

Next Generation of CM/ECF



Additional Functional Requirements Group Final Report February 27, 2012

Administrative Office of the U. S. Courts
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Chair's Introduction

When Director Duff approached me in late 2009 about chairing a task force to elicit the views of our outside users about the design of our next generation of case management systems, I initially expressed skepticism. I had been involved in developing earlier versions of our systems, including our current CM/ECF, and in my view, we had done it successfully using only internal personnel and procedures. But those were different days. Our legacy systems were failing and we had to move quickly. Although our current systems are not perfect, they chug along steadily, handling millions of documents daily without a hiccup. We have the luxury of time with this effort.

My initial skepticism was totally misplaced. In fact, I have come to the view that even if our findings are not fully incorporated into the new system, the enormous goodwill generated by this unprecedented outreach to tens of thousands of federal court users was worth the effort. Because our current electronic filing and access systems are so successful, they have been integrated into the business practices of both the bar and other federal court users to an astonishingly sophisticated degree. So, our partners have a great deal of practical experiences with our current systems, and a huge stake in where we go next. They were eager to tell us their views.

Our elicitation sessions were well-attended and characterized by vigorous exchanges, while our survey results were extraordinary. For instance, a survey sent to all of the assistant United States attorneys across the nation generated more than five hundred responses in the first 48 hours. We made no attempt at statistical sampling, choosing instead to take suggestions from anyone willing to make them. We are confident that we have heard from a fair and representative cross-section of our users.

What we heard was both reassuring and helpful. All groups reported a high level of satisfaction with our current systems, and a desire that our next version not lose any current functionality. "Whatever you do, don't break it" was a common refrain. That said, hundreds of suggestions for improvement came our way, and surprisingly, there was a remarkable degree of consistency among groups as to the core components that any new system should embrace. This report comprehensively discusses those requests. However, it is important to note that singling out these issues should in no way detract from the hundreds of discrete requirements we have advanced. Luckily, those are largely consistent with what the internal functional requirements groups have put forward.

The methodology that we developed at our first chaotic meeting in early 2010 has stood the test of time. As more fully explained herein, an individual member of the task force was

assigned to each of the more than 60 constituent groups with whom we determined to interact. That member then developed a communications plan unique to each group through which its recommendations would be obtained. We worked through formal organizations representing each group where possible. For example, the Department of Justice—perhaps our most visible stakeholder—formed an agency-wide working group to solicit feedback and produced a thoughtful and comprehensive report that contains a number of excellent suggestions for going forward. Where this type of formal approach was not available, we proceeded with informal contacts. Importantly, the liaisons were not merely scribes, but also functioned as analysts, selecting those requests to advance to the full group. Some requests were not advanced to the full group, and in other instances the full task force declined to ratify recommendations, because recommendations of groups conflicted, ran afoul of Judicial Conference rules, or were just bad policy.

As we proceeded, we came to realize that we had become a vehicle through which difficulties or concerns with our current systems that transcended individual courts could be raised. In several instances, our staff was able to intervene as an unofficial ombudsman and resolve issues. In others, courts themselves took the initiative to implement suggested changes now. For instance, the bankruptcy courts in the multi-district states of North Carolina and Florida have already harmonized their login and password protocols to make them consistent statewide. We have come to realize that a national successor to our group that gives our outside users a vehicle to make such issues known will be an indispensable ingredient of our next generation.

Our approach also identified a number of policy issues, many of which have been approved by the CM/ECF Subcommittee of the Judicial Conference Committee on Court Administration and Case Management, or are currently making their way through the process. I fully expect that some of the items listed below will come to be seen as defining elements of the new system:

- Role-based access and filing;
- More uniform practice across courts;
- Increased use of electronic noticing and signatures.

Because so many of our findings relate to the difficulty of finding and extracting data in our current systems, it also became clear that many of our recommendations could form the basis of pathfinders to test the technological underpinnings of our next systems. We have been heavily involved in the bankruptcy pro se filing project, aimed both at providing a method for pro se filers to file all of the information necessary to initiate a case electronically, while at the same time storing that information as data that can be disconnected from the individual case. This is

the basic premise on which the future data exchanges so desperately desired by our outside users will be constructed. I am particularly pleased that this project was selected because, in addition to establishing a framework for data-enabled exchanges and streamlined business processes for all, it supports the fundamentally important principle that the new system should be designed to promote access to justice and must not impede or reduce the level of participation by self-represented litigants.

Many of our recommendations are in a sense no-brainers. They simply reflect where technology has moved in the years since our systems first went live in the mid-1990s. The evolution of national and industry standards for data exchanges like Web Services, XML and the National Information Exchange Model (NIEM), as well as the sophisticated level of integration with CM/ECF that many of our constituents have built into their own systems offer extensive opportunities for increased efficiency and reduced redundant data entry. Others are fundamental, none more so than those flowing from the frustration our users feel at the staggering variability of our current systems as actually employed in courts. This is an issue to which I, like most judges, was totally oblivious at the start of this process—perhaps because a great deal of flexibility for local preferences and practices was a key part of the original design. The current case management systems work fine in my court, and I assumed worked similarly elsewhere. In fact, we are currently running some two hundred distinct case management systems in the federal courts, with little consistency as to which release is employed, which features are activated, and what naming conventions are used. The differences are often not apparent and are ill-explained. Our current systems work remarkably well when looked at through the lens of our individual courts; they are maddening to those users who attempt to work in or retrieve information from multiple courts. And what we have found in our outreach efforts from many groups is that their practice frequently includes more than one district, and that the lack of consistency makes it difficult, if not impossible to optimize efficiency.

From the perspective of our outside users, the greatest challenge for our next system is to achieve a higher level of consistency among courts. The challenge is to balance this legitimate requirement with the creativity of individual courts and judges to receive and manipulate information in a way that allows them, in their discretion, to manage caseloads effectively.

On behalf of my task force, its staff, and me personally, I want to thank Director Duff for the opportunity to participate in this remarkable effort. In more than thirty years with the federal courts, I have never witnessed such an enormous and collaborative effort to achieve any goal. I believe we are on the cusp of something great.


U.S. Bankruptcy Judge

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Background

Implementation of the Case Management/Electronic Case Files (CM/ECF) system has profoundly changed the way business is conducted in federal courts. It is in use in all appellate, district and bankruptcy courts. It contains 41 million cases, and more than 600,000 attorneys and others have filed documents using the system. The CM/ECF system for the bankruptcy and district courts is now, however, over a decade old, and many in the Judiciary have begun to discuss a successor system.

In 2008, the Director of the Administrative Office appointed a project steering group composed of judges from several Judicial Conference committees and clerks, as well as liaisons from advisory and working groups, to develop and prioritize system requirements for a new application. For the requirements gathering process, additional functional requirements groups were established to gather requirements from chambers and clerks office staff from the appellate, district and bankruptcy courts.

In late 2009, the Administrative Office determined that the CM/ECF Next Generation Project should include an Additional Stakeholders Functional Requirements Group (ASFRG), which would focus on the CM/ECF interfaces among Judiciary and non-Judiciary stakeholders. The ASFRG was given two years to complete its work.

The Judiciary members of the ASFRG met for the first time via teleconference on December 3, 2009 and determined that the following non-Judiciary organizations should be invited to participate on the ASFRG: the Department of Justice; the American Bar Association; the Internal Revenue Service; the Association of American Law Schools; and the National Association of Bankruptcy Trustees. Following that meeting, the Bankruptcy and District Courts' Project Steering Group concurred with these recommendations. The Director of the Administrative Office subsequently invited those organizations to name representatives to the ASFRG. The ASFRG consisted of the following 24 members:

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| Judge J. Rich Leonard, Chair | North Carolina Eastern Bankruptcy Court |
| Michael Gans, Vice Chair | 8th Circuit |
| Ken Gardner, Vice Chair | Illinois Northern Bankruptcy Court |
| Keith Throckmorton, Vice Chair | Tennessee Middle District Court |
| Judge Joan Ericksen | Minnesota District Court |
| Judge Robert Johnston | Nevada District Court |
| Christine Castelloe | North Carolina Eastern Bankruptcy Court |
| Margaret Gay | New Mexico Bankruptcy Court |
| Una O'Boyle | New York Southern Bankruptcy Court |
| Mike Kopatich | 10th Circuit |
| William Bradley | 3rd Circuit |
| Ted Newman | Illinois Northern District court |
| Margie Lynch | Bankruptcy Administrator, North Carolina Eastern |
| Kurt Bubenhofer | Office of Probation and Pretrial Services |
| David Stickman | Federal Public Defenders |
| Mary Stickney | Administrative Office |
| George Cort | Federal Judicial Center |
| Monique Bourque | Department of Justice |
| Anthony Ciccone | Department of Justice |
| Mark Miller | Department of Justice |
| Denise Valdez | Internal Revenue Service |
| Karol Corbin Walker | American Bar Association |
| Russell Brown | National Association of Chapter 13 Trustees |
| Ted Eisenberg | Association of American Law Schools |

A combination of AO staff (Office of Court Administration, Public Access and Records Management Division), court TDY staff, and contractors: provided staffing and logistical support; identified potentially common stakeholder requirements; conducted elicitation sessions; prepared draft documentation; and worked with the ASFRG and other functional requirements groups to validate requirements, and ultimately finalize all documentation. The project staff included:

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| Michel Ishakian, Chief | AO-OCA-PARMD |
| Joann Swanson, Technical Director/ Project Lead | AO-OCA-PARMD |
| Penny White, Program Analyst | AO-OCA-PARMD |
| Brian LeDuc, Law Clerk | North Carolina Eastern Bankruptcy Court |
| Christine Gregorius, IT Specialist | AO-OCA-PARMD |
| Linda Melchor, Program Analyst | AO-OCA-PARMD |
| Liz Allen, Requirements Analyst | AO-OCA-PARMD |
| Dawn Passalacqua, Judicial Assistant | California Northern Bankruptcy Court |

The first in-person meeting of the ASFRG was held in March 2010, and was primarily geared toward the identification of the additional stakeholder groups from which input would be sought. A total of 63 stakeholder groups was identified at that meeting.¹

A status teleconference was held in June 2010, followed by a formal meeting in November 2010, at which the ASFRG reviewed the communications plans developed for each of the stakeholder groups. The ASFRG met again in April 2011, and was able to close out the outreach efforts and to review and ratify the final reports, for 35 of the 63 identified stakeholder groups. A subsequent teleconference was held in August 2011, to close out the outreach efforts and ratify the final reports for an additional 16 stakeholder groups.

The final formal meeting of the ASFRG was held in November 2011, at which time the outreach efforts to all external stakeholder groups was concluded, the final reports were reviewed and ratified, and the last set of requirements and potential policy issues was identified.

¹ A complete list of stakeholder groups is provided in Appendix A.

Methodology

The magnitude of the task assigned to the ASFRG was daunting. The ASFRG support team recognized the need to bring a comprehensive structure to the initiative and developed a methodology that was inclusive and systematic. The methodology used to collect the external stakeholder requirements was designed to streamline the process of collecting, categorizing and consolidating the information, within a two year period of time, using limited staff resources.

The ASFRG identified 63 potential stakeholder groups. The ASFRG selected 21 groups to work with initially so that the work could be focused and deliverables would be staggered. Each ASFRG member was assigned responsibility for gathering the requirements from one or more of the stakeholder groups identified and preparing a communications plan for outreach. Staff developed a template for the communications plan, which was used to identify the target audience, specify approaches to be used to solicit input, and document any project staff support needs. Staff used information from the communications plans to develop and maintain a master calendar of elicitation sessions and travel required. At least one project staff member was assigned to work with an ASFRG member to assist with outreach and ensure that the results were consistently recorded, and reported and that the process was repeatable.

The Administrative Office established a restricted, on-line community to serve as a communication tool and information repository, where all travel related documents, conference registration information, communications plans, elicitation session and meeting summaries, and final reports are stored, for the ASFRG as well as for other court and Administrative Office staff interested in the ASFRG efforts. The Judicial Conference Committee on Information Technology approved access for the non-Judiciary members of the ASFRG. All information posted on the ASFRG community was also posted on a restricted web site hosted by the Eastern District of North Carolina Bankruptcy Court.

Outreach to the 63 stakeholder groups was conducted in a variety of ways, including presentations, elicitation sessions, panel discussions, direct solicitations, and surveys. Staff developed a standard presentation, which was tailored for the specific stakeholder audience. Staff also developed standard surveys to ensure consistent data collection and analysis. After each presentation or elicitation session, summaries were prepared and posted to the ASFRG on-line community and web site. Upon completion of the outreach to a stakeholder group, ASFRG members prepared a final report using a template.²

² Refer to Appendix B for an example of the communication plan and final report for the stakeholder groups.

Once the final reports were ratified by the ASFRG, project staff extracted the recommended requirements and entered them into a requirements database designed to track the requirements from the point of collection throughout the process. Each requirement was mapped to a functional area on the component chart being used by the other functional requirements groups to categorize requirements. Staff researched the business process templates and/or functional requirements documents developed by the other functional requirements groups, and updated the requirements database to reflect whether an ASFRG requirement supported a requirement previously identified by the court community. Staff organized the requirements into four categories prior to their being sent to the other functional requirements groups for consideration:

- Support Existing Requirements
- New or Unique
- Comments³
- Potential Policy Issue⁴

The other functional requirements groups then determined whether to adopt the requirements. Most of the stakeholder groups identified the same core requirements that they are seeking in the Next Generation of CM/ECF. This report summarizes those core findings. Nearly 500 of the ASFRG's requirements have been adopted and incorporated into the functional requirements documents, which will be used to design the Next Generation of CM/ECF. The Judiciary is in the process of prioritizing requirements and developing a schedule for delivery of the new system.

³ These include suggestions that are more general in nature, ranging from broad goals for the next generation system to comments about various aspects of the system.

⁴ Refer to Appendix C for information on the potential policy issues identified by the ASFRG.

Core Findings

1. Standardized User Interface and Filing Practices

Nearly all of the stakeholder groups requested that the Judiciary standardize the CM/ECF user interface and filing practices across all courts. Over 50% of lawyers practice in more than one court. A host of inconsistencies in court practices was revealed in the outreach efforts of the ASFRG. Because information is collected and maintained differently in the local CM/ECF systems, users are confused about what is available in different courts and how to find the same information in different courts. Adding to the confusion, local rules and preferred practices are often documented in a variety of procedures manuals or training guides; these may be outdated and sometimes contradictory. These local rules not only vary among courts, but often vary among judges within a court. Some judges have fully embraced the use of an electronic case management system, while others require filers to submit paper “courtesy copies” along with the electronic filing.

The wide variety of practices among and even within courts means that users must spend considerable time and effort to learn how to interact with a specific court or judge. For example:

- There are specific chambers filing requirements maintained on the web pages of 24 bankruptcy and 54 district courts.
- 85% of district courts require the submission of paper documents or PDF documents (on disk or via email) for case opening.
- There are at least seven distinct protocols for opening civil cases in district courts, with 29 different variations.

Although widespread variation of the manner in which information is submitted does not affect the actual procedure of a case, it does mean that users often have difficulty finding key information. For example:

- The docket activity report (a standard report in CM/ECF) is not offered by five district courts, and the judgment index is not offered by 11 district courts. These two reports are popular reports that many users rely on.

- The Really Simple Syndication (RSS) Feed is another service that is very popular with PACER users; however 70% of the district courts have not implemented it.⁵
- Courts have the capability to develop custom reports, and 21 bankruptcy courts do so. Many of these reports are helpful to the external users; however, it is difficult and confusing for those conducting business or research across courts when the reports are not available for all courts.
- Bankruptcy courts have differently formatted reports and utilities menus.
- The claims activity report enables creditors and counsel to search for recently submitted claims, and assists the U.S. Trustee in investigation of possible mortgage fraud; however, 36 bankruptcy courts do not offer that report to the public through PACER.
- The Judiciary complies with the E-Government Act, through the written opinions report through PACER. However, judges vary widely in what they classify as an opinion.

The ASFRG brought the issue of customization versus standardization to the CM/ECF Subcommittee of the Judicial Conference Committee on Court Administration and Case Management, which endorsed the need to be consistent in both presenting and submitting information into CM/ECF and PACER wherever possible. Moreover, the Subcommittee affirmed that national, state and open industry standards should be used wherever possible.⁶ This may prove challenging as courts have grown accustomed to making local modifications, and as functional requirements groups identify hundreds of desired features and capabilities that are to be “court configurable.”

2. Single Sign-on

Users, both internal and external to the Judiciary, would like a single sign-on process that will give them seamless access to PACER and to any court CM/ECF system where they have been admitted to file, using a single set of login credentials. A most frequently reported user frustration is the need to maintain different CM/ECF login credentials for each jurisdiction in

⁵ RSS is valuable to PACER users because it provides instant notification when a court docket is updated with a new pleading, opinion or other event.

⁶ Refer to Appendix C for information on potential policy issues identified by the ASFRG.

which a user has filing privileges, and separate login credentials for access to PACER to view case information and documents referenced in notices of electronic filing or notices of docket activity. Based on the data collected as part of the EPA Assessment conducted during 2009-2010, this issue impacts over 50% of filers. For users who file electronically in two to five courts, a total of three to six login credentials, including a PACER credential, must be maintained. To put this in context, there are approximately 600,000 attorneys who electronically file in CM/ECF. That translates to approximately 384,000 users who have to use at least three different login credentials as they conduct their business in federal courts.

The burden of having to maintain more than one login credential is even greater for large firms and government agencies that practice nationally and have to manage multiple user accounts. They not only have to keep track of various user names and passwords, but also have to update any changes to their user account information, such as email addresses and mailing addresses, in each court CM/ECF system in which the attorneys are authorized to file, plus any PACER account. As a result, the implementation of a single sign-on process was requested by the ASFRG and all court functional requirements groups.

There are some mechanisms in place that attempt to reduce the burden of having to maintain multiple login credentials for the external users, but those mechanisms are not sufficient. The PACER login credentials allow users to move between PACER systems without the need to login again during a given session. Currently, CM/ECF provides filing users with the capability to link their CM/ECF login credential with their PACER credential on a court-by-court basis. This only resolves the issue of having to login as both a filer and PACER user for each filing session. If the user files in more than one court, then the user must still maintain separate CM/ECF login credentials. The appellate courts have made the login process more uniform by centralizing the registration process at the PACER Service Center. The PACER Service Center issues one login credential for filing, and each appellate court authorizes that user to file in its court. This makes it possible for users to maintain one set of CM/ECF login credentials for appellate courts but does not provide access for those who also file in district or bankruptcy courts, nor does it eliminate the need for a PACER login credential if they wish to view case information. Universally the filing users do not understand why they need to have one set of credentials for filing and one for PACER access. They would prefer to have only one login credential to access all federal courts, and that credential provide them the appropriate level of access (see more information on this in the Role-based Access section of this report).

Users would like a centralized mechanism to maintain and update information, such as address changes, for both PACER and CM/ECF simultaneously. This would eliminate the need for users to update their information at each CM/ECF system and with the PACER Service Center.

Implementing a single sign-on process would also benefit the district and bankruptcy courts by reducing the court workload associated with maintaining user account logins and passwords. However, it should be designed to leave the authorization to file, and the access rights associated with that privilege, at the discretion of the court. Centralizing user registration and authentication would allow users to update their information in one location as well as provide courts with the necessary information required to admit filers and assign proper access rights. Implementing a single sign-on process will also help further the standardization among the courts that is desired by the external users.

3. Role-based Access

With one set of login credentials, users have requested that the system recognize their access level (e.g., filing and viewing privileges) based on their role in a case. While this appears to be a reasonable request, it is complicated by a number of factors. The issue of who should have the ability to file and view documents within CM/ECF has been discussed within the Judiciary since the system was first implemented. In the past, the Judicial Conference has weighed in on the advantages and disadvantages of providing access to case documents based on the user's role in a case.

The ASFRG heard from some specific stakeholder groups that they would like to have filing capabilities. For example, claims agents would like to be able to file status reports; mediators (both attorneys and non-attorneys) would like to be able to file mediation reports; unclaimed funds locators would like to be able to file motions or applications to release unclaimed funds; and auditors who perform debtor audits would like to be able to file their audit reports. Over the years, CM/ECF has become more sophisticated in many ways through modifications requested by the courts and periodic upgrades. The latest release of the bankruptcy software includes the capability of creating "filing agents," which will allow legal assistants and similarly situated staff to file on behalf of attorneys. In addition to the filing agents, bankruptcy courts may choose to allow claimants to register⁷ in CM/ECF and file their own proofs of claim in bankruptcy cases. Furthermore, the design of a "pathfinder" project for *pro se* bankruptcy filing will allow a self-represented party to electronically submit the initial petition and schedules.

Since CM/ECF has already begun offering "filing agent" functionality, the ASFRG initiated a policy issue to allow limited filing capabilities for claims agents, mediators, unclaimed funds locators and auditors, which was ultimately endorsed by the CM/ECF Subcommittee of the Judicial Conference Committee on Court Administration and Case Management. It was

⁷ Some courts have taken this concept further by allowing claimants to file a proof-of-claim without registering as a limited filer in CM/ECF, using a locally developed program.

recognized that additional groups may seek limited filing capabilities and that those requests will be approved by the Subcommittee on an as-needed basis. Allowing the external users to file in CM/ECF not only provides access to information in a more timely manner, it removes the burden of data entry from the court staff. It also provides cost savings to other agencies and filers who would no longer have to submit paper copies.

The concept of restricting access to documents and other case information based on the user's role is well established in the current version of CM/ECF. For example, court users have access to certain information or types of documents across cases that external users are not permitted to see in PACER. In addition, there are instances where access to certain restricted documents is allowed based on a user's role in the case, with sealed documents being the most common example. For sealed cases or documents, the items marked as sealed are only available to select chambers and court staff and the filer of the document when permitted by the judge. A case can be designated as "private" so that it is not accessible to a PACER user but is available to all court users and attorneys of record. A "transcript" restriction is used to restrict access to transcript documents filed in CM/ECF for 90 days, during which the transcript is to be reviewed by the court staff, parties in the case, and is viewable at the public terminals in the courthouse. Transcripts can only be viewed at the public terminals during that 90 day period. Printed copies must be requested from the Court Reporter. Social Security and Immigration cases have a restriction level that allows court users and attorneys of record to access the information remotely, and are available for viewing and printing at the public terminals; however, no remote PACER access is allowed.

The ASFRG heard from the additional stakeholders who, in order to do their jobs, need access to restricted information. For example, the Bankruptcy Administrators need access to see the full Social Security number; Probation and Pretrial Officers need to review the judgement and commitment orders before they are submitted to ensure they are accurate; Probation Officers need to be able to see sealed and confidential material for their clients; the Judicial Panel on Multidistrict Litigation staff needs to have enhanced court level access to the cases referred to them; the U.S. Trustees need access to older bankruptcy filings for investigations; and the staff from the Financial Litigation Unit of the U.S. Attorney's Office have requested access to older criminal cases. These issues were referred to the CM/ECF Subcommittee of the Judicial Conference Committee on Court Administration and Case Management for consideration. The Subcommittee endorsed the ASFRG's recommendation that the account administration capabilities in the Next Generation of CM/ECF be expanded to allow appropriate access to external users to view select types of documents or other case-related information based on their role. The Subcommittee also endorsed the ASFRG's specific categories of roles and access described above, except that it will confer with the Bankruptcy Committee on U.S. Trustee

access to older bankruptcy filings, and with the Criminal Law Committee on U.S. attorneys' access to older, electronic criminal cases.

Users have also asked that PACER recognize its role in a case for billing purposes. An individual may be exempt from electronic public access fees in some cases, but not others. This is most prevalent with attorneys who are Criminal Justice Act attorneys for some clients and private attorneys for others. Presently, they are required to maintain two PACER accounts.

4. Search Capabilities

Users have requested that the Judiciary dramatically expand the search capabilities of CM/ECF and PACER to include *ad hoc* queries based on keyword, multiple terms, metadata and full-text parameters for searching and filtering results of queries conducted with and across courts. Currently CM/ECF and PACER users can obtain information from an individual courts' CM/ECF system based on narrowly defined reports and search fields, and they can search across courts using narrowly defined search fields through the PACER Case Locator. Using keyword searches would allow users to locate information more quickly. For example, they could use a keyword search to locate a specific term like "Bill of Costs" or "Order on Client A's Motion for Summary Judgment" within a specific type of document. Associated with the keyword search capability, the users would like to be able to see a "sounds like" box that displays search options similar to those entered added to the help function (e.g., "did you mean ...?" options).

The additional stakeholders would like to be able to search on multiple search terms at the same time, and then to be able to filter the results further by applying additional filters. For example, they would like to be able to search for multiple parties at once, then filter that to the parties' role in a case (e.g., attorney, plaintiff, etc.), and then look for a particular document or event associated with those parties.

The users would also like to have more field-based, or metadata searches, made available. They are aware that the system contains the information, and are frustrated by their inability to extract the data using those fields. The Bankruptcy Litigators would like to be able to search on a motion and then find all of the documents related to the motion (e.g., objections, responses, etc.); the Federal Public Defenders would like to be able to search on case type by the charges (e.g., 21 U.S.C. §841); and several litigation groups would like to be able to search on the event codes.

The ability to access information provided in PACER through full-text search both within a single court's database and across courts, would facilitate the use of the CM/ECF systems by a broad spectrum of the additional stakeholders. Users are familiar with common web tools, and would like to be able to perform enterprise, or "Google-like" searches within the web-based

CM/ECF. This capability is currently available to court users of CM/ECF, but has not been extended to external users for two reasons. First, there are concerns about the negative impact that these searches would have on the performance of the CM/ECF system. Second, the question has arisen of whether allowing this type of search is at odds with Judicial Conference policy barring the Administrative Office from releasing judge specific information⁸ as a user would be able to use a judge's name in a full-text search. This policy issue has been referred to the CM/ECF Subcommittee of the Judicial Conference Committee on Court Administration and Case Management, see Appendix C.

External users would like to have the ability to run and sort the current reports by various data fields, and to develop custom reports using multiple filters, or compound searches, to retrieve information. If this information can be provided in user defined formats, (e.g., spreadsheet format, XML files, etc.), as described in the Customizable Reports and Data Exchange Standards sections of this report, the users would be able to integrate the results into their local systems and business practices in a more streamlined way.

5. Enhanced Interface

Users desire a customizable system with features such as dashboards, alerts of impending deadlines, calendar reports that feed into their local calendar software, and *ad hoc* query and reporting capabilities. This is supported by the EPA Assessment's finding that while the user interface was widely cited as an opportunity for improvement, it was especially noted by those outside the legal sector. The advancements made in technology have also brought about the adoption of web standards for information architecture, usability and accessibility. Users have become accustomed to designs that can be customized to meet their needs and help them complete their tasks with ease and timeliness. A majority of the additional stakeholders expressed satisfaction with the current CM/ECF system and have incorporated it into their business processes. Currently, users can only file, upload/download documents, search, and run predefined reports. Considering the extent to which users have integrated CM/ECF into their business processes, this is fairly limited.

⁸ The policy was first adopted in March 1995 (JCUS-MAR 95, pp. 21-22), based on a Judicial Resources Committee recommendation noting "the potential for judge-specific information taken out of context to be misinterpreted, the administrative burden of compiling information to satisfy outside requests, and the availability to researchers of the information from individual courts." In September 1995 (JCUS-SEP 95, pp. 21-22), the Conference reaffirmed the March 1995 position based on the Committee's recommendation that "if information about individual judges is to be released, this should be done locally, rather than nationally, since court staff are in a better position to provide current and accurate information about circumstances related to specific judges or cases." The policy was again reaffirmed in March 2003 (JCUS-MAR 03, p. 21).

More than one third of these requirements are very similar to the features sought by court users, such as a more dynamic and customizable interface. All of the other functional requirements groups have submitted requirements for a dashboard or workspace to be developed as part of the Next Generation CM/ECF system that can be extended to the external users. Users want to customize their landing page to display the information that is most critical to their business processes, such as a list of cases in which they are a party, deadlines, notices of defective filings, and a calendar with upcoming events. Providing users with a better user interface and site navigation that they can customize will not only help streamline their business processes, but will also improve communication between the courts and public.

The additional stakeholders would like a more consistent and intuitive design across courts and court types with terminology that is easy for the layperson to understand. For example, the term “Query” could be called “Search,” and “Utilities” could be called “Account Settings.” As part of the updated design, users have expressed an interest in a tabbed navigation that will make it easier for them to navigate across the system, between CM/ECF and PACER, and across courts and court types. The requirement for a consistent design is closely related to the request for more consistency and standardization across courts and court types, and a single sign-on that allows for role-based access by case. The stakeholders also requested the enhanced ability to move around the screen using a keyboard as well as a mouse. Keyboard navigation with intuitive tabbing would facilitate navigation for all users, including users with disabilities.

Bankruptcy and district filers are particularly frustrated by the inability to use the browser navigation buttons at any point in the filing process without having to restart the process. While CM/ECF does not allow the browser navigation buttons to work, the system requires filers to sequentially scroll through a number of screens using the “next” button. Reducing the number of steps and screens in the filing process as well as minimizing the number of clicks would be a welcome change. The current filing process is time consuming for filers who need to file multiple documents at a time, which is particularly troublesome in bankruptcy and multidistrict litigation. Changing the interface in a way that expedites the process, by consolidating screens and eliminating screens that have little content, is desired. This need could also be met by facilitating and expanding the batch filing capabilities.

6. Preview Feature

Users requested a “preview” function that could be used to view the document being filed prior to submission to ensure that the correct document is filed. Many commercial products today offer users the ability to review the information, as a total package, before submitting the information or request. For example, tax preparation software allows a user to review and print a copy of a tax return prior to electronically submitting it to the Internal Revenue Service. E-

Commerce sites allow users to review orders prior to submitting the order and submitting the charges for a purchase.

Currently, users cannot go back and correct any error during the filing process without resulting in loss of data and having to restart the process. This is especially cumbersome if users have uploaded more than one document. For example, if a user has uploaded ten attachments and one fails the upload test of being a PDF, the user will have to begin again. The additional stakeholders would like a confirmation page with a preview screen that gives them the opportunity to review their filing prior to submitting, making it possible for them to make corrections. A preview screen would allow them to check attachments and verify that the correct document was selected. The preview screen should also allow them to replace documents without affecting other attachments. The appellate courts provide users with a back button on the user interface so it is easier for them to make corrections to their filings if they become aware of it before submitting. In many cases, users contact court staff to have the error corrected, which results in court staff entering a docket event correcting previous filing. Providing this capability would thus also help the courts by allowing filers to participate in the quality control process.

7. File Size Limitations

The additional stakeholders have requested that file size limits either be eliminated or greatly increased in a consistent manner across courts and court types. A crucial part of the filing process is uploading documents. Users have to keep in mind the file size limit, and in some cases have to split the document being filed into multiple files, which requires additional time and resources. The lack of a standard file size limit makes it very difficult for filers who file in multiple courts.

Acceptable file sizes vary greatly across the courts, ranging from 1 megabyte (MB) to 100 MB. 44 district courts allow 5 MB or less, 12 district courts allow more than 10 MB, only eight bankruptcy courts allow more than 10 MB, and the average file size limit for appellate courts is 12 MB.⁹ File sizes are likely to continue to increase over time for a number of reasons, such as the use of embedded audio or video clips in filings and the transition to the PDF/A filing standard.

Splitting a filing may impair the usability of the file. For example, the Social Security Administration (SSA) generates Electronic Certified Administrative Records (eCARs) that are filed for Social Security cases by the local U.S. Attorney's office in each district where the case

⁹ As a result of this issue being identified by the ASFRG, some courts have changed their procedures to allow larger file size limits.

is pending. The files are relatively large, and it is the responsibility of the filer to split the file to the allowable file size. The eCAR files are bookmarked and hyperlinked to make them easier to navigate, but if the files are being split into smaller segments these features are no longer as effective. There are a few courts that have made exceptions to their file size limits for eCARs filings.

File size limits are even more challenging for filers that practice nationally as it becomes their responsibility to keep track of the file sizes that are accepted by each court in which they have been admitted to file. Filers discussed the challenges they have experienced in having to keep track of the various file size limits as well as having to split exhibits and appendices, which can be thousands of pages, into smaller file sizes. When a case that was filed in a lower court is appealed to an appellate court, filers are frequently required to reformat appendices or record excerpts into smaller files to meet the file size limits of the appellate court.

Greater consistency and standardization of the filing practices across all courts would greatly assist in this area. Standardizing the file size limit for all courts would be a step towards greater consistency, and would assist our national filers and federal agencies. Increasing or eliminating the file size would make it easier for filers that file large files by reducing the need to split the files to the allowable file size. This will also facilitate the quality control process and printing of documents split into multiple files for court staff.

8. Batch Filing and Processing

Additional stakeholder groups want the ability to batch file as a means to reduce the amount of data entry required to submit the information. The additional stakeholders define batch filing, sometimes referred to as multi-case docketing, as the ability to file several pleadings in the same case as a single transaction; the ability to upload several documents as one document, instead of as attachments; and the ability to file the same document in multiple cases simultaneously.

Currently, CM/ECF provides functionality for batch docketing, but due to software limitations, some courts do not make this feature available to filers. Most bankruptcy courts allow some batch filing, but only for very basic transactions like trustees filing “Notice of Completion Plan” events, or bankruptcy administrators filing “Statement of No Presumption of Abuse” events. A more robust process is needed for courts and external users. During ASFRG elicitation sessions, users requested the ability to print several claims. As a result, this functionality was included in an upcoming release of the bankruptcy CM/ECF system. This type of functionality is desired for other transactions as well, such as the ability to file all documents as one within a case, rather than having to separately upload each document as a separate attachment. An option to zip all files before uploading was also recommended. Users also requested the ability to link a batch

filed document, if appropriate, to other documents in the case. Many attorneys would like the ability to submit a change of address or a notice of appearance in several cases at once. This enhancement would be an immense time saver for trustees who file numerous routine reports and docket entries which are required for most cases. Users would find it very useful to have batch filing capability for associated cases, especially in large Chapter 11 cases.

Improving the capability of CM/ECF's batch filing and processing would result in savings for those users who file many repetitive reports, like trustees and bankruptcy administrators. Providing enhanced batch filing could save time and keystrokes and improve the quality of the data being submitted into the system. The area of batch processing is one where adding a few enhancements in the Next Generation of CM/ECF would result in great savings for the Judiciary's constituents.

9. Noticing Functionality

Users requested the ability to customize the notices, manage the volume of notices received, and readily identify those which require action on the part of the recipient. Law firms would like the ability to send the notices to a central e-mail box so that the notices can be managed centrally and then internally disbursed to the staff working on a particular case. For many of these firms, the ability to receive these notices via Electronic Data Interchange (EDI or machine-to-machine), versus email noticing, is desired. One overriding theme was that any option offered in the noticing area should allow the user the ability to opt-in or opt-out of that feature. Noticing features which attempt to satisfy the business practices of the various organizations, companies and case participants involved in federal litigation, must also comply with the legal requirements of the Federal Rules of Practice and Procedure. Flexibility is key to satisfying the varied requirements. The following are the main areas in which the external users of the system would like the current noticing process changed in the Next Generation of CM/ECF.

Notice recipients would like to be able to customize the notice of electronic filing (NEF), or notice of docket activity (NDA). The ability to identify the data in the e-mail subject line would help establish e-mail rules to direct the notices to different e-mail boxes, as well as filtering and distribution systems. Some users want the e-mail subject line to include the case name (not the case number). Some users want the notices formatted for easier viewing on mobile devices. Large law firms, and those using only one email box for all CM/ECF notices, requested the inclusion of the attorney's name next to the defendant name in the notices to help them identify the case. Notices should be searchable with filtering and sorting features. For example, some users would like the ability to sort bankruptcy notices by chapter, case number, trustee and judge. In addition, the notices should contain the docket type and sub-type of the event to help the recipient use software tools to associate the information. In the summary e-mails, adversary

notifications should be separate from the main bankruptcy case proceeding notices. Users occasionally have technical difficulties which prevent them from receiving the notices. Ideally, users should be able to regenerate notices in batch format as well as be able to specify a date, and/or time frame, for those times when the notices were not received.

Some additional stakeholders have requested the option to opt-out of receiving some notices. This would allow the Multi District Litigation (MDL) case participants to opt to receive only the notices related to their cases and opt-out of receiving all other notices. Establishing a report or repository of notices that can be viewed by case participants would also satisfy this need. In cases where there are multiple plaintiffs, the report should identify the plaintiff to which the notice applies. Attorneys who file in large cases, but only have a small matter, would like the ability to designate which notices they receive by dictionary event. An example of the types of notices from which they would like to opt-out are those between clerk's office personnel.

Users also had general noticing requests. For instance, when a party is added to a case midstream, they would like the ability to select the option to receive all prior case notices and to allow non-case participants or filing attorneys to receive notices of new pleadings/filing/orders in cases that they are monitoring. Many users requested the capability to attach the PDF documents referred to in the notice to the actual notice rather than requiring the user to log into PACER to view it. Users would also like the ability to automatically save information provided by the notices (e.g., notices of hearings, trial dates) in local calendar systems.

Just as managing email is a challenge for the additional stakeholders, courts also struggle with the volume of email "bounce backs" from their local mail systems and the undeliverable notices sent by the Bankruptcy Noticing Center. Noticing via email instead of paper continues to be one of the largest cost saving measures in the federal courts. The additional stakeholders are hoping that the Next Generation of CM/ECF provides a more robust, manageable and flexible noticing process. Addressing the features described above will make it easier for the users to incorporate the noticing functions into their business practices, thereby providing efficiencies for both external and internal court users.

10. Customizable Reports

The additional stakeholders have requested that the reports options be enhanced to include the ability to have user created customized reports, the expansion of the report selection criteria, and the expansion of report formats that are user customizable, printer-friendly, and include downloading in various formats such as XML. The current CM/ECF and PACER systems provide users with limited report options. The reports offered not only vary between court type, which is understandable given their different functions, but also within court types, because some

courts do not offer all of the standard reports, some courts develop local reports, and the availability of reports can vary depending upon the version of CM/ECF installed at the court.

Providing users with the capability to create customized reports would allow them to access data in a way that integrates into their business processes and allows them to manage their cases more efficiently. Being able to customize reports will allow users to find the information that pertains to their cases more efficiently and effectively especially in large cases.

Some of the reports requested by the additional stakeholders include: pending orders and motions; associated cases; prior filings; pending transcripts (with the number of times a transcript has been downloaded since filed); and all filings made by a specific filer within a date range. Users also want to be able to run reports across court types and to save the parameters for customized reports so that they can be run on a regular basis.

Enhancing the existing reports options would facilitate the integration of CM/ECF into the additional stakeholders business processes, which may include the use of third party software, and would reduce the time-consuming efforts that go into finding the information relevant to their cases. Providing this capability also has the added benefit of reducing the workload on court staff who create special reports based on user requests. The other functional requirements groups also identified the need for expanded reporting capabilities.

11. Data Exchange Standards

Users requested that the Judiciary adopt industry standards, such as NIEM and XML, to enhance data exchanges. The amount of data entered into and generated by CM/ECF is massive and vital to other systems, both internal and external to the Judiciary. Currently, it is a challenge to exchange data or interface with CM/ECF due to the different standards used by each system, as well as the various data formats and data dictionary names used by the courts. Adopting industry exchange standards that allow for configurable methods would make it easier to exchange data with internal and external systems. Regardless of the exchange standards adopted, these should be readable and processable by any system that currently interfaces with CM/ECF or may do so prospectively. This would help establish data structures and exchange protocols that would facilitate tighter system integration and allow different users to manage data submissions and information in a manner that is most conducive to their business processes. The adoption of data exchange standards would help to facilitate direct information exchange between Next Generation CM/ECF and other systems.

As part of the ASFRG outreach efforts, a list of data elements from various “touch point” systems was compiled. It was confirmed that there are common data elements that can be shared

with any system, internal and external to the Judiciary. Many, if not all, of the Administrative Office touch point systems identified a core set of data elements, such as case number and case short title, which are shared across all systems. Several systems have unique data exchange needs that require expanded data exchange functionality in the Next Generation of CM/ECF. Establishing a centralized database to store common data elements that can be shared among Judiciary systems should be considered for Next Generation of CM/ECF.

The data exchange mechanism adopted should be flexible enough to support machine-to-machine transmissions as well as end-user interfaces while providing real-time information returns. Machine-to-machine data exchanges should support standard web services protocols and/or XML schemas, which were among the most requested requirements related to data exchange. The additional stakeholders want the Next Generation of CM/ECF to automate as much of the data entry as possible by providing real-time data exchange services. This will not only reduce manual data entry errors but also reduce manual intervention needed to exchange data by using timed cron jobs or scripts.

Appendix A

List of Identified Additional Stakeholder Groups

United States Trustees
Chapter 7 Trustees
Chapter 11 Trustees
Chapter 12/13 Trustees
Criminal Litigation
Civil Litigation
Social Security Cases
Appellate Litigation
Immigration Attorneys
State Court Users
Pro Se Litigants
Consumer Bankruptcy Attorneys
Bankruptcy Administrators
Bankruptcy Litigation
Probation/Pretrial
Multi District Litigation
Federal Public and Community Defenders
Criminal Justice Act (CJA) Panel Attorneys
Border Courts
Prisoners
Office of Immigration Appeals
United States Attorneys (AUSA)
Equal Employment Opportunity Commission (EEOC)
Internal Revenue Service (IRS)
Mediators
Court Reporters/Transcribers
Pro Se Debtors
Litigation - Central Department of Justice
Securities and Exchange Commission (SEC)
Military - JAG
Consumer Advocacy/Legal Aid/Legal Services
Law Clinics/Student Practice
Pro Se Creditors
Legal Document Preparers
Claims Agents

Unclaimed Funds Locators
Hired Professionals
National Security Cases
Federal Deposit Insurance Corporation (FDIC)
Federal Trade Commission (FTC)
United States Commodity Futures Trading Commission (CFTC)

Appendix B
Sample Communications Plan and Final Report

**CM/ECF Next Generation Additional Stakeholders Functional Requirements Group
SME Communication Work Plan**

| SME: SEC | | Judge J. Rich Leonard Liaison |
|--|--|---|
| Narrative Description of Plan | Establish contacts and open line of communication with SEC headquarters. Solicit national and regional input through focus groups, meetings or surveys as appropriate. Collect feedback and submit to AO for incorporation into ASFRG requirements material. | Summary of the process you envision for gathering requirements from the assigned group, including the possible approaches you may take. |
| Key Dates, Timeline | TBD. Possible meeting in conjunction with planned DC trip 12/7. | How long do you want to allow for this process? Are there any key meetings or events that should be targeted? |
| | | |
| Target Group(s) | Possible Approaches | Assistance Required |
| National Organization | Facilitated discussions, | Someone to assist in preparation and requirements gathering. |
| Regional practitioners | Survey, facilitated discussions, possible engagement through SEC meetings/training events. | Staff to document results and provide quality control assistance |
| List the types of people or organizations to be contacted. | How do you expect to reach out to these groups (surveys, presentations, list serves, etc.) | How can the Administrative Office Support you (Presenters, Materials, Venues, and Court Liaisons)? |

To: File
From: J. Rich Leonard
Date: 1/27/2011
Re: SEC Final Report

START DATE: September 2010

METHODOLOGY (See Attachment 1 Communications Plan)

- Interview with Karen Shimp September 24, 2010, Office of General Counsel (Attachment 2)
- Survey (34 respondents) (See Attachment 3, Summary of Survey Results)
- Elicitation session, December 7, 2010 (See Attachment 4)

BACKGROUND

The Securities and Exchange Commission is a federal agency whose mission is to “protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation.¹”

There are three main groups at the SEC that interact with CM/ECF on a daily basis:

1. The Office of the General Counsel - Litigation and Administrative Practice, which defends the SEC in litigation, including FOIA and discrimination claims;
2. The Enforcement Division, which investigates securities law violations and brings actions in federal district courts;
3. The Office of the General Counsel - Solicitor, which handles appellate litigation, including the filing of amicus briefs.

¹ <http://www.sec.gov/about/whatwedo.shtml>

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Over 80% of SEC users interact with CM/ECF at least monthly, and over 25% use the system on a daily basis. SEC Most SEC work is in District Courts, and over 75% of SEC users practice in multiple jurisdictions.

RECOMMENDATIONS

A summary of recommendations that either echo existing requirements or raise new or agency-specific issues, is presented below.

Recommendations That Support Existing Requirements

1. Standardize system across courts;
2. Provide single sign-on for multiple courts;
3. Create uniform procedure for filing complaints;
4. Allow involved attorneys who are not counsel of record to receive NEFs;
5. Improve help;
6. Provide customized view of docket report;
7. Eliminate or expand file size requirements;
8. Allow for batch filing, including simultaneous filing of pleadings, attachments and exhibits.
9. Create appendix using CM/ECF and link to district court record rather than physically transferring files;
10. Save a document by defaulting to the document's name rather than some arbitrary name defined by the courts;
11. More integrated calendar with customizable views and reminders;
12. Provide standard process for submitting proposed orders with clear guidance of required steps and procedures;

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13. Allow filer to highlight all of the exhibits that are to be filed with a pleading and have them copied into the filing, instead of having to do them one at a time;
14. Add the ability to “back up” or correct errors, and to preview document before filing;
15. Dispense with requiring any hard copy documents, such as courtesy copies.

New or Specific Recommendations

1. Allow SEC to file documents with hyperlinks to external databases, including agency systems.

SUMMARY OF COMMENTS/SUGGESTIONS

Survey respondents indicated that the Docket Report and Notices of Electronic Filing in the current system are adequate, and that the number of events is slightly too small.

From her personal experience with CM/ECF, Ms. Shimp suggested that it would be nice to allow the SEC to file on behalf of the DOJ and to receive the notice of Electronic Filing in cases where the SEC is not the lead counsel;

At the elicitation session, there was general agreement that the key issues were standardization across courts and single sign-on.

Cross Court/District Filing

Differences in court practices causes increased work for the filer, necessitating an understanding of myriad practices and creating a burden on the clerk’s office, which must assist the filer or correct mistakes.

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Appellate filings are still required to file a paper copy. There is also wide variety in the appellate process—where filings still must include a paper copy; the most archaic being in the 2nd Circuit.

Filers should be able to create an appendix via the CM/ECF platform. Appendices can be thousands of pages long; the existing process is laborious and the size limits necessitate breaking them into many parts.

The Filer should be able to link cases and documents between the District and Appellate court systems, to eliminate the need to duplicate the information.

Give ability to add hyperlinks between documents. SEC needs to create links to external documents.

Boston Regional Office commented that they agreed with the comments about standardization between districts; single sign-on/password and elimination of the file size limit. Every time she files she ‘holds her breath and prays ‘that the file will not get bounced.

Streamline this process and eliminate court statistical information (i.e. internal court information) from the filing process.

Eliminate the need to do 3 filings for one case—exhibits, motions and appendix; should be able to do this with one filing.

District courts still require paper to be submitted manually to open a case. Some courts everything has to be done on paper rather than electronic.

In Utah to file a new complaint the attorney has to email the clerk to get a case number first. This is an example of how frustrating it can be in determining what the rules are between the courts.

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They call the help desk ‘a lot’ because they are unsure which event to file their documents, since there is not consistency across courts. Improving consistency and standardization would reduce the number of calls made to the help desks.

Userid/Passwords

Improve password reset process to send an email to the email address on file when the user cannot remember their password and create a secret questions process that can assist in the resetting.

Paralegals at the SEC work with many attorneys and these attorneys work in many different courts, districts and circuits requiring the paralegals to maintenance numerous userids/passwords and to constantly log in and out of the systems. The Paralegals would like to be given their own accounts to eliminate the need to use attorney userid/password.

Noticing Emails

Ability to customize which filing and which notices they receive.

Ability to designate where the NEF goes, i.e. to the Paralegal, or to the Attorney or to both.

Need to improve the ability to get to the document from the NEF.

Ability to Flag cases that you are interested in getting notices on but are not an attorney on the case.

Docket Report

Would like the ability to organize the report by various categories, such as: all filings or all motions; or have the document organized into different tabs so that user could quickly find what they were looking for.

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Not all courts have enabled the ability to select several documents at one time for download.

Saving a document should default to the documents name rather than some arbitrary name defined by the courts.

Calendaring

When filing a motion would like to have the ability to add ticklers to remind you about items with due dates and deadlines.

The NCWD JERS system was a good tool and that we should take a look at it.

User Interface/Navigation

Could it be compatible with MS Outlook calendar functions, i.e., to the extent that motion and response dates are set, or calendars are established for cases, would be nice if we could download that into our MS Outlook calendar directly.

It would be nice to be able to preview an image of the document once it's uploaded.

Some judges request that proposed orders be sent in a Word file to them by email. It would be nice if the program automatically created an email message addressed to the court assigned to the case and prompted the attachment of the Word file. Similarly, if a particular judge required a curtesy copy of the pleadings that at the end of the filing process, a prompt tailored to that particular judge's requirements popped up.

I think it is important that APIs are created that would allow third party application and program developers to create programs that work with the Courts ECF. That way, great programs could be created that would allow you to pull documents out easier from ECF and also to file. Moreover, mobile devices that run applications like the iPhone and iPad are being used more and more by attorneys. These devices are also great for viewing pdfs and documents. Open APIs for developers

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would allow ECF applications to run on these platforms so that attorneys could view and download and organize ECF documents much easier.

Although it makes for longer lists, I would like to see more categories of filings. I am sorry I cannot recall specific examples of filings not quite captured by the categories used now, and I know the categories are not uniform for all district courts. Uniformity would be helpful.

I would like to be able to just highlight all of the exhibits that are to be filed with the pleading and have them copied into the ecf filing, instead of having to do them one at a time. Also, when there are too many exhibits, we can only see some of them on our computer and have to go through Mozilla or other means to see all of them. There should be no size limitation. Many of our exhibits have to be broken up which adds significant time to the process.

With the current system, it is impossible to back up one or two steps if the user makes a mistake. Instead, the user must return to the beginning of the process. Adding the ability to back up, or otherwise correct errors, would be very helpful.

The Central District of California has a system that provides reminders about certain types of filings. For example, a reminder will pop-up telling you that stipulations filing category is for stipulations that have separate proposed orders or do not require an order of the court. This type of system is very helpful.

We file applications and motions, and sometimes it is difficult to find the category in the ECF list for the pleading being filed, so we default to motion. Perhaps that has more to do with historical names for different filings and we will eventually adapt naming of filings to the ECF system categories.

I would like there to be a search function. Also, it would be helpful if we could have the option of labeling the filing with the label of our choice in the event the

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menu of categories offered by the CM/ECF system does not fit the filing that we are making.

Please do not use applications (like Adobe flash) that cannot be used on all operating systems. Users do not expect a Court website for e-filing to look or feel like their favorite entertainment sites, so please do not clutter or distract with banners, flashing displays, notices or anything else that inhibits the efficient use of the filing system.

It would be great to be able to download all attachments/exhibits at once instead of individually.

I'm sure if this is possible but I would love for the NextGen to make it simpler to file attachments with the pleading instead of filing them separately.

The one limitation is the limited number of events from which to choose. Often, I need to file something and there isn't really an appropriate event. As a result, I have to wing it.

It would be very helpful to be able to attach all exhibits all at once. Sometimes we file as many as 50 or more exhibits and the filing ends up being considered late even though the filing was started before the deadline time. Also, in some courts, because of the browser we cannot see and click on all of the exhibits.

Dashboard Elements

List of open cases, calendar, and current pacer usage would be helpful

I would like to have a list of all my open cases across the several courts in which I practice. It would be nice if there was a calendar associated with the case that listed the various deadlines entered in scheduling orders and dates for hearings set in a particular case.

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I would like to see all pending cases that I am on, and also have fields such as court deadlines, last event, judges assigned, etc.

We at the SEC have a national practice. I would like to be able to log onto a dashboard using a single log-on and have the dashboard show each court to which I am admitted for ECF filing. Or, if that is too unsecure, at least have the dashboard list all the courts to which I am ECF admitted so I can click on an icon and reach the log-in page for that court.

It would be very useful to have a different level of user, such as paralegals. To be able to see all of the cases for all of our attorneys at once would be very useful. Also to see all of the other recipients for all of the attorney's passwords in one screen would be useful - that way it would be easier to add additional recipients easier. In addition, it would be useful to be able to get only one notification instead of two or three if you are on each of your attorneys' email notifications.

Each of the examples listed above would be useful functions to have a quick access to.

List of my open cases would be extremely helpful with a quick link to the dockets.

I would have to see an example in order to provide useful comments.

List of SEC cases, a tab or link to all of my cases in all courts.

Filing

Filing (and downloading) of exhibits as separate attachments is a very time intensive process. In some cases, exhibits have to be broken into pieces so that they can be filed because the system will not accept more than a certain number of bits of information in one attachment or filing. The system needs to be upgraded so that this does not happen.

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It would be terrific if the maximum size for filing (megabites) could be increased so that filings with a significant number of exhibits could be done more easily.

Expand the size limits.

There should be something in the process that indicates that a proposed order is required. And along those same lines, if hearing dates are required there should be a prompt in the process to get that.

Other

I am an SEC attorney and do many of my own filings in multiple districts, each of which has a slightly different menu of events, and different login and password requirements. All of these should be made uniform (pacer has a uniform login and password, for example).

I would love to be able to ECF documents initiating an action rather than having to file them in hard copy or, at least, be able to initiate in ECF and then send hard copy to the clerk's office with an original signature. I believe there is a pilot program on this (SD Fla?). I have not had occasion to use it, but think it is a great idea.

Overall, ECF is already an excellent system.

It would be helpful if the system was consistent for all federal district courts. For example, it would be helpful if the system for every federal district court provided the option of initiating an action and filing a complaint through the ECF system.

E-filing is a HUGE improvement over paper filing, and it has made working in multiple courts much easier. However, I understand that Court personnel need to be convinced that it is an improvement from their perspective as well. I hope the Admin Office of the US Courts can help make this clear.

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It would be great to be able to download all attachments/exhibits at once instead of individually. It is time consuming when you have so many to download one at a time.

Dispense with requiring any hard-copy documents such as courtesy copies to judges.

The most important need I see is making CM/ECF more consistent across all federal courts. Some court's requirements seem almost archaic and causes some users to wonder how they are even applicable anymore (see e.g. U.S.D.C. CD Cal.).

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| Note: The recommendations discussed herein are based on responses by SEC staff who chose to participate in the requirements gathering effort, and do not necessarily reflect the views of the Commission. |
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Appendix C

Issues Referred to the Next Generation CM/ECF Subcommittee

In the course of identifying requirements, eleven issues were identified for referral to the Committee on Court Administration and Case Management's Next Generation CM/ECF Subcommittee. The issues were presented in two batches. The first batch of six issues was considered at the Subcommittee's August 2011 meeting. The issues along with the action taken by the Subcommittee is presented in the first section below. The remaining issues will be considered by the Subcommittee in March 2012. The issues and recommendations are shown in the second section below. (Note: This document will be updated with the Subcommittee's actions after the March 2012 meeting.)

Issues Considered at the August 2011 Subcommittee Meeting

- Issue:** Should the Next Generation of CM/ECF be designed to receive information from and present information to external users in a consistent manner across courts and court types?
- Action:** The Subcommittee adopted the ASFRG's recommendation to: (1) task a cross-court-type group to study the issue of consistency for external users and identify ways to make the Next Generation of CM/ECF more consistent, from the perspective of the external user, within and across court types; and (2) recommend that, as the Next Generation of CM/ECF becomes operational in courts, the Administrative Office create a group tasked with representing external users in discussions of changes or modifications to the system.
- Issue:** Should the NextGen System allow outside users to access information by judge?
- Action:** The Subcommittee tabled for further study whether external users should be allowed access to information by judge in PACER (beyond that required by statute or policy). The Subcommittee will seek input from other interested Judicial Conference Committees, including the Judicial Resources Committee, the Bankruptcy Committee, and the Criminal Law Committee, and seek information from Administrative Office staff, to determine the impact and desirability of such a capability in the new system.
- Issue:** Should hyperlinks to databases maintained by federal government agencies be allowed in pleadings filed in the Next Generation of CM/ECF?
- Action:** The Subcommittee endorsed the ASFRG's recommendation that the DenyPDFHyperlink entry in the site table be modified in the Next Generation of

CM/ECF to allow the inclusion of hyperlinks to sites in the .gov domain while excluding links to all other non-judiciary web sites.

Issue: Should role based access to information be provided to external users in the Next Generation of CM/ECF? Specifically the ASFRG requested the following access:

| Role | Role-Based Access to CM/ECF Data |
|--|---|
| (1) Bankruptcy Administrators | (1) Full Social Security Number of debtors in bankruptcy cases |
| (2) Probation/Pretrial officers | (2) Judgment and commitment orders before submission, and sealed/confidential material for those officers in their cases |
| (3) Judicial Panel on Multidistrict Litigation (MDL) staff | (3) Enhanced, court-level access to MDL cases |
| (4) U.S. Trustees | (4) Remote access to bankruptcy filings in pre-December 1, 2003 cases closed for more than one year (which are currently restricted to clerk's office viewing under Judicial Conference policy) |
| (5) Financial Litigation Unit of the U.S. Attorneys' Offices | (5) Remote access to older, electronic criminal cases |

Action: The Subcommittee endorsed the ASFRG's recommendation that the account administration capabilities in the Next Generation of CM/ECF be expanded to allow appropriate access to external users to view select types of documents or other case-related information based on their role. The Subcommittee also endorsed the ASFRG's specific categories of roles and access shown in the table above, except that it will confer with the Bankruptcy Committee on U.S. Trustee access to older bankruptcy filings, and with the Criminal Law Committee on U. S. attorneys' access to older, electronic criminal cases.

Issue: Should the Next Generation of CM/ECF allow external stakeholders to file documents based on their role in the case? Specifically the ASFRG requested the following filing privileges:

| Role | Role-Based Filing in CM/ECF |
|--|---|
| (1) Claims agents | (1) File status reports (in bankruptcy cases) |
| (2) Mediators (both attorneys and non-attorneys) | (2) File mediation reports |
| (3) Unclaimed funds locators | (3) File motions or applications to release unclaimed funds |

Action: The Subcommittee endorsed the ASFRG’s recommendation that the account administration capabilities in the Next Generation of CM/ECF be expanded to allow external stakeholders (both attorneys and non-attorneys) to file specific types of documents in the Next Generation of CM/ECF based on their role in the case. Further, the Subcommittee endorsed role-based filing privileges for the specific categories of roles and filing privileges provided in the table above, as well as for probation and pretrial services officers and for other external users that can justify role-based filing privileges.

Issue: Should sensitive mediation documents be docketed as private events in the Next Generation of CM/ECF?

Action: The Subcommittee endorsed the ASFRG’s recommendation that parties in district and bankruptcy cases not be required to file sensitive mediation documents such as settlement conference statements in the Next Generation of CM/ECF.

Issues for Consideration at the March 2012 Subcommittee Meeting

Issue: Should the Judiciary alter documents submitted by external filers by converting them to a new format?

Request: First, the Subcommittee is asked to consider the overarching issue of whether it is appropriate for the courts to alter a document submitted by a filer by changing its format.

If the Subcommittee concludes that altering the document is warranted, that it refer the matter to the AO for further study in order to explore practical issues related to no longer requiring documents to be submitted in the format in which they are to be retained, including, but not limited to, authentication, costs, and acceptable formats.

Issue: Should judges continue to require paper courtesy copies of filings for use in chambers?

Request: That the Subcommittee encourage courts and judges to review and eliminate standing orders requiring courtesy copies.

Issue: Should the Judiciary expand the mechanisms available to external filers for ongoing input in the Next Generation of CM/ECF?

Request: That the Subcommittee endorse the concept of providing additional support and input to external users of the Next Generation of CM/ECF at the national level and ask the AO to explore options to accomplish this.

Issue: Is use of the CM/ECF system sufficient proof of service?

Request: That national rules be amended to confirm the Notice of Electronic Filing as a sufficient proof of service, or to, in some other way, establish that a lawyer's proper use of the system—absent a challenge or some other indicia of untrustworthiness—be noted as sufficient proof that the intended recipient was properly served.

Issue: Change requirements that attorneys retain for a specified period original paper copies of documents requiring third party signatures.

Request: The ASFRG recommends that the courts move toward a system in which all signatures may be filed electronically, or that courts assume the responsibility of maintaining copies of all documents that are required to be filed, including those where a “wet” signature of a third party is required. Alternatively, the judiciary should establish a standard retention policy for filers of these documents.