

Access and Transparency

An update on eFileTexas and re:SearchTX.

BY DAVID SLAYTON AND MEGAN LAVOIE

Nearly five years ago, the Texas judiciary embarked on implementing the largest state court e-filing system in the country. All 254 counties are now e-filing documents in civil cases and, as of November 2018, 150 counties are e-filing criminal documents with all counties mandated to be electronically filing criminal documents by January 2020. In total, more than 39 million documents have been processed through the e-filing system, and eFileTexas has nearly 255,000 registered users and together those users submit on average more than 25,000 documents per day. Fully accessible 24/7 from any internet location, eFileTexas has increased transparency, court efficiency, and use of staff time.

The success of eFileTexas is due to the collaborative efforts of the Texas Supreme Court and Court of Criminal Appeals; the Texas Legislature; the Judicial Committee on Information Technology, or JCIT; the Office of Court Administration, or OCA; district and county clerks; attorneys; Tyler Technologies; and countless others from the legal community. Additionally, eFileTexas has proven to be a model system for other states to emulate.

With e-filing implementation winding down, the judiciary has turned its focus to the next era of access and transparency—re:SearchTX, a statewide portal for court records similar to the federal PACER system that allows judges, attorneys, and the public to find documents that have been e-filed and search for case information from all 254 counties at once.

For the past year, re:SearchTX has been operational for a small population of users—judges, clerks, and attorneys of record to view their own e-filed cases.¹ During this first round of implementation, JCIT studied privacy interests, revenue, and user access before making final recommendations to the Texas Supreme Court, which were adopted in an order issued on October 2, 2018.² In the order, the court recognized the efficiencies and cost savings of e-filing and acknowledged that e-access to records was the next step writing, "...by making court documents more readily available to the public, e-access provides greater transparency for the justice system that is critical to evaluating its operation, improving its procedures, and strengthening public trust."

Through re:SearchTX attorneys can search statewide for all filings and activity related to their cases, including dockets, motions, and appeals; study opposing counsel by viewing their case types and how they structure their arguments; and also study parties in their cases by researching if they previously had been involved in other suits either locally or in other jurisdictions. Additionally, other features will be added to the system in the future including in document text search and alerts.³

The system will operate in one of two ways. Some counties will operate under what is referred to as the repository method, in which only documents that have been e-filed will be available. Documents that were not e-filed, including orders and judgments, may not be available in these counties. In other counties, the system will be integrated with the clerk's case or document management system, providing expanded access to more documents including orders and judgments. Attorneys can visit with their local clerk to inquire about if and when the clerk will integrate with re:SearchTX. Either way, documents in the system will be watermarked explaining that they are a copy from re:SearchTX. Official documents must still be obtained from the clerk of the court. A fee of 10 cents per page, with a maximum of \$6 per document, will be charged to download documents with the revenue generated going back to the county where the documents originated. After purchase, documents will be available in re:SearchTX for viewing for 30 days, after which the documents will need to be re-purchased. If a user wishes not to re-purchase the document, the user will need to save the document in an offline format.

Attorneys will have expanded access to documents not available to the public. Other than cases and documents that are restricted by court order, rule, or statute, attorneys will be able to view case information and documents from courts across the state. In order to protect sensitive information, some case types will not be available through re:SearchTX for registered users. A complete list of case types is located in Section 5 of the JCIT "Technology Standards," available at <http://www.txcourts.gov/media/1435816/technology-standards.pdf>. Additionally, eFileTexas and re:SearchTX will include redaction software to assist attorneys with automatically redacting sensitive information. Safeguards will be in place to prevent data mining and accessing and selling records from the system without the permission of OCA.

Beginning November 7, attorneys and registered users can use re:SearchTX. If you have an eFileTexas account, you can use those credentials to access the system. All other users must register. For more information, go to research.txcourts.gov. **TBJ**

Notes

1. *Order Adopting the Recommendations of the Judicial Committee on Information Technology for Access to Electronically Filed Court Documents by Judges, Clerks, and Attorneys through re:SearchTX*, Misc. Dkt. No. 17-9025 (Tex. Feb. 21, 2017).
2. *Order Adopting the Recommendations of the Judicial Committee on Information Technology for Access to Electronically Filed Court Documents by Attorneys and Other Registered Users Through re:SearchTX*, Misc. Dkt. No. 18-9132 (Tex. Oct. 2, 2018).
3. Optional services may require an additional fee.



DAVID SLAYTON

is the administrative director of the Office of Court Administration and the executive director of the Texas Judicial Council. He is a graduate of Texas Tech University and Troy University, is a fellow of the Institute for Court Management, co-chair of the National Center for State Courts Joint Technology Committee, and a past president of the National Association for Court Management.



MEGAN LAVOIE

is the director of public affairs and special counsel to the Office of Court Administration. She previously served as general counsel and communications director for former state Sen. Robert Duncan and as senior director of advocacy for the National Multiple Sclerosis Society. LaVoie is a graduate of Texas Tech University and St. Mary's University School of Law.

re:SearchTX Timeline

- 2010—The Judicial Committee on Information Technology, or JCIT, recommends a public access system for Texas courts.
- 2011—Development of a system for public access to court records planned when JCIT develops and releases a request for information, or RFI.
- 2012—Request for offer, or RFO, for e-filing and public access system released by the Office of Court Administration, or OCA. Contract signed with Tyler Technologies for an e-filing system that included a public access system component. The Texas Supreme Court mandates e-filing in civil and appellate cases on a rolling schedule.
- 2015—In September, all 254 counties are live on efiletexas.gov for e-filing in civil and appellate cases.
- 2016—In January, JCIT unanimously endorses plan to roll out re:SearchTX. Judges began to review their cases digitally at no cost.
- 2016—In June, the Court of Criminal Appeals mandates criminal e-filing on a rolling schedule to be implemented by 2020.
- 2017—In January, JCIT makes recommendations for judges, clerks, and attorney access concerning re:SearchTX. Recommendations sent to the Supreme Court and Court of Criminal Appeals for review.
- 2017—In February, the Supreme Court issues an order adopting the recommendations of JCIT for access to documents in re:SearchTX for judges, clerks, and attorneys of record.
- 2018—In June, JCIT makes recommendations to the Supreme Court for attorney and registered user access to re:SearchTX.
- 2018—In October, the Supreme Court issues an order adopting JCIT recommendations for e-access for attorneys and registered users and orders OCA and clerks to make e-filed documents available to re:SearchTX.