

Looking for the Next Generation of the CM/ECF System

Over the past decade the federal Judiciary's Case Management/Electronic Case Files (CM/ECF) system has dramatically streamlined and simplified federal court case filing, management, and access. Now, a group of federal judges and court staff is thinking about the future of that system and asking: "If we could change CM/ECF in any way, what would we want the Next Generation system to look like?"

Fifteen years ago, the federal Judiciary began work on the CM/ECF system, testing a prototype by 1996, then rolling out the system in waves to bankruptcy courts, district courts, and now to the appellate courts. Today, all district and bankruptcy courts, and 10 of the 12 geographically-based courts of appeals have implemented CM/ECF.

Two Judicial Conference committees are spearheading the redesign: the Committee on Court Administration and Case Management (CACM) and the Information Technology (IT) Committee.

"It's a natural evolution" said Judge Julie Robinson (D. Kan.) of the CACM Committee. "People have used the CM/ECF system all these years. Now we're able to stop and ask, 'Do we really need to keep doing it this way?' We can evaluate quality, seek feedback, determine best practices, and get a sense of the bigger picture. We will be evaluating our work processes as part of defining our functional requirements for the redesigned system."

Judge Rosemary Collyer (D.D.C.), chair of the IT Committee, agrees. "The first time we were in a hurry to replace systems that were crashing; this time we can do it in a thoughtful process."

Howard Grandier was implementation manager for the first bankruptcy and district court CM/ECF system rollouts and is currently assistant

director of the Administrative Office, Office of Information Technology. "We now have the opportunity to take a step back and look at our current business processes and how they can be improved." Grandier said. "If we can ignore technology and concentrate on documenting our functional requirements, we can then look at how to change/redesign our current system to meet those requirements."

Fifteen years ago, the courts were under considerable pressure to replace a slew of deteriorating legacy systems. "Those antiquated systems were held together with bandages and bubble gum, and we replaced them with CM/ECF—with great success," said Noel Augustyn, assistant director of the Office of Court Administration (OCA) at the AO, who chairs the AO's CM/ECF Leadership team and who, with Grandier and Peter McCabe, assistant director for the Office of Judges Programs, is one of the project's three executive sponsors.

CM/ECF essentially opens the clerk of court's office 24/7 to everyone, down the street or around the world. If you're a member of the public viewing case documents from home, an attorney filing a case from his or her office, a judge accessing case files remotely, or a clerk of court whose dockets now include electronic documents filed by attorneys and the court, you know what the CM/ECF system's electronic filing and docket management system can do—and how it has revolutionized the federal court system. Some 33 million case files currently are on CM/ECF systems, and more than 400,000 attorneys and others have filed documents using it.

"When we began with the current system," said Ken Gardner, bankruptcy clerk of court for the Northern District of Illinois, "we gained a lot of efficiencies, saving labor, space, and

paper. Now, we're close to the point where it doesn't have a lot more to give without a major investment of deputy clerk's labor to conduct quality review on the docket entries and documents to accurately process the cases. The first CM/ECF system delivered what we wanted, but we need changes in architecture to deliver the efficiencies we want in the Next Generation."

Broad input will be solicited from those who have hands-on experience. The Judicial Conference committees will be asking users: How do judges and law clerks envision the next generation of CM/ECF? What bells and whistles would make life easier for clerks of courts? And what about CM/ECF's external stakeholders? They are consumer groups, attorneys, filers, and government agencies. What changes in CM/ECF would they like to see? Surveys and focus groups will answer those questions.

Work on defining the functional requirements of the bankruptcy courts already is several months along, and a kick-off meeting in April began the review of the functional requirements of the district court system.

Bankruptcy Judge Cecelia Morris (S.D. NY) chairs a group gathering the functional requirements for chambers in the bankruptcy courts. A group soon will be appointed to gather functional requirements from district court chambers users.

"Our goal is to look at the needs and wishes of judges so that we can give chambers the tools in the Next Generation that allow them to further increase their effectiveness," Morris said. Before joining the bench, she was the clerk of court for the U.S. Bankruptcy Court for the Southern District of New York. She remembers vividly introducing



Forms continued from page 1

dropped. For 60 of the national forms used in civil and criminal cases, we undertook to rewrite them in simple, modern English."

That project, started two years ago, increased its inclusiveness by adding members representing every circuit to the working group.

"We also made sure that we had input from the people who use the forms," said Schlesinger. "When we looked at the forms to change the district where an offender reports, or the form for an order setting conditions of release, we had the advice of probation officers. For the forms asking for pro se status, or to order a transcript, we looked to our clerks of court. Three magistrate judges helped us revise the tracking warrant form because they handle those matters daily."

Where appropriate, subcommittees were formed within the working group to work on groups of related forms.

The working group eliminated unused or duplicative forms, refined others, and updated language to reflect rule changes.

"We were particularly aware of privacy issues and the rules on redaction that have become Judicial Conference policy since many of these forms were created," Schlesinger said. "The revised forms now caution filers not to include personal identifiers."

In the end, 56 new or restyled civil and criminal forms were posted to the Judiciary's website for national use.

"We restyled language, as they've done with the Rules of Practice and Procedure, to make the forms simpler, clearer, more consistent, and easier to read. Where possible, we made the forms fillable on-line and added drop boxes," said Schlesinger.

Proposed revisions were posted for comment from the bar, the courts, and the Department of Justice. Exposure drafts drew comments from more than a quarter of the district courts.

For example, for decades the national search and seizure warrant forms have required the officer who executes a warrant to swear before the magistrate judge who issued the warrant as to the accuracy of the inventory of property taken. The working group discovered that federal rules only mandate that the warrant and inventory be verified and returned to the designated judge. The Judicial Conference Advisory Committee on Criminal Rules and the Magistrate Judges Advisory Group were consulted, and they supported changes to the form to accurately reflect the rule—and eliminate an unnecessary step.

Also, at the request of judges, a new, more detailed in forma pauperis application form was created for use in district court proceedings. The longer form is used in connection with an appeal.

All the forms are available on-line at www.uscourts.gov/forms/uscforms.cfm. 

CM/ECF continued from page 6

a reluctant bar to electronic filing in CM/ECF. "Today, this same group would be unable to function for even a short time without electronic filing," she said. Her group will reach out to their colleagues to ask what they want—and what they envision—for the Next Generation of CM/ECF.

Keith Throckmorton was the first attorney in the 1990s to file electronically a document in CM/ECF. He's now clerk of court for the U.S. District Court for the Middle District of Tennessee. If anyone has "grown up" with the system, it's Throckmorton.

"This is an opportunity to bring people together to start thinking about what we need," Throckmorton said. "Everyone wants more functionality, system integration, and improved speed and user interface.

What about thumbnails of documents? There's even been talk of touch screens and voice recognition. We're going to have to make decisions on what will be included."

A CM/ECF Architecture Study, under the direction of a small joint court/AO group, will develop a high level architectural road map for the future system. The study will recommend a software architecture structure and development methodology that will ensure that the Next Generation of case management software will be integrated and flexible.

Several ideas already are on the drawing board. For the appellate courts, it's a new case management tool for judges and chambers staff and easier access to the original case record in district court systems. On the district court side, ease of use is one of the biggest requirements,

particularly within chambers. There's talk of a streamlined CM/ECF user interface accessed by iPhone or Blackberry.

Clearly, one of the goals is to have a freer flow of information. And more of it.

"Most important," adds William McCool, clerk of court for the U.S. District Court for the Northern District of Florida, "is to make any system simple for judges and staff and our external audience to use, and to make it efficient and effective. That is, one that minimizes keystrokes to navigate between screens. If we do that, judges will use it to create text orders and other means to quickly dispose of matters, enhancing the administration of justice by speeding up the processing of cases—and thereby reducing the cost of litigation." 