

Chapter 12:

The Digital Court

Chapter Outline:

- ✓ § 12.1 Technology & the Courts
- ✓ § 12.2 Integrated Court Databases
- ✓ § 12.3 The Tech-Friendly Courtroom
- ✓ § 12.4 E-Filing

§ 12.1 TECHNOLOGY & THE COURT

Attorneys have, as a group, tended to resist new technologies. Any secretary or paralegal in the early to mid-1990s can attest to this fact: Long past the point when the rest of the country was utilizing *Windows*-based operating systems, many law firms continued to use *MS-DOS*, an operating system requiring the knowledge of specific commands and short-cuts, as opposed to the graphical user interface (GUI) used by *Windows* (and other operating systems).

It should come as no particular surprise, then, that courts (which are run by judges who are themselves attorneys) have also been reluctant to embrace new technologies. However, this reluctance to utilize emerging technologies tends to melt away once a judge or court administrator sees first-hand how much more effectively presentations can be made in court, and how much more efficiently court administration is made by computers, enhanced display systems, and the Internet.

The term “wired court” started to be used in the early 2000s and can mean different things to different people. However, when a court describes itself as being “wired,” it usually means the following:

- *Integrated Databases*
- *Tech-friendly Courtrooms*
- *Electronic Filing of Court Documents*

If there is a challenge for the courts, and for attorneys and paralegals, it is that the technologies utilized are by no means universal or consistent. It is still very possible that the courtroom for one judge may provide for large video-demonstration software and devices while, just down the hall, another does not. More likely is the possibility that an attorney preparing a demonstration in a county court using one form of software may find him or herself using a totally different software program for another court. Thus, flexibility is crucial. If your attorney is going to trial, find out what technologies (both hardware and software) are provided by the court, and prepare according to those limitations.

The phrase “wired court” is actually already itself outdated. It is not enough to simply be “wired.” As we will see, the truly “wired” court today must also be “wireless.” Perhaps the ultimate oxymoron!

§ 12.2 INTEGRATED DATABASES

In the most sophisticated jurisdictions, databases between court systems (such as dockets, hearing schedules, court personnel schedules) and non-court governmental systems (such as police records, property titles, and administrative agency information) are integrated and able to share information, and in some cases interact with it.

Integrated Justice Networks

The perfect example of an integrated justice network is a police officer who gives a speeding ticket, with a date and time for the defendant to appear in court. The computer used by the officer (wirelessly, of course) in his patrol car is able to “talk” to the court’s database, allowing not only for the date and time to be set at that moment, but also automatically informing the court’s system to expect that defendant. Such a network saves vast amounts of time and results in reduced human error (when compared to more antiquated multiple user-input systems). Such integrated networks spider out from the courts to other governmental entities that have a relationship to the judicial system and which would benefit from an almost real-time ability to interact.

Computerized Case Management Systems

Most courts have implemented or are implementing case management systems that provide real-time, single-user updating. This means that only one user (usually the court clerk) needs to input information, and not multiple users on multiple systems.

For example, if a hearing date is altered by the court, when the clerk enters the new date, the judge, prosecutor, and all attorneys are automatically notified and all court-administered calendars are updated. However, every court seems to have different priorities and requirements, resulting in different software and programs from county-to-county, and sometimes from court-to-court.

§ 12.3 THE TECH-FRIENDLY COURTROOM

One will sometimes hear the phrase “wired courtroom” (as opposed to “wired court”). This refers to a courtroom that incorporates multimedia tools for use by attorneys, and sometimes by the court. These tools enable trial lawyers to give presentations, show juries accident reconstruction schematics, play video depositions of expert witnesses, and even present exhibits in a digital format.

PowerPoint is the most popular trial presentation product, and it is fairly easy to learn. Other more complex presentation software not only provides the ability to create demonstrations, but also allows for the creation of databases and deposition management (such as viewing and searching transcripts). Having these tools in one bundle has obvious advantages.

Some examples of trial presentation software include:

Trial Director[™] (www.indatacorp.com)

The “granddaddy” of trial presentation software. Provides a complete package of presentation support.

Sanction (www.verdictsystems.com)

Provides functions for presentation, database and depositions, and the capability to time stamp your own video with the text for subsequent synchronized playback.

TrialPro (www.trialpro.com)

Provides the ability to annotate and interact with the presentation, as opposed to simply viewing it.

In addition to trial presentation tools, litigation-support software packages are being created, blended, and updated constantly. Many of these are now incorporating the ability to present demonstrations at court. Examples of litigation software includes *Summation*, *CaseMap*, and *Concordance*.

The advantage to having skills in *PowerPoint* is that most of the above mentioned software tools have the ability to either embed or import *PowerPoint* presentations within those applications. Alternatively, *PowerPoint* can be converted to other formats (PDF, JPG image files) that can then be used in almost any presentation software environment. Thus, consider taking a *PowerPoint* class at your school, or search online. There are many high quality e-learning tutorials available online, and many are free.

OpenOffice.org

If you don't have *Microsoft Office* on your computer (which includes such tools as *Word*, *PowerPoint*, and *Access*, among others), consider this incredible site. It provides software equivalents to *Microsoft Office*. For free!

Following is a list of *Office* software, as well as the *OpenOffice.org* equivalent:

Microsoft Office	OpenOffice	<i>Function</i>
Word	Writer	<i>Word Processor</i>
Excel	Calc	<i>Spreadsheets</i>
PowerPoint	Impress	<i>Demonstrations</i>
Access	Base	<i>Database</i>

§ 12.4 E-FILING

Electronic filing of litigation documents is fast becoming the norm. Many jurisdictions now require that all documents (with a few exceptions) *after the initial summons and complaint* be filed electronically. As with most of the technological issues we have discussed, the major obstacle for the paralegal (and his or her attorney) is the wide range of software systems used by the various courts. For example, many courts use a system by *Lexis*. The federal courts use PACER. Others have systems created and designed to suit their individual needs. In other words, proprietary software.

Once you are used to the online e-filing environment, you should be able to use almost any jurisdiction's software. It is typically not very complex. In fact, possibly the most complex of all e-filing systems is the *Public Access to Court Electronic Records* e-filing system for federal courts— better known as PACER.

PACER

As defined by its own Web site, PACER is:

... an electronic public access service that allows users to obtain case and docket information from federal appellate, district and bankruptcy courts, and the PACER Case Locator via the Internet. PACER is provided by the federal Judiciary in keeping with its commitment to providing public access to court information via a centralized service.



Basically, PACER is a national database for storing documents, listing dockets (trial & hearing courtroom schedules), and providing other information about a case over the Internet. You may be asking, though, how do these documents (such as pleadings) get on the PACER system? The answer is a related, yet separate, system known as *Case Management/Electronic Case Filing* system, CM/ECF.

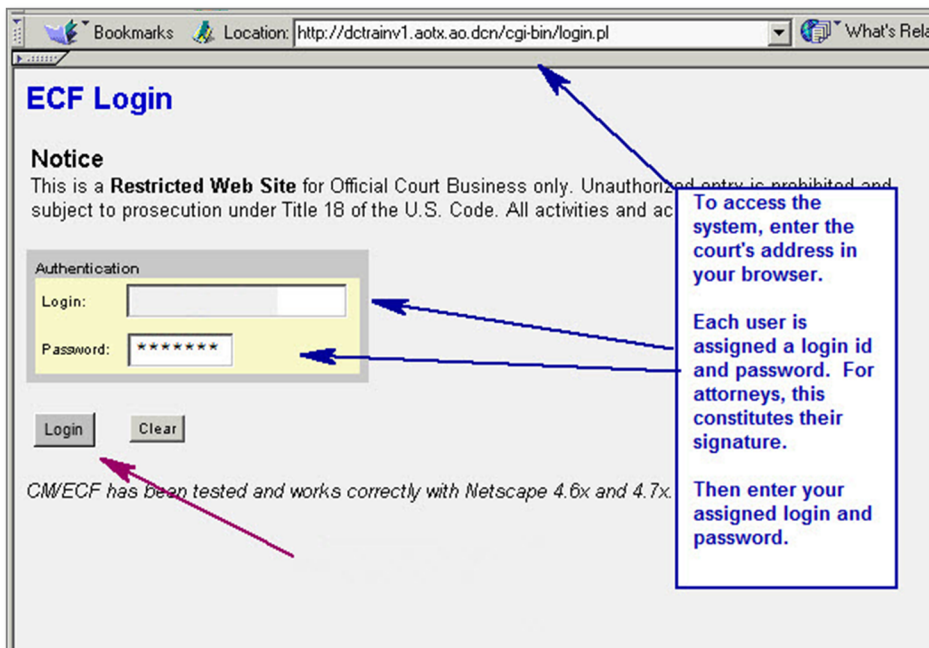
In other words, if you want to *find* a document, use PACER. If you want to *file* a document, use CM/ECF.

CM/ECF

While PACER is a national database, CM/ECF is actually local to each court. Thus, in order to file within a specific federal court, the site for that court's corresponding CM/ECF system will be needed. This can always be found with a general search within the *www.pacer.gov* web site, or use the specific address: *www.pacer.gov/psco/cgi-bin/links.pl*

Following are several screen shots from the CM/ECF site. However, screen shots are not sufficient when learning an online development tool. As we will see, actually using online tools is the best way to learn.

Even though you may not use PACER specifically, because it is for federal court filings, understanding its structure will greatly assist you in learning the process of e-filing, no matter what jurisdiction you eventually choose to work in.



The first thing you will likely notice about CM/ECF is how "low-tech" the login page appears to be. While this will likely change at some point, it is up to each local jurisdiction to maintain its own CM/ECF site.

Your attorney will have his or her own login information, or will set one up for you.

CIMECF Civil · Criminal · Query · Reports · Utilities · Logout ?

We will assume you are attorney Leslie LeFord, representing the defendant Joe Smith. You have logged in and are going to file a motion to compel in a civil case.

U.S. District Court
Systems Deployment and Support Division
Official Court Electronic Document Filing System

CIMECF Civil · Criminal · Query · Reports · Utilities · Logout ?

Civil Events

Initial Pleadings and Service
[Complaints and Other Initiating Documents](#)
[Service of Process](#)
[Answers to Complaints](#)
[Other Answers](#)

Motions and Related Filings
[Motions](#)
[Responses and Replies](#)

Other Filings
[ADR Documents](#)
[Discovery Documents](#)
[Notices](#)
[Trial Documents](#)
[Appeal Documents](#)
[Other Documents](#)

This page shows all the Civil categories of events.

CIMECF Civil · Criminal · Query · Reports · Utilities · Logout ?

Motions

Certificate of Appealability
 Certify Class
 Change Venue
Compel
 Consolidate Cases
 Continue
 Declaration of Mistrial

Next Clear

You need to locate the specific type of motion you are filing. The pick list box at the left shows available motion types. Note that each court develops this list and the list in your court may be different from this one.

If the motion had asked for more than one relief, you would click the first relief, then hold down the CTRL key and click the second and subsequent reliefs.

CM/ECF Civil • Criminal • Query • Reports • Utilities • Logout ?

Motions

Case Number

99-12345, 1:99-cv-12345, 1-99-cv-12345, 99cv12345, or 1:99cv12345

CM/ECF now asks you to enter the case number in which you want to file the motion. Notice the examples of valid case number formats.

CM/ECF Civil • Criminal • Query • Reports • Utilities • Logout ?

Motions

[1:02-cv-50201-YES Schwarzkopf v. Smith](#)

Select the filer.

Select the Party:

Elisabeth Schwarzkopf [Plaintiff]	Add/Create New Party
Joe Smith [Defendant]	

The next step is to select the party who filed this motion. The application lists all parties who are on the case so far. If the filing party had not yet been added to this case, you would click the hyperlink for "Add/Create New Party."

When selecting the filer you may on occasion need to select more than one party. To do so, click on the first party then hold down the CTRL key on your keyboard while you click on subsequent parties.

CECF Civil · Criminal · Query · Reports · Utilities · Logout ?

Motions

[1:02-cv-50201-YES Schwarzkopf v. Smith](#)

Select the **pdf** document (for example: C:\199cv501-21.pdf).

Filename

Attachments to Document: No Yes

The next thing you need to do is locate the motion's pdf file. If you know the filename and path, you could type it in the "Filename" field. The most common practice is to use the "Browse" button to navigate to the correct file folder and select the file.

CECF Civil · Criminal · Query · Reports · Utilities · Logout ?

Motions

[1:02-cv-50201-YES Schwarzkopf v. Smith](#)

Docket Text: Modify as Appropriate.

MOTION to Compel by Joe Smith .
(LeFord, Leslie)

The proposed docket text is now presented. You may make limited edits to this text as you see fit. For example, the drop-down list at the beginning contains a list of prefixes from which you can select. And the empty box is for you to enter free text to further describe your motion.

CECF Civil · Criminal · Query · Reports · Utilities · Logout ?

Motions

[1:02-cv-50201-YES Schwarzkopf v. Smith](#)

Notice of Electronic Filing

The following transaction was received from Leslie LeFord on 1/29/2002 at

Case Name: Schwarzkopf v. Smith
Case Number: [1:02-cv-50201-YES](#)
Document Number: [19](#)

Docket Text:
 MOTION to Compel discovery by Joe Smith. (Leford, Leslie)

The following document(s) are associated with this transaction:

Document description: Main Document
Original filename: C:\Data\ECF\Case Docs\mcompel.pdf
Electronic document Stamp:

The Notice of Electronic Filing is displayed. This is verification that the filing has been sent electronically to the court's database. To print a copy of this notice, you could use the browser's "Print" button. You could also save this notice by using the browser's "File" menu item.

This notice will be e-mailed to persons who have indicated a desire to receive notices in this case.

Notice the software assigned the next available document number (19 in this case) to the motion.

E-Filing Wrap-up

Which came first? The chicken or the egg?

Or for our purposes, which came first? The e-filing systems, or the rules and regulations mandating such systems? As e-filing becomes the norm, one primary concern is that the courts are in many ways putting the cart before the horse. The rules and statutes governing e-filing are playing catch-up with the technology. Because of this, make sure to frequently review local court rules, court Web sites, and postings at the court for updates, handouts, guides, checklists, and anything else related to e-filing. This helps your firm remain current.

Deadlines

One major advantage e-filing provides is the ability to file up to 11:59 p.m. on the day of the deadline, as opposed to the closing time (usually 5:00 p.m.) of the courthouse. However, do not push it too close. If your Internet suddenly goes out, or your file is corrupted in transmission, or any other technical glitch occurs, the court is not usually sympathetic. Thus, treat the deadline as the typical 5:00 p.m., and use the additional after-hours time allotted for e-filing as a life raft: Only to be used in an emergency.

The Summons & Complaint

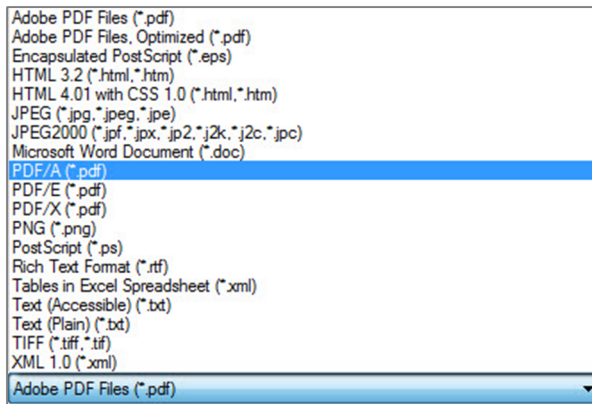
For obvious reasons, the Summons & Complaint are not e-filed. Only documents subsequent to *service of process* are subject to e-filing.

E-Filing is treated similarly to the mail

Most state courts have followed the federal courts' lead in adding 3 days to the allotted time to respond to documents filed electronically (F.R.C.P. 6, and local federal rules).

Format of documents

Currently most courts require that a document be converted to PDF format. However, a new form of PDF is being transitioned into the mix. Federal courts may now require that documents be in the format of PDF/A, a subset of PDF. This is not difficult. After converting a *Word* document to standard PDF format, save it again in PDF/A format, this time using the *Adobe* software. It is assumed that eventually word processing software will allow direct saving to PDF/A.



What is PDF/A?

PDF/A (the "A" stands for *Archive*) allows the court to maintain the integrity of the document for a longer period of time. Since the fonts and other information are embedded in the file, 100 years from now an advanced version of *Adobe Reader* will still be able to read the document. The downside is that the files for PDF/A tend to be significantly larger than standard PDF files.

Size of files

Most courts require the document being filed not exceed 2 megabytes.

No combined documents allowed

There are some documents that are often filed together as a combined pleading. For example, if the attorney wants you to prepare an answer and counterclaim, it is not uncommon for those to be prepared within a single document, first the answer, then the counterclaim. Most e-filing rules prohibit the filing of such combined documents. Instead, you will need to create two documents. The same rule applies to notices that are typically attached to motions. Again, these rules are new and generating much comment from the legal community, so check for changes. However, you will always be safe filing separate documents.

Avoid scanning, when possible

Some attorneys scan documents, save them as a PDF, then use an OCR (text recognition) software program to make the PDF's readable to the computer. This is awkward, is prone to low-quality documents, and often results in errors within the readout. Instead, use your word processing software to convert a document to PDF. Scanners should only be used as a last resort.

A document is deemed to be filed when the system says so

The e-filing system typically generates a *Notice of Electronic Filing* that is sent automatically to the parties involved. The date on that *Notice* is the legal date of filing. (Another reason to avoid the midnight rush to file.)

The official record

Once filed using the court's electronic-filing system, the e-document becomes part of the official record for the purposes of litigation.

Email and file courtesy copies

After a document has been e-filed with the court (but *not* before), send a *Word* version of the document to the judge's email. This is often required. Finally, most courts mandate that a hard copy be filed with the court (some within 24 hours of e-filing). Check local court rules, or call the clerk.

Assignment § 12.4 | E-Filing Online Demonstrations

Visit the www.pacer.gov/help.html Web site. On that site, click the *Training* link in the left menu, then click on *Version 3+ Electronic Learning Modules*.



You are assigned to complete the following training modules:

- *Filing a Complaint*
- *Filing a Response*
- *Filing an Answer*
- *Filing a Motion to Compel*

Note: Web addresses for the above sites change periodically, so check the *Study Support Web Site* supporting this textbook for updates.

CHAPTER 12 WRAP-UP

WHAT YOU SHOULD KNOW...

After reading this chapter you should know the following:

- How technical innovations are affecting the judicial system*
- The concepts surrounding E-Filing*
- The structure and basic procedures for PACER & CM/ECR*

ASSIGNMENTS

Assignment § 12.4 Due Date: / /

View four E-Filing tutorials on the PACER Web site.

WEB STUFF

For more information, articles, & links to more resources visit:

www.essentialskillsforparalegals.com/vol1chapter12