

# EASY ACCESS

Achieving a statewide system for electronic court records.

BY BLAKE HAWTHORNE

Many Texas lawyers want statewide access to court records, similar to the federal Public Access to Court Electronic Records service known as PACER—and such a system is currently in the works.

A recent poll conducted by the Office of Court Administration found that 98 percent of the 3,000-plus Texas attorneys who responded said they would use a statewide public records access system. The survey also showed that many Texas attorneys and their staffs want to be able to search the court records of all 254 counties at once, with the ability to immediately download those records 24 hours a day, seven days a week. Their minimum expectations for available information would include basic case details like party names, court name and location, the judge assigned to the case, the attorneys on the case, and the docket sheet—much like the PACER service.

Many Texas attorneys are also frustrated by a lack of uniformity in online access to court records. While some counties provide online access to their court records, others do not. Some counties that provide access require attorneys to pay subscription fees, which can be expensive when an attorney does not regularly work in that county and needs to access only one case. Other counties provide access without a subscription but charge \$1 per page—which can quickly add up to a large bill.

Members of the Judicial Committee on Information Technology—a committee of Texas lawyers, judges, clerks, and court administrators appointed by the Texas Supreme Court to study and recommend improvements to court technology—have long heard the familiar refrain, “Why doesn’t Texas just use the federal PACER system?”

Many years ago, members of the committee met with the

Administrative Office of the United States Courts to discuss whether Texas courts could adopt PACER. An effort was already underway in Mississippi to see if its state courts could use the federal system.<sup>1</sup> But PACER’s technology was aging at the time, and the federal judiciary was preparing for a major overhaul of the service. Texas’s method of local funding for

and local control of court technology would have made it difficult to implement PACER in all counties, each with varying levels and types of court technology.

Instead of attempting to shoehorn PACER into technologically diverse and locally controlled court case management systems, the Judicial Committee on Information Technology pursued a different course for Texas. To achieve statewide public access to court electronic records, it first advocated for mandating electronic filing in all Texas courts. Without mandatory e-filing, there could be no statewide access to electronic court records,

and Texas courts had been slow to adopt voluntary e-filing.

With the committee’s urging, the Texas Supreme Court mandated e-filing first for itself, then for civil cases in the courts of appeals, and finally for civil cases in county and district trial courts. The Court of Criminal Appeals recently followed suit and mandated e-filing for criminal cases in Texas appellate, district, statutory county, and constitutional county courts.

Committee members also proposed requiring the Texas e-filing vendor to implement a statewide access system for Texas court records. When the former vendor announced it would not renew its contract, the new vendor, Texas-based Tyler Technologies, agreed to provide a statewide access system.

But how does one implement a single electronic access service for 254 counties that use a variety of case management



systems? Fortunately, regardless of the local case management system, each Texas court uses the eFileTexas system to review and accept e-filed documents. When the clerk accepts a document for filing, eFileTexas file-stamps the document and returns a file-stamped copy to the filer. And eFileTexas has basic case information about each filing (e.g., court name, judge assigned, case number, attorneys on the case). By saving the file-stamped documents and their associated case information through eFileTexas, a searchable statewide access system can be created.

Not only is a statewide access system for court records possible but Tyler Technologies is currently beta-testing such a system. Once a user is registered and logged in with a username and a password, the service provides a search function for looking up documents and docket information. It then returns search results along with suggestions on how to refine the results (like narrowing them to certain counties or case types). Because the system is web-based and uses HTML5 computer coding, it can be used on any device, including tablets and smartphones. The beta version appears to quickly return search results and users can create and organize folders for saving cases or search results. It also alerts the user on the screen when new items are filed in a case. Future improvements may include the ability to e-file case documents with the click of a button.

Judges who hear cases in multiple jurisdictions will particularly benefit from the features of the new system. Instead of learning to use multiple county systems, they will be able to access their cases through one website on the device of their choosing and organize their cases into their own electronic folders, making it easier to keep track of cases filed in different counties. For traveling judges—and lawyers too—the ability to look up cases on mobile devices will be a great help.

Judges can access the beta system now by submitting a form to the OCA at [research.txcourts.gov](http://research.txcourts.gov). Once it is received, the office will provide judges with a username and a password.

Attorneys can expect to have access to the system this fall. Initially, attorney access will be limited to cases that they have made an appearance in. But once rules are put into place for the types of cases that can be accessed through the system, members of the public will be allowed to register, and attorneys will be granted the same access rights as registered public members. Registered public access should be available by next summer.

The system won't be perfect, of course. Self-represented litigants are not required to e-file documents (although some do). Also, because judges are not required to e-file their orders, most orders will not be available through the system (orders in some counties, however, are filed electronically). This problem could be remedied if judges agreed to transmit their signed orders to clerks through eFileTexas.

Other issues remain to be resolved as well, such as how the system should be funded, if users should be required to pay a monthly subscription fee, and if a PACER-like funding model should be adopted, charging \$0.10 per page with the cost of a single document capped at \$3 or charging a combination of subscription fees and per page fees. Lawyers seem to prefer the PACER model because they are familiar with it. The Judicial

Committee on Information Technology will study the fee structure and make a recommendation to the Texas Supreme Court.

The committee and others will also study and make recommendations about the case types, document types, and other case information that should be available through the statewide access system and whether certain types of cases and documents should be viewable by persons who are not counsel of record in the case. Further study and improvement of the rules regarding the redaction of sensitive data (e.g., bank account numbers, social security numbers, etc.) will be needed. Enforcement of these rules will continue to be an important topic for the committee and the courts.

Despite these challenges, the new statewide public access service for electronic court records promises to be a major advance for the transparency and efficiency of the Texas court system. **TBJ**

#### Note

1. Mississippi still has not mandated electronic filing in all of its courts and does not have statewide access to court records.



#### BLAKE HAWTHORNE

*has served as the clerk of the Texas Supreme Court since 2006. Prior to his appointment, Hawthorne served as the court's staff attorney for original proceedings. Before joining the court, he was an assistant attorney general for the state of Texas and an associate of Wiley, Rein & Fielding in Washington, D.C., and Jackson Walker in Fort Worth.*

## PUBLIC NOTICE

### UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS BROWNSVILLE DIVISION

#### REAPPOINTMENT OF INCUMBENT MAGISTRATE JUDGE RONALD G. MORGAN

The current term of the office of United States Magistrate Judge Ronald G. Morgan at Brownsville, Texas, is due to expire May 2, 2017. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of Magistrate Judge Morgan to a new 8 year term.

The duties of a Magistrate Judge position include the following:

1. Conducting most preliminary proceedings in criminal cases;
2. Trial and disposition of misdemeanor cases;
3. Conducting various pretrial matters and evidentiary proceedings on delegation from the judges of the district court; and,
4. Trial and disposition of civil cases upon consent of the litigants.

The court invites comments from members of the bar and the public as to whether the panel should recommend the reappointment of Magistrate Judge Morgan to the court. Direct comments under confidential cover to:

#### RONALD G. MORGAN REAPPOINTMENT PANEL

Attention: David J. Bradley, U.S. District Clerk  
P.O. Box 61010 • Houston, Texas 77208

Comments must be received no later than **November 4, 2016**, 5:00 p.m.