluded if over 200 pages, but they will reconsider the rule. They may require counsel to break document down to 50 page increments.](#)

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Involvement of bench and bar are critical. They took judges to dinner, then showed them how to use the docketing. They liked it and opted in.

Advice: Put details in a standing order, not a state rule. This is easier to change.

They went to the college nearby and brought in lawyers and staff. They got licenses for Adobe Acrobat.

They are presumptive about e-filing. You must file electronically unless given permission not to. The court sent contempt of court warnings to the lawyers who wouldn't do electronic filing. Some attorneys sign up for e-filing and then file by paper.

Chief Judge Concerns – Implementation Issues

- Scope of ECF
- Excluded Case Types
- Size of Documents
 - Defined by pages or megabytes
 - Excluded by length or type
 - Divided by size
 - Attach each exhibit as separate document
 - Exhibit tabs

ECF – CHIEF JUDGE PERSPECTIVE

- Involvement of the bench and bar
- Local Rules, Standing Orders and Procedural Manuals
- Training Of Chambers, Clerk's staff, Attorneys
- Is ECF Optional or Required for Attorneys?

Chief Judge Concerns – Sealed Cases/Documents

- How to file – Electronically or Manually
 - Security Concerns
 - User error
- Who has access in chambers and clerk's office?
- Attorney access
- Sealed document – NEF generated with notice of sealed document
- Sealed cases – No NEF is generated

Mary D'Andrea, Clerk of Court, Pennsylvania Middle District

They do not require that sealed documents be filed electronically. Security concerns. Lawyers required to file a paper when they want to l

She noticed how passionate her "boss" was about electronic filing. She had wanted to get into E-filing because she was into computers. She remembers filing papers typed on carbon paper. They had hard stock docked sheets. It was very difficult to find files.

They used to create 3" x 5" cards for information for the public, to give them case information, including disposition information. They did a local ad campaign to get the attorneys to want to e-file. "It takes more than making it mandatory," she said, "you want them to want to e-file."

They had a shared vision – "Electronic Filing is a Court Administrator's Dream." It helped address many things:

- Maintaining official records
- Improving public services 24/7
- Standardizing practices and procedures
- Lightening the workload of staff
- Providing heightened support to judicial officers
- Decrease court operating costs for postage, supplies, equipment.

Benefits to the Clerk's Office would include:

- Concurrent processing and file access
- No lost documents or files
- Remote file access / Easier to use
- Enhanced case management & reporting tools
- Better public service / public access
- Automatic noticing
- Automatic docketing
- Reduction in mail and paper processing

She noted that most E-Filing systems are much easier to use than the case management systems of the past. The automatic noticing feature she feels is the essence of the electronic filing.

Implementation:

- Initial burden to customize dictionary, software and hardware administration, develop internal operating procedures

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- Decisions in converting from an existing system: Where do you start?
All pending cases, or just new filings?
- Psychology of change (the people factor)
- Budgeting, planning (initial outlay of funds for equipment)

They decided to scan in documents in case files that were not already in imaged form. Lots of overtime was used in the process.

Regarding psychology of change – the people factor - most often, it was the staff people who were afraid. They worried about losing their jobs. This wasn't the case.

They have many training models and options for people to access:

- Computer based training
- Online training databases
- Training classes at courthouse
 - CLE credits
 - Volunteer attorneys to assist with curriculum
- On-site training at law offices
- Paralegal schools (train-the-trainer)
- Toll free help line
- Built-in on-line help features

They learned not to use staff names in fictitious cases created for testing purposes. They went to law firms, but only if there were 3 or more partners. They have built in help features. They've stressed the ease of use. They injected humor when possible. They were able to pay for Adobe licenses for law firms if they came to the courthouse for training. They had to train everyone on how to use the system, so training became a major concern. Where to conduct the training?

Training

- Everyone learns differently
- Offer various formats, stress ease of use, inject humor if possible
- Provide incentives for attorneys: CLE, Adobe licenses, other give-aways, etc.
- Training from the top down
- Who trains, how frequently, how many, where and when
- User Manuals, Enhanced Internet Site

A number of new responsibilities came with the new technology:

- User registration

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- Help desk
- Quality Control - a new clerk's function - they monitor what the attorneys file and make them redo if they made errors
- Expanded quality control – How do you notify users about their errors? Call it a “Docketing Annotation Event.”
 - Help attorneys to correct a bad filing.
- Troubleshooting technical problems outside the court
- Bounce-backs (Are notices getting through?)
- How to notify other agencies? Will they accept electronic transmissions?
- How handle electronic payment of filing fees?
 - Pay.gov
- How has staff roles changed?

They didn't fire anyone, either. They have different functions. Records Management clerks are now scanning clerks, etc. You can easily reduce operations positions through attrition. The organizational structure changes. The Intake Clerk function decreased drastically. There was increased work for courtroom deputies and chambers staff, more automation functions and administrative responsibilities. They are now recruiting for a different skill set (more technical vs. clerical). They look for staff with technical knowledge and training capabilities. They learned they need an in-house programmer. They undertook a major compensation study, with changes in job titles and descriptions. There's a lower training curve (it was 2+ years under the old system).

Office equipment, furniture, and supplies have changed:

- Copiers have been replaced by scanners
- Typewriters have been eliminated
- Larger monitors, dual monitors
- Faster computers with more memory
- Fewer filing cabinets
- More paper, then less paper
- Decreased mailing supplies and postage costs

Electronic Court Filing doesn't do it all.

- Front end, wrap-around, and back-end.
- Courtwatch: scanning, routing to clerks, mailing labels, faxing, sharing docketing functions among all offices, supervising work of operations staff.
- PACER (Public Access to Court Electronic Records)
- Payment System

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- Attorney Registry

Benefits:

- Electronic Service saves time and money for everyone
- Logs indicate whether notices are getting through and whether they are looked at
- Instant access, instant action
- User satisfaction
- Statistical information
- Case management reporting
- Electronic forms
- Opportunity for automatic case assignment, case opening
- Data replication
- Use of multiple email addresses, both internally and externally
- ECF Mailing List provides for system-wide notification of all users
- Users (attorneys) can change their own addresses and email information
- National system
- Centralized Training Center for Dictionary Development
- Best practices (can learn from others):
 - Court mentors
 - CM/ECF Forum
 - Ed's Place
 - List serve

Challenges:

- 40% of filings are from prisoners who still have only paper
- Constant improvements
- Constant quality control
- Certified copies, court seal, acceptance of electronic signatures
- Working with Court of Appeals, Bankruptcy Court, County and State Courts
- Social Security Administration, Law
- Enforcement of Electronic Filing requirements
- Security
- Timing of how to perform system upgrades
- Training for new features
- What do users want next? (Surveys)
- Keeping the Web site "state-of-the-art"

Long Term Impact:

- Changes in U.S. Courts Design Guide

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- Less space needed for public intake counter, records review, files storage
- Less space required for staff in courthouses
- Telecommuting for court staff

Attorneys used to fib about not getting court orders but now they track the orders to them.

Caseload is assigned by random system.

Allow users to have multiple email addresses. Mailing list is great for sending message to all the users in the system.

Still have the challenge of most of their cases being criminal appeals

Starting to create court sealed forms.

They use user-surveys to see what people want.

More staff telecommuting.

Under the federal system, when a veteran employee, she was losing vacation time annually for failure to use it. She has, since the system started, taken trips and even was able to come to Las Vegas.

Barry Lander, CLERK of Court, Southern District of California Bankruptcy Court

Process: How it's changed – Programming: How courts have made it better
– People: What has happened to staff ten years later.

Bankruptcy courts - very big use of ECF. They support some direct data transfer from attorneys who represent debtors.

They went live in 1998 in March. They programmed things locally that they needed since they couldn't get timely from the central programmers.

They are using a Web-based system. Programming was in UNIX, Perl, JavaScript, and some C. PDF is the document format. There are three ways in which documents are backed up. And, the program and data and documents are available over the Internet!

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Debtor's Counsel uses the system to open cases, file pleadings, receive notices by email, and to use the eFile system. Creditor's Counsel uses the system to file claims, file pleadings, receive email notifications, and use eFiles. Trustees file pleadings, file reports, process notices, receive email notifications, and use eFiles.

The Clerk's Office uses CM/ECF to review e-filings, generate notices, and scan/docket over-the-counter filings. The Judge uses it to use eFiles, review reports, and file E-Orders.

What were their process changes? "Nothing was left untouched in the wake of implementation!"

"Ed's Place" was created as a place where all the federal court people involved with these systems could post and discuss and exchange ideas and information. Some 70% of the applications that came from Ed's Place came from the Bankruptcy courts.

Local Solutions for Local Problems

--many of them become national problems. Locals shared their ideas and solutions, and many were adopted for national use.

Judge Trustee Assignment was built by them, they shared with other courts, and they were given the national requirements and wrote something for it. It is critically important to efficient case management that they have this, to ensure coverage of First Day Motions, Securing Assets, and Scheduling. It was complicated to build but they managed to do it and shared it with the other federal courts.

Case Upload - used to have a lot of redundant data entry, but eliminated this thanks to this added feature.

PAY.GOV is their treasury. They don't have to enter Credit Card numbers but if they don't pay, they can have access to pay the bill.

Electronic Summons includes a seal which is like a watermark. Orders can be looked up electronically; old orders are only available if they're published to the new system or obtained from paper records.

People - jobs change with the electronic files. If you needed 100 staff in 1993 then in 2003 you only needed 72 staff, based on their table:

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	1993	2003
Filings	918,734	1,650,279
Staffing Formula	100 staff	72 staff
Median Processing for Chapter 7	5.4 months	4.0 months

BAPCPA - messed them up - bankruptcy cases aren't there. The Congress passed these changes, which greatly discouraged people from bankruptcy pleadings. The law has more complexities and will require more work per case. This is a problem for them to the future.

END OF PART ONE