

## **Chronology of the Federal Judiciary's Electronic Public Access (EPA) Program**

- ❑ **1989** Federal Judicial Center initiated pilot programs to provide Public Access to Court Electronic Records (PACER) systems in several bankruptcy and district courts.
- ❑ **1990** Judicial Conference **directed by Congress** to prescribe reasonable **fees** for public access to electronic information, to be deposited into a special fund for information technology projects. The initial fee for public access, via a dial-in bulletin board service, was set at \$1/minute.
- ❑ **1992** PACER expanded to additional district and bankruptcy courts.
- ❑ **1995** Fee reduced to 75 cents per minute.
- ❑ **1996** Fee reduced to 60 cents per minute.
- ❑ **1997** National locator index added.
- ❑ **1998** As the judiciary began development of the new Case Management/Electronic Case Files (CM/ECF) system, which allows courts to maintain complete electronic case files, a web interface was created for PACER, and the Judicial Conference prescribed a 7 cents per page fee for Internet access to documents from the case file. The Conference also stated that courts could make certain items, such as local rules and forms, opinions and other local information available at no cost.
- ❑ **2001** As deployment of CM/ECF continued, the Judicial Conference approved two new provisions:
  - ▶ 1. Attorneys of record and parties in a case receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer.
  - ▶ 2. No fee is owed until charges of more than \$10 in a calendar year are accrued.
- ❑ **2002** Judicial Conference approved a 30 page cap on per-document charges (\$2.10)
- ❑ **2003** The Judicial Conference made several changes to the fee structure, most notably:
  - ▶ 1. Judicial Conference extended the \$2.10 cap, the equivalent of 30 pages, to all case documents, including docket sheets and case-specific reports, with the exception of transcripts of federal court proceedings.

- ▶ 2. The Judicial Conference also addressed the issue of exemptions– specifying the individuals and groups whom courts may exempt, upon a showing of cause, including indigents, bankruptcy case trustees, individual researchers associated with educational institutions, courts, section 501(c)(3) not-for-profit organizations and pro bono ADR neutrals from payment of the fees.
- ▶ 3. The Judicial Conference further directs that courts should not exempt local, state or federal government agencies, members of the media, attorneys or others who are not members of the groups specified above, prohibits courts from using the exemption language from exempting all users, and dictates that exemptions apply only to access for the specific case or purpose for which it was given.
- ▶ **2004** The Judicial Conference amended Item I of the Electronic Public Access Fee Schedule to increase the fee for public users obtaining information through a federal judiciary Internet site from seven cents per page to eight cents per page, effective January 1, 2005.

## **ELECTRONIC PUBLIC ACCESS FEE SCHEDULE** (eff. 9/21/04)<sup>1</sup>

As directed by Congress, the Judicial Conference has determined that the following fees are necessary to reimburse expenses incurred by the judiciary in providing electronic public access to court records. These fees shall apply to the United States unless otherwise stated. No fees under this schedule shall be charged to federal agencies or programs which are funded from judiciary appropriations, including, but not limited to, agencies, organizations, and individuals providing services authorized by the Criminal Justice Act, 18 U.S.C. § 3006A, and bankruptcy administrator programs.

- I. For electronic access to court data via dial up service: sixty cents per minute. For electronic access to court data via a federal judiciary Internet site: eight cents per page, with the total for any document, docket sheet, or case-specific report not to exceed the fee for thirty pages—provided however that transcripts of federal court proceedings shall not be subject to the thirty-page fee limit. Attorneys of record and parties in a case (including *pro se* litigants) receive one free electronic copy of all documents filed electronically, if receipt is required by law or directed by the filer. No fee is owed under this provision until an account holder accrues charges of more than \$10 in a calendar year. Consistent with Judicial Conference policy, courts may, upon a showing of cause, exempt indigents, bankruptcy case trustees, individual researchers associated with educational institutions, courts, section 501(c)(3) not-for-profit organizations and pro bono ADR neutrals from payment of these fees. Courts must find that parties from the classes of persons or entities listed above seeking exemption have demonstrated that an exemption is necessary in order to avoid unreasonable burdens and to promote public access to information. Any user granted an exemption agrees not to sell for profit the data obtained as a result. Exemptions may be granted for a definite period of time and may be revoked at the discretion of the court granting the exemption.
- II. For printing copies of any record or document accessed electronically at a public terminal in the courthouse: ten cents per page. This fee shall apply to services rendered on behalf of the United States if the record requested is remotely available through electronic access.
- III. For every search of court records conducted by the PACER Service Center, \$20.

### **JUDICIAL CONFERENCE POLICY NOTES**

Courts should not exempt local, state or federal government agencies, members of the media, attorneys or others not members of one of the groups listed above. Exemptions should be granted as the exception, not the rule. A court may not use this exemption language to exempt all users. An exemption applies only to access related to the case or purpose for which it was given.

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<sup>1</sup>The actual implementation of the one cent fee increase will take place on January 1, 2005, or slightly before, when the necessary software changes have been implemented in the courts.

The electronic public access fee applies to electronic court data viewed remotely from the public records of individual cases in the court, including filed documents and the docket sheet. Electronic court data may be viewed free at public terminals at the courthouse and courts may provide other local court information at no cost. Examples of information that can be provided at no cost include: local rules, court forms, news items, court calendars, opinions, and other information – such as court hours, court location, telephone listings – determined locally to benefit the public and the court.