

Follow-Up Evaluation of the Electronic Filing Pilot Project Prince George's County District Court



Maryland Judiciary Research Consortium

**Maryland Judiciary,
Administrative Office of the Courts**

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Executive Summary

This report represents a follow-up to a 2007 evaluation of the electronic filing system pilot project for Landlord/Tenant cases in the District Court in Prince George's County. The update was requested by the Chief Judge of the District Court to assess the current state of the pilot project. The findings and analysis included in this report are products of the evaluation team's interviews with 24 individuals familiar with the e-filing pilot and observation of courtroom and clerk office operations.

The current evaluation identified a number of challenges that users of the e-file system still face, such as the complexity of the system, sluggishness of the system during high usage times, and problems with printing Landlord/Tenant case documents at the Office of the Sheriff. At the same time, there have been improvements with the overall operation of the system since the 2007 evaluation; particularly, an increase in bandwidth, two significant technical fixes, and users' increased familiarity with the system. Our assessment of the pilot system is that it is currently stable and functional, yet many users must work around obstacles on a daily basis to sustain such a state. The problems encountered by District 5 clerks and their suggestions for improvement are largely the result of the lack of an automated case management system rather than inadequacies associated with the e-filing system considered in this report.

The lessons learned in this pilot should usefully inform the efforts of the Judiciary as it moves forward to implement a new case management system with an e-filing component.

I. Introduction

In May 2006, under authorization of an order of the Court of Appeals of Maryland, Prince George's County District Court implemented a pilot electronic filing system (e-file) for landlord and tenant cases. The pilot system was created with the purpose of making the process of filing cases more convenient for attorneys. Working with a private contractor, LexisNexis, the District Court undertook transformation of a high volume operation from an entirely manual/paper system to an electronic environment.

A contract dated November 14, 2008 extended the District Court's e-filing project to May 17, 2009 with a one-year renewal option. The contract provided for LexisNexis to retain a \$1.30 per filing fee paid by filers up to a total of \$105,000 and distribute the remainder of collected fees to the Court. A new contract was being negotiated at the time of this report.

In January 2007, the State Court Administrator directed the Court Research and Development Department (CR&D) of the Administrative Office of the Courts (AOC) to perform an analysis of the performance of the e-file project. In December 2009, Chief Judge Ben Clyburn requested that CR&D perform a follow-up evaluation of the performance of the pilot e-file project. AOC engaged the University of Maryland's Institute for Governmental Service and Research to collaborate with CR&D on the follow-up evaluation. This report includes the findings and analyses developed through this evaluation.

A. Study Methods

The evaluation team relied on conducting interviews with knowledgeable project participants as the primary method for gathering data. Additional methods were used to a lesser extent. Those included observations of settings and processes involved in landlord and tenant cases, and a review of notes from the 2007 evaluation team's report.

1. Interviews with Knowledgeable Project Participants:

The evaluation team conducted interviews with the following individuals. Note that persons whose names are included in the same bullet were interviewed at the same time.

- Mary Abrams, Vera Holland, Joy Wilde, Administrative Clerk, Supervisors, District 5
- Captain Daniel Hall, Lieutenant Robert F. Bauer, Joyce Cameron, Rosalyn Prince-Fleet, Bernice H. Fowler (IT), Landlord/Tenant Unit, Prince George's County, Maryland Office of the Sheriff
- Marcie Harrison, District 5 Courtroom Clerk Supervisor
District 5 Courtroom Clerks: Jean Caldwell, Petrina Jessie, Betty Liggins, Elizabeth Lowery, Sherri Mitchell, LaTonya Muse
- Honorable Lawrence V. Hill, Jr., Associate Judge, District 5
- David Landsman, Esq.

- Leigh Ann Kemp, Administrative Assistant, Law Offices of Ron Miller
- Leslie Delaviez, Administrative Assistant, Law Offices of Richard Basile
- Honorable Thomas J. Love, District Administrative Judge, District 5
- Charles Moulden, Assistant Chief Clerk, Operations, District Court Headquarters
- Robert Sandler, Esq.
- Michael Winer, Esq.
- Honorable Joel D. Worshtil, Associate Judge, District 5

2. Observations

In order to better understand the operating elements involved in processing landlord and tenant cases, the evaluation team conducted the following field observations:

- Landlord and tenant court session, District 5, Hyattsville Courthouse
- Prince George's County Office of the Sheriff procedures for printing, sorting, and distributing services.

3. Review of Documents

The evaluation team reviewed the following archival documents:

- Hard copies of electronic correspondence among key participants involved in the pilot
- Copies of letters, memoranda and other forms of correspondence among key participants involved in the pilot
- Copies of directives issued by District Court Headquarters to District 5, Appendix A
- Copies of orders issued by the Court of Appeals, Appendix B
- Status reports from District 5 to the Court of Appeals
- E-Filing Business Process review prepared by District Court Headquarters Operations Staff, provided by the Administrative Clerk
- 2007 Evaluation of the Electronic Filing Pilot Project in the Prince George's County District Court
- Hard copies of electronic correspondence between Courthouse News representatives and District Court Headquarters
- 2008 contract with LexisNexis

- E-filing expansion in state, local and federal courts 2007, a report by the National Center for State Courts
- National Center for State Courts' Court E-filing Survey 2009
- Wiznet E-file & Serve Cost-Benefit Analysis, Clark County District Court, Nevada

B. Study Limitation

The evaluation team's findings are based almost entirely on qualitative data obtained from a convenience sample of internal and external users of the system. Subjects were not chosen randomly, but rather were selected because they had participated in the earlier evaluation, were otherwise known to be familiar with the system, and were available to be interviewed. There was very little quantitative data available on which to base the evaluation. Also, it was difficult for the evaluation team to determine whether some complaints were due to the performance of the e-file system or to an increase in the caseload between 2007 and 2009 attributable to the recession.

II. General Issues Revisited

It was reported in the 2007 evaluation that substantial differences existed among key stakeholders regarding their understanding of the intent, design and implementation of the pilot. The current evaluation team revisited the extent to which the pilot system diverged from the original intent and updated the original findings in the following areas.

A. Case Management

The original intent of the e-file pilot by District Court Headquarters was to accept cases only from a voluntary group of large volume "bulk" filers electronically. It was found, however, in 2007 that all filers were encouraged to participate in the District 5 landlord and tenant e-filing system, to the extent that over 95% of the landlord and tenant cases were filed electronically.

Update: Our investigation for this report revealed that District 5 has stopped encouraging all filers to participate in the e-file system in February 2007, at the direction of the Chief Clerk of the District Court (Appendix A). This was in advance of an order issued by the Court of Appeals, dated May 2, 2007 (Appendix B). The order states that, "Participation in the pilot project shall be voluntary and limited to "bulk filers" as defined by the District Court." Upon attempting to arrange compliance with the order, District 5 learned that the LexisNexis system is not able to distinguish bulk filers from individual filers, making the order difficult to enforce. Clerk Supervisor Mary Abrams and former Chief Clerk Joseph Rosenthal recognized the impact of disqualifying existing filers as they had become accustomed to using the system. Further, the existing filers had made significant investments of time, money and human resources. After considering the circumstances, District 5 proceeded without changing the existing user base. Participation in the pilot system currently is voluntary and not actively encouraged. An individual who wishes to e-file may do so from home or another location, and is referred to instructions listed on the District Court webpage.

This change has had an impact on the percentage of electronically filed cases; currently 85% to 90% of the landlord and tenant cases are filed electronically. The e-filers comprise large volume

“bulk” and other filers. All five attorney offices we interviewed, representing both bulk and non-bulk filers, reported that they e-filed 100% of their Prince George’s County landlord/tenant cases.

B. Maintaining a Concurrent Manual Process

District 5 received written instructions from District Court Headquarters, by way of a directive dated February 16, 2007, to implement a manual process operating concurrent with the electronic system. The directive stated that District 5 should, “resume a manual process in the Landlord and Tenant Department at the Hyattsville location... The manual system shall operate separate and apart from the current automated pilot system and should, with the exception of those cases that will continue to be e-filed, mirror the former manual system” (Appendix A).

Update: Our investigation revealed that District 5 has implemented a manual process concurrent with the automated system, as directed. Currently, 10% to 15% of cases are filed at the civil clerks’ counter and are processed entirely on paper, in the same manner as before the e-file system was implemented; 85% to 90% of cases are processed entirely electronically.

C. Maintaining a Level of System Redundancy

In the Court of Appeals’ May 2007 order, it was directed that, “The District Court shall develop a plan at the earliest opportunity to establish a reliable level of redundancy for the electronic record to ensure that the case files may be reproduced if the e-filing system is disabled or no longer available to the District Court.”

Update: Our investigation revealed that District 5 has met the redundancy requirements in two ways: LexisNexis and JIS systems plans, and a contingency plan developed by the District Court.

The LexisNexis and JIS systems plans involve redundancy measures such as LexisNexis’ hardware that stores the same data on multiple hard disks, and maintaining a duplicate of all documents on JIS servers. According to an August 2007 status report from District Court Headquarters to the Court of Appeals, “the management team finds the current LexisNexis and JIS redundancy plans are sufficient to ensure the reproduction of files in the event of a systems failure.”

In addition to ensuring the capability to reproduce files, the District Court has in place a contingency plan that ensures that court sessions can proceed despite any event causing interruption in internet service to the Court. According to District 5 management, the contingency plan involves printing Landlord/Tenant documents at the Upper Marlboro courthouse and having them delivered to Hyattsville. There is early detection of any disruption to court operations when the Hyattsville Landlord/Tenant staff arrives for work around 7:30 a.m. They identify any internet issues that might impact the system well in advance of the morning dockets. This contingency plan has been put into effect only once, and resulted in continuation of court operations successfully until the e-file system was restored.

Our interviews with courtroom clerks revealed that in the event of a disruption to the LexisNexis system during a session, the backup plan relies on the use of the daily docket and the probability

that either the landlord or the tenant of each case to be heard that day brought a printed version of the e-filed case. The clerks make a photocopy of the complaint, and the courtroom proceeds as though processing a paper-filed case until LexisNexis is restored. All dispositions issued during the disruption are subsequently manually entered into the e-file system after the session by the courtroom clerks. The digital recording is available if there are questions about the proceedings. District 5 management reported that it is not aware that this is a routine practice among courtroom clerks. They suggested that the experience may have been unique to an inexperienced clerk that took action instead of alerting their supervisor of the problem.

D. Experience and Capability of the Vendor

LexisNexis was not originally the successful bidder for the Prince George's County landlord and tenant case e-file system contract. The successful bidder, Verilaw, was purchased by LexisNexis prior to the execution of a contract. Prior to its engagement to develop the Prince George's County landlord and tenant pilot, LexisNexis lacked experience within the major defining dimensions of the project: landlord and tenant case processing, bulk-filed cases, and a very high production environment. As a result, the process to develop the pilot turned out to be experimental.

Since the LexisNexis system was initially "off the shelf" and not customized for the landlord/tenant system, there were significant enhancements that had to be made to make case processing fully functional. One feature allows clerks to enter additional information about electronically filed cases so that entire cases are available in electronic folders. A second feature allows any small filer to use web-based forms to file online and to pay for each filing by credit card. It was reported in 2007 that LexisNexis provided such enhancements free of charge.

Update: This evaluation did not address the initial experience and capability of the vendor with respect to e-filing. Current perceptions of Lexis-Nexis by users of the e-filing system are presented later in this report.

III. Pilot Performance

This section will describe the performance of the pilot system and its effects on case processing. Our investigation's assessment of performance is based upon:

- Efficiency (time and practices involved) and effectiveness (accuracy) compared to the pre-existing paper/manual case filing system, as well as compared to the state of the pilot system at the time of the 2007 evaluation.
- Efficiency and effectiveness considered in terms of assessments by internal and external users in the District 5 landlord and tenant case system.

An unambiguous performance baseline at either the case level or case processing activity level of the previous stages of the pilot does not exist. Neither do objective data such as periodic case aging or transaction aging data. As a result, quantitative comparative analysis of overall case processing or analysis of the performance characteristics of operating components of the pre- and post-pilot case processing systems according to objective criteria is not possible. Therefore, in an attempt to make a general assessment of case processing performance, the evaluation team relied

on subjective information obtained through interviews with knowledgeable participants. This subjective information, compared with information on pilot performance and operating characteristics from the 2007 evaluation, is the basis for the evaluation team's findings and discussion of implications.

The aggregate picture that we have drawn after interviews with all stakeholders is that the pilot improved after the 2007 evaluation to a point where the system is now stable and functional. Improvements were gradually applied, yet tapered out to the point that stakeholders cannot recall any major improvements to the system within the past year. Information from these interviews indicates that operating problems continue to exist that have resulted in substantial delays and increased operating costs. Case-processing performance seems to be on par with the pre-existing paper/manual system, but has come at substantial costs. The three temporary staff hired to support the system in its initial stages remain employed. Satisfaction with the pilot system among some court staff and Office of the Sheriff members continues to appear low. Overall, the system has stabilized and all parties have learned how to work around system obstacles. The obstacles of the system continue to cause inconvenience for some stakeholders; although users are able to meet their daily goals, aspects of the pilot system have prompted them to adjust their work hours and practices.

A. Impact on Case Processing

1. Initial Case Filing

Case filing in the e-file system remains one of the least problematic operational components of the pilot system. Progressing from undesirable levels of performance early in pilot implementation, operations had improved by the time of the 2007 evaluation to the point that cases were being filed and court dates set within the timeframe of the pre-existing paper/manual system. The stability of this operational component appears to continue as of the time of the current evaluation.

Attorney offices and the civil clerk's office vouched for the stability of this step of the e-filing process. Attorneys reported that they are assigned court dates for their complaints within a reasonable period of time. Attorneys also reported that the actual court dates assigned also fall within a reasonable time frame. A few attorneys noted that they are assigned court dates faster under the e-file system. Although the system is stable and the issuance of court dates satisfactory, the method involved in filing a large volume of cases singularly can be complicated and consists of multiple steps before the case is submitted. These steps make filing a large volume of cases time-consuming for attorneys who do not file in bulk. For example one attorney's assistant who enters cases individually onto LexisNexis reported it requires substantial effort: entering 20 to 30 cases can take up to two hours. One attorney reported that he plans to hire an additional staff member soon because his current staff assistant is getting overwhelmed with both the increase in caseload and the complicated method involved in filing electronically. Individually filed cases take more time to process since they are filed one at a time. The experience of those who file a large number of cases singularly in the system will vary depending on the skill level of staff and the capacity of the equipment used. By contrast, filing

in bulk, is a much more convenient process allowing users to file significantly more cases in the same amount of time. One typical bulk filer reported being able to file 30 cases in 15 minutes.

Once the attorneys' offices file cases, District 5 civil clerks encounter an interface that involves a series of steps. Performing some duties, particularly data entry, requires navigating through multiple screens. The overall benefit to the clerks is that they are able to accept, schedule, review, manage and retrieve multiple or single cases in an easy and organized manner. For example, the bulk filing feature allows a clerk to accept, process and schedule a batch's cases (consisting of up to 300) at one time. Once a batch is accepted, the computer affixes case numbers and sets the court date for the entire batch. This saves a significant amount of time and is an attractive feature of the system.

It was reported in 2007 that the District 5 clerk's office had hired three temporary clerks to assist with the transition to the pilot system during the implementation process. Our current investigation has revealed that these three employees are still working in the clerk's office, although their duties have changed somewhat. When originally hired, their duties primarily were to scan paper filings into a PDF format to upload into the e-file system. This was done because at the beginning of the pilot, not all of the firms filed cases online; the clerks scanned paper cases and uploaded them electronically so that all cases would be electronic. This practice is no longer necessary due to the manual process directive from District Court Headquarters noted earlier and the fact that attorneys and their staff are familiar with the system. District 5 management stated during our interviews that, despite the discontinuance of the temporary clerks' original duties, they have stayed on due to new tasks required by the e-filing system. Tasks such as entering service status, dispositions, and judgments were not required under the manual process and have created the need for a Service Clerk, a Disposition Clerk, and a Scheduling Clerk.

In addition to the supplementary tasks required by the pilot project, there has been an increase in filings due to population growth in the area, as well as the recession. The caseload has increased from 124,408 in the calendar year of 2006 at the beginning of the pilot, to 145,396 cases in 2009 – an increase of approximately 17%. **2. Courtroom Operations**

The integration of e-filing into landlord and tenant court sessions has improved since the 2007 assessment. The attorneys we interviewed confirmed that court sessions were slow at the beginning of the pilot, but attested that over the last six months to a year the problems have been resolved and courtroom sessions have been going smoothly. With the exception of periods of computer freezes, time management problems reported in 2007 as a result of the pilot system are now reported to be negligible. These improvements are largely a result of Judicial Information Systems' (JIS) work on bandwidth limitations in early 2008. Improvements made by JIS allow for more users to work in the LexisNexis system while also making it faster and more crash-resistant. Another work-around developed to improve courtroom operations is checking multiple case numbers and transferring them to the judge's queue at the same time. While these improvements have increased the speed of the system, there are still logistical problems that affect courtroom operations. These problems do not appear to be products of the court's internet speed or computers, but rather involve the structure of LexisNexis's system.

- As in 2007, attorneys, clerks, and judges alike still report that there seems to be an increase in sluggishness starting at the 10:30 a.m. docket. Many think that this is because 11 a.m. is the time that the West Coast courts start using the system.

One courtroom clerk noted that when she has to reject a judgment for whatever reason, the system rejects the case from the electronic docket, prompting the need for a civil clerk to re-accept the case, instead of resetting the judgment status. The Clerk Supervisor stated in a separate interview that she is not aware of this being a persistent problem, and suggested the possibility that the situation may have been unique to an inexperienced clerk. The Clerk Supervisor also clarified that there have been no instances where the rejection of a judgment resulted in an attorney having to re-file the case.

- About once a month the system experiences a freeze, which is normally resolved by rebooting the computer. Work is usually resumed in a few minutes. District 5 has not experienced lengthy routine system-related disruptions in the courtroom.
- Courtroom clerks reported that there are unnecessary, inefficient steps that they must navigate in order to complete tasks. For instance, the courtroom clerks' screen does not limit the cases clerks see to those scheduled in their dockets. Instead, clerks have to scroll through a queue of all currently accepted cases and select cases scheduled on their docket. Once cases are selected, clerks face the additional step of selecting each case to send to the respective judge. Cases electronically filed individually must be transferred individually, unlike bulk filings for which multiple cases may be transferred together. The clerks suggest that an ideal system would show only the cases that were scheduled to be in their courtrooms. It would also be helpful if the courtroom clerk could select any scheduled docket and work directly from the docket instead of the search screen.
- The structural challenges faced by clerks result in 30 to 45 minutes to prepare for a typical docket of 300 cases. Sometimes clerks are still pulling up cases when the judge has started a courtroom session. To relieve clerks of some duties, bailiffs have assumed the role of checking in parties to landlord and tenant cases on a printed Excel docket, a role they had not held prior to the pilot system nor at the time of the 2007 evaluation. The courtroom clerks have also been relieved of filing dismissals, a responsibility that now falls to District 5 civil clerks.
- Judges have also reported that there are unnecessary, inefficient steps associated with their roles. They reported that they go through three screens to submit a real-time judgment for cases. Within each screen there are tabs to click, areas to scroll, and a place to enter the judgment. The transition from the first to the second screen, as well as from the third to the submittal is quick. The transition from the second to the third screen however can take 15 to 30 seconds. This waiting time may seem negligible, but given the number of cases on an average day's docket, the total time commitment is sizable. During a 30-minute courtroom observation, the judge heard on average one case per minute.

Judges handle this waiting period in several ways. Some judges have two or three screens open on their computer at the same time. Once judges encounter the 15- to 30-second

waiting period, they switch to other screens to start pulling up the next cases in order to save time. Other judges do not switch windows and prefer to insure accuracy by focusing on a single case at a time.

One judge reported a preference not dealing with the e-file system at all in the courtroom. Instead, the judge enters judgments during his lunch break.

3. Service of Documents

The Prince George's County Office of the Sheriff is responsible for serving failure to pay rent forms, also known as "tack-ups," issued by the District Court. At the onset of the pilot system the Prince George's County Sheriff accepted the responsibility of printing the Landlord/Tenant documents for service. Our interviews revealed that the Sheriff's Office remains committed to fulfilling this task. Sheriff's Office staff, however, expressed concern that this responsibility lies beyond the Office's traditional duties. Sheriff's Office representatives also noted the time and effort involved in printing Landlord/Tenant documents.

Under the pre-existing system, the Sheriff's Office picked up Landlord/Tenant documents to execute service from the District Court (tack-ups with their multiple pages, and a transmittal sheet for tracking). Clerical staff in the Sheriff's Landlord/Tenant Unit double-checked the content of these documents and assigned them to deputies for delivery. Under the e-file system a clerk in the Landlord/Tenant Unit now receives the documents electronically by logging onto the LexisNexis system and downloading them to a desktop. The electronic failure to pay rent forms must be printed in order to resemble a tack-up that can be posted – an activity that consumes substantial human and material resources that were not required for the pre-existing system. This proves arduous for the Sheriff's Office in a variety of ways.

First, the only way the LexisNexis system can print a failure to pay rent form is to automatically open the PDF file in Adobe Acrobat, print, and then close Adobe. The system automatically repeats this process for each document lined up in the downloaded queue. The Office of the Sheriff prints three copies of the each document, averaging 500 to 1,000 cases per day. Clerical staff report that the printing process should be more streamlined. The printing problems have a greater impact when the Sheriff's Office has been closed for several days. An Office representative reported that after two large snowstorms in February, the system was backed up with 8,000 cases to download. The IT staff member of the Office of the Sheriff has unsuccessfully sought improvements to the printing process to no avail. She told us that she thinks the problem lies within the process that the system follows, not the hardware being used.

Second, there is occasional hardware failure, particularly involving the printer. At the time of the 2007 evaluation, the Office of the Sheriff had a printer that would not print over 800 documents at a time (equivalent to 267 fully-printed tack-ups plus their respective 2 copies). The Office now has a better printer that can print up to 2,000 documents at a time (equivalent to 667 fully-printed tack-ups plus their copies). On days where the queue exceeds 667 cases, the copy machine is utilized to create copies. Staff must use the copy machine to give the printer relief from the heavy volume, or else it will shut down for an extended period of time. This greatly delays the processing of the tack-ups, because operating the photocopier consumes human resources.

Third, a transmittal sheet is created as an Excel worksheet in order to track which tack-ups have been served or have yet to be served. This is another responsibility that the Office of the Sheriff has inherited since the switch to the pilot system. Creating a transmittal sheet is more troublesome than staff think it should be. Rather than being able to print out the queue of all case numbers downloaded on a given day, a Sheriff's staff member must copy and paste the case numbers into Excel. Since web pages that contain the case queues display only 50 cases, this process requires numerous iterations of copy and pasting.

Fourth, along with the responsibility for printing comes the responsibility to review and sort the tack-ups. Under the previous system, the Office of the Sheriff would review the tack-ups, serving as a double check. Under the e-file system, the Office of the Sheriff now serves as the first point of review. As a result, the Sheriff's staff catches tack-ups with missing information such as court dates, case numbers, signatures, or mistyped addresses. Such cases are either referred back to the District Court to correct, or re-filed by filing attorneys. Mistakes regarding stamping are referred to LexisNexis staff, which keeps a log of Sheriff complaints. The Office of the Sheriff contacted LexisNexis fourteen times in a recent five month span (November 2009 to March 2010). The Office of the Sheriff staff members report that they catch typos or missing information on cases one to two times per week, and report that they come across more mistakes than under the manual process. These documents are reviewed while being manually sorted into stacks for deputies to deliver. The task of sorting the tack-ups requires a staff member's full attention, as multiple cases belonging to an apartment complex do not always print out together. As a result, the staff member must be able to recognize an apartment complex and where its cases were placed.

According to District 5, the mistake rate under the pilot system is comparable to the rate under the manual process. District 5 representatives also noted that they supply the paper to the Office of the Sheriff, and bought a printer for the staff – mitigating the Office of the Sheriff's cost in carrying out their responsibilities. Additionally, District 5 reported that it arranged for LexisNexis staff to train the Office of the Sheriff's new staff members in late 2008 into early 2009. Before District 5 arranged for additional training, the new staff members had some problems in that they lacked experience and did not receive training from their predecessors. For example in early February 2009, the new staff deleted 487 documents before printing them, thus they were not served. District 5 was not informed of the problem until property owners complained. Once this was brought to District 5's attention, District 5 management and a LexisNexis representative met with the Sheriff's staff, and the vendor representative provided additional training for the new staff members. District 5 is not aware of a problem of that magnitude occurring since Spring 2009.

One Sheriff's Office staff member is assigned these responsibilities on a daily basis. This staff member's daily workload typically involves printing up to 1,000 tack-ups, photocopying up to 2,000 copies, reviewing, and sorting them. The Office of the Sheriff reported that it has stretched staff in order to guarantee that no tack-ups expire.

Once tack-ups are posted, deputies return to the Sheriff's Landlord/Tenant Unit with Return of Service documents. These are checked off of transmittal sheets by an additional staff member.

The Return of Service documents are then delivered to the District Court. Even though the District Court retains possession of Return of Service documents, court staff frequently calls the Sheriff's Landlord/Tenant Unit to check on the transmittal status of tack-ups. The Office of the Sheriff argues that the District Court should be able to record Return of Service documents and confirm service status. District Court staff pointed out, however, that there are occasions when service is not returned to the District Court, and an explanation for missing service is sought.

B. Impact on External Users

The convenience that the pilot system was to provide to attorneys has, for the most part, been achieved. Prince George's County landlord and tenant case bulk filers reported that they are generally happy with the system, although there remain operational and financial burdens that affect them. These reported operational burdens involve multiple steps required to file cases electronically. Attorneys argue that there is a financial burden associated with hiring IT consultants to modify their software to interact with LexisNexis. Although law firms agreed to develop software at the beginning of the pilot, they did not anticipate that when the court modifies the electronic forms, they would have to make modifications as well. Form modifications requiring IT consultants for law firms have arisen twice in the past two years.

It was reported in 2007 that there was an issue involving bulk filers receiving a separate e-mail for each transaction within a bulk file, resulting in hundreds of e-mails that had to be reviewed individually. This problem has since been resolved by an enhancement by LexisNexis at no cost to the Court. Bulk filers now receive one email per bulk file. Other service improvements resulted in getting court dates set faster, enhanced speed and upload time, fewer problems in the court sessions, and quicker service and return of process.

Despite these improvements, attorneys continue to report problems. Sometimes entries will not process on LexisNexis, disrupting the entry process and forcing attorneys to re-file. Law firms reported that the system continues to be less than user-friendly in a variety of ways. Attorneys continue to experience the lag in the system experienced by clerks and judges during high usage times. To avoid this problem, one attorney reported that he takes his laptop home to file cases late at night to avoid the high usage periods.

C. Users' Opinions

1. General Opinions

Attorneys, clerks, and judges share opinions regarding benefits the pilot system offers. The pilot system allows much easier tracking of cases and searching for case histories than the pre-existing paper system. Attorneys and judges are able to look up past judgments for a case without calling up the clerk's office. The e-filing system also avoids the problem of misplaced case documents. Another benefit of the system is that it allows more than one person to view a case at the same time, which is beneficial when an attorney wants to discuss a particular case with a clerk.

Attorneys react favorably to changes that result in not having to send their staff to the courthouse to file documents. They also react favorably to being billed only once a month under the new

system. Attorneys are also pleased to not have to keep track of so many hardcopy documents, and are satisfied with getting court dates on a more timely basis. Attorneys are generally pleased with improvements made since the 2007 evaluation. They offered mixed feedback regarding the perceived speed of the e-file system versus the paper system. Many attorneys reported that they did not like the pilot program at first; it was disorganized and not user-friendly. Once they and their assistants became familiar with the system, however, the work flowed more smoothly. Attorneys also noted a noticeable improvement in the organization of the system after District Court Headquarters intervened in 2007. Overall, attorneys had few complaints about the system. They noted small technical improvements that the system could use, but not such that additional enhancements are required.

Judges we interviewed were also generally satisfied with the current performance of the system. While judges had reported in the 2007 evaluation that it was much faster to do manual cases than on the computer, they now report that the system has gotten more reliable and faster, and the convenience of looking up a case history or filing a motion is unmatched by the paper system. While judges are not fully convinced it is faster than the paper system, our interviews revealed little negative feedback on the performance of the e-file system.

While attorneys and judges report satisfactory experiences with the pilot system, some courtroom clerks expressed dissatisfaction with the current system. These clerks report that many tedious and unnecessary steps are involved in preparing and processing electronic cases, prompting them to report that they find the paper system to be much more efficient for them. For example, to enter a continuance, once a judge has entered judgment the courtroom clerk must enter the case number and wait for the judgment to download, while in the meantime the judge has moved on to the next case. Other duties in the courtroom that are time-consuming are printing dispositions, printing judgments for social services, and pulling up cases for parties to landlord and tenant cases who arrive late. These duties exist under the manual process, but under a more streamlined process. Clerks argue that the system is not made for the speed of the courtroom, and the system's speed has not improved since the 2007 evaluation. In order to help them keep up with the case activity, clerks make notes on the docket, which are then entered later as notations into the e-file system.

The experience with the e-filing system reported by civil clerks was not as unsatisfactory as the feedback from the courtroom clerks. Civil clerks report that the system favors outside users over inside users, and the system design did not account for their limited staff and other resources. Nevertheless, civil clerks are making the system work with current staff. Despite the fact that the court has kept three temporary clerks hired at the time of the last evaluation, the effect of an increase in caseload due to economic conditions and the complexity of processing cases in the system continues to strain staff resources.

Office of the Sheriff staff members report that it is burdened with an arduous responsibility that the Office previously did not have to meet. Under the paper system their duties were simply to pick up court documents and deliver the tack-ups. Now they create documents. This responsibility impacts their primary duty of delivering tack-ups, as they find that some documents are incomplete and/or not sent to them on a timely basis for service. A representative of the Office of the Sheriff reported that if the District Court were to file 100% of cases

electronically, it would require an additional 10-15% paper output from an already overtaxed staff member.

2. User Assessments of the Vendor

In light of the substantial and continuing role of the e-filing vendor, we sought opinions of the system users concerning LexisNexis.

Attorney's comments about LexisNexis were favorable. They have not contacted LexisNexis for enhancements recently, but call them regarding occasional minor technical problem. Attorney staff noted that they have been treated well by LexisNexis and the company always responds to their questions.

The civil clerks also spoke of LexisNexis' responsiveness when there is a technical problem. Clerks email the vendor a couple times per week, and call once per month with issues. These emails and calls generally result in resolution of current technical problems, yet fail to address the larger structural problems in the system. While LexisNexis immediately addressed the most glaring problems at the beginning of the pilot, the clerks reported that the list of enhancement requests continues to grow. Courtroom clerks reported having many meetings with LexisNexis to address their problems but that there have been no improvements thus far.

3. Thoughts on the System's Future

Generally those interviewed concur that e-filing is the future of the courtroom and should not be abandoned in Prince George's County. Attorneys, civil clerks, and judges report that they do not want to lose the ability to have all their cases at their fingertips. They share a view that the system is working, but is not in an ideal state. With some modifications, they report the system could perform better.

- In addition to the consensus that the speed should continue to be improved and unnecessary steps simplified, respondents suggested applying a barcode onto documents and investing in handheld electronic devices that deputies can use when they post tack-ups. This could allow deputies to scan case barcodes to record service, thus instantly updating case status in the system. This might alleviate multiple steps currently required to update service for each case. Users reported that it is important to consider interfacing an electronic device when planning the new case management system.
- A District Court Headquarters representative reported that clerks' problems and requests for enhancements have not been addressed because the features suggested extend beyond an e-file system and into a case management system. Creating a case management system is not what LexisNexis was engaged to provide. The District Court Headquarters representative stated that a less expensive alternative may be a document management system. This system, referred to as a Content/Document Management system (CMS/DMS), might cost in the \$25,000 to \$50,000 range to address problems identified by clerks.

- Those interviewed also identified a need for more computer terminals as well as for the system to include multiple languages and an electronic signature feature.
- When users were asked what they thought was necessary for the pilot to succeed in another jurisdiction, their comments were found to be consistent with what the 2007 evaluation team reported. While the purpose of the e-file system was to set up a convenient process for attorneys, the impact of the process on other stakeholders should have been assessed more carefully during the system's design. Users suggested that in order for this pilot to succeed elsewhere, all stakeholders involved in receiving and transmitting information throughout the process should be included in planning to determine system requirements. A realistic assessment of feasibility should also be conducted beforehand to confirm which type of vendor will best meet the needs of the court. "Human engineering" factors involving courtroom and civil clerks should be carefully considered.

Many users suggested devoting more time to train judges on how to use the system. They also noted a need to assign judges to the landlord/tenant courtroom frequently at the beginning of the pilot in order to prevent judges from forgetting the new system between rotations. Attorneys also reported that implementing a system that offered standard software for external users would be more efficient than the current variation in software among attorneys.

- External parties expressed concern that if the e-filing system is expanded, the court should maintain possession of the data. Maintaining court control will prevent vendors' selling of access to court records, a matter of interest to groups such as Courthouse News. Our investigation determined that courts maintain possession of the data filed in the pilot system and LexisNexis is not able to sell it.
- A civil clerk representative expressed concern regarding public access to information. The representative reported that credit reporting companies currently use case information incorrectly. This gives clients a bad credit rating because companies misinterpret an order of possession as a money judgment. This should be considered when the case management system is designed so that the court is not a party to the misinterpretation of court orders.

A civil clerk representative noted that civil clerks see an advantage in removing the quasi-dual process and entering every case electronically. This would keep all cases in one database and extend the benefits of tracking and searching to all cases. They are currently running two case numbering systems to accommodate both the paper and electronic files.

IV. National E-Filing Trends

Assessment of e-filing in Prince George's County and the Maryland Judiciary's consideration of future application of this technology should be done within the context of national trends among state court systems. The implementation of e-filing in the courtroom is on the rise nationally, as the approach has proven to reduce paper costs, postage costs, and in some jurisdictions, decrease staff needed. States have generally implemented e-filing systems by first pilot projects and later expanding to statewide e-filing. One of the critical choices that court systems have to make when planning e-filing involves deciding how the service will be provided to the filers. The most common ways that service can be provided are through private vendors, licensed packages administered by the courts, or in-house systems.

Common Approaches to E-filing

When court systems arrange for private vendors to provide e-filing services, vendors provide web-based interfaces accessible to attorneys, clerk's offices, judges, and subscribers. Documents are stored on vendor servers. Transaction fees are paid to vendors by filers and others who wish to view documents. This approach has benefits for filers and involves no out-of-pocket cost to courts. Arrangements in which only one vendor provides e-filing services are criticized for failing to encourage the vendor to improve service due to the lack of competition. With multiple e-filing service providers, an environment conducive to competition and incentivizing service improvement may be created. Users may be able to select which vendor they use and pay fees in varying amounts depending on the vendor they select.

Some jurisdictions choose to purchase licenses from e-filing vendors and install vendor e-filing architecture on their systems. This approach involves licensing and operating costs for court systems but has the benefit of increasing court control over e-filings. Documents are stored on court servers, thus reducing the possibility that vendors will allow interested parties preferential access to cases. The initial purchase of licenses and continued system operating costs can potentially be paid by user transaction and subscription fees. Purchasing licenses from vendors can vary in price depending on provider, and system size. In the case of Montgomery County, Ohio, the Common Pleas Court implemented a system costing \$527,000 plus \$50,000 for extra equipment, together with a yearly maintenance fee. The court paid for the e-filing system by assessing a \$25.00 special projects fee for new cases.

Some jurisdictions have the capacity to develop e-filing software applications in-house. This approach effectively places the courts in control of entire systems, including every case file. This approach is more costly than vendor-oriented options, but offers distinct benefits. A briefing by the Colorado Judicial Branch cited the following incentives for switching from a single vendor to an in-house approach: capacity to reduce user fees, generate revenue, create an opportunity to interface more directly with the case management system, as well as opening opportunities for the court to offer e-filing to criminal cases, which vendors rarely do. Similar benefits were found in Pennsylvania and Washington as well.

When considering the licensing and in-house approaches, it is useful to consider that if a jurisdiction charges minimal or no filing fees, widespread use of the system is encouraged. In

North Carolina, attorneys file through a website and are not charged a filing fee. The North Carolina Court System collects approximately \$4 million in revenue per year through the sale of bulk electronic access subscriptions. The ability to do so is a result of the state maintaining complete control of the court record. North Carolina court officials explained that they considered using a single-vendor system, but their concerns over maintaining control of the court record and avoiding user fees charged by private vendors led them to operate an internal system.

NCSC 2009 Survey

In 2009, the National Center for State Courts conducted a non-scientific national survey on the usage of e-filing in state and local courts across the country, including U.S. territories. Out of the 110 voluntary responses, 37 percent reported having an e-filing system fully implemented, and 51 percent had future plans to implement e-filing. Of the courts that have e-filing, 60 percent replied that their filers file directly with the court using the court's e-filing system (either via licensed software purchased by the court, or the court's in-house system); 27 percent use a single e-filing service provider approach, and 6 percent use a multiple e-filing service provider approach. Eight percent reported using 'other' as their approach, as described in the next section. When limiting the sample to the eleven responding state courts that have e-filing (Texas, Oregon, Wisconsin, Alabama, North Carolina, New Jersey, New York, Connecticut, Utah, Colorado, and Nebraska), seven replied that filers file directly with the court using the court's e-filing system, and three use a single e-filing service provider approach, and one uses a multiple service provider approach.

Out of the courts that reported that they have implemented an e-filing system, 80 percent reported that the system was integrated with their case management system, 16 percent reported that e-filing is not integrated with case management, and 4 percent reported having no case management system. Similar responses were reported regarding integration with the courts' document management systems.

When asked how service of process is made in the e-filing environment, 62 percent of courts that have an e-filing system said that service of process can occur through U.S. mail or commercial courier for both initial and subsequent case filings. 23 percent said service of process for initial case filings can be done via e-mail, and 37 percent said they can serve subsequent case filings via e-mail. Fifty-eight percent reported service of process can be transmitted by a process server (e.g., law enforcement).

Alternative Approaches to E-filing

North Dakota and Mississippi use alternative approaches to e-filing systems. The North Dakota Supreme Court ordered in November 2004 that parties may electronically file documents with the North Dakota Supreme Court via email by attaching electronic documents in a Microsoft Word or PDF format. The document filed electronically has the same legal effect as an original paper document, and the typed attorney or party name has the same effect as a manual signature. Under this approach, filers are charged a filing fee and must pay for internal reproduction of the document by the Supreme Court. Documents are served by the filing party by electronic means unless the recipient of service cannot accept documents served electronically.

The Mississippi State Court system has been working toward a comprehensive case management and electronic filing system. In 2007 it reached an agreement with the U.S. Federal Courts to gain access to their case management/electronic case filing technology to adapt to the state court system. A pilot program was launched in early 2009, and the state hopes to expand the system statewide. Use of the docket management and e-filing system by the district trial courts will be voluntary.

Colorado's Switch from Vendor to In-house Processing

Colorado was one of the first states to adopt e-filing and has an e-filing program that is administered through a single private vendor (LexisNexis). Colorado also has a public access system administered through a single vendor (Acxiom). These systems are supported entirely by user fees. In late 2008, the Colorado Judicial Branch announced its plans to replace the two vendor-controlled programs with two internally developed and administered programs (in-house programs). The court system's feasibility and cost analysis study reported that administering an in-house e-filing system will bring in approximately \$7.7 million in net revenues to the State while reducing user fees. The study also projected that the public access system will generate nearly \$2.7 million in FY 2010-11. The Colorado General Assembly approved an appropriation for the project in February 2009.

Colorado has completed development of an in-house electronic public access system. The public access system was developed first because it was the easier and less expensive of the two systems to develop (9 months, \$750,000). The Department plans to use the revenues generated from the in-house public access system to fund the development of an in-house e-filing system at no general fund cost to the state and no additional cost to system users. Development of an e-filing system is projected to require nearly \$6 million over three years.

IV. Conclusion

Our investigation of the Electronic Filing Pilot Project in the Prince George's County District Court found that the system, while stable, functional and providing benefits to users, is currently operating in an inefficient manner that stretches the capacities of many internal users. The pilot system allows much easier tracking of cases and searching for case histories, avoids the problem of misplacing case documents, and allows more than one person to view cases at the same time. Attorneys benefit from easier case filing and monthly billing. These benefits come at a cost to the Office of the Sheriff, civil clerks, and courtroom clerks who must contend with cumbersome system requirements in order to get their jobs done. District 5 has had to retain three temporary staff members to perform new tasks required by the pilot system as well as handle an increased caseload due to the economic downturn. The pilot system is stable and functional, not due to the ease or efficiency of the system, but due to the commitment of internal and external users to make it work. Increased bandwidth provided by Judicial Information Systems and two major enhancements provided by the vendor improved daily operations of the system, but did not address problems associated with a system that is poorly structured for the court's needs. The shortcomings of the system apparently can be corrected only at substantial expense and appear to involve incorporating features of a case management system. The more favorable experiences of

attorneys and judges noted in this report are due to users' increased familiarity with the system rather than technical improvements. Attorneys receive court dates faster, improved service, and less time-consuming court sessions because users have become familiar with the system and learned to work around its shortcomings. Despite increased bandwidth and improvements in familiarity, some users continue to find the system challenging.

Appendix A

BEN C. CLYBURN
Chief Judge
JOSEPH P. ROSENTHAL
Chief Clerk



DISTRICT COURT OF MARYLAND
HEADQUARTERS
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ASSISTANT CHIEF CLERKS:

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Finance
CHARLES E. MOULDEN
Operations
ROBERTA L. WARNKEN
Administrative Services
LISA I. RITTER
Engineering & Central Services

February 16, 2007

Mary Abrams, Administrative Clerk
District Court of Maryland
Prince George's County
14735 Main Street - Room 173B
Upper Marlboro, Maryland 20772-3042

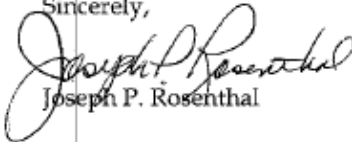
Re: Manual Processing of Landlord and Tenant Cases

Dear Mrs. Abrams:

This letter is to advise you that effective immediately your court will resume a manual process in the Landlord and Tenant Department at the Hyattsville location. After reviewing all the relevant facts and other pertinent information Chief Judge Robert M. Bell and Chief Judge Ben C. Clyburn have determined that this is the best course of business for your court.

The manual system shall operate separate and apart from the current automated pilot system (LexisNexis File and Serve) and should, with the exception of those cases that will continue to be e-filed, mirror the former manual system. Any and all questions regarding this correspondence are to be directed to Joseph P. Rosenthal, Chief Clerk.

Sincerely,


Joseph P. Rosenthal

cc: Robert M. Bell, Chief Judge
Ben C. Clyburn, Chief Judge
File

Appendix B

PAGE 02

IN THE MATTER OF THE
IMPLEMENTATION OF AN
ELECTRONIC FILING PILOT
PROJECT IN THE DISTRICT
COURT OF MARYLAND

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IN THE
COURT OF APPEALS
OF MARYLAND

ORDER

The Court of Appeals, pursuant to Section 16-506(c) of the Maryland Rules of Practice and Procedure, having considered the report of the State Court Administrator on the evaluation of the pilot project for the electronic filing of pleadings and papers for landlord/tenant cases in the District Court for Prince George's County; and

Upon consideration of the State Court Administrator's report dated April 2, 2007, hereby approves his recommendations that include:

1. An extension of the time to conduct the pilot project in Prince George's County to May 15, 2008.
2. The management of the pilot project shall be reconstituted under the direct supervision of the Chief Judge of the District Court and in collaboration with all parties associated with the pilot project.
3. The District Court shall develop a plan at the earliest opportunity to establish a reliable level of redundancy for the electronic record to ensure that the case files may be reproduced if the e-filing system is disabled or no longer available to the District Court. The plan shall be submitted to the Court of Appeals for its approval on or before August 1, 2007.
4. Participation in the pilot project shall be voluntary and limited to "bulk filers" as defined by the District Court.
5. Changes to the e-filing system shall be limited to consideration of improvements to the e-mail and billing directed to volunteer "bulk filers".
6. The District Court shall ensure the effective use of judges and court staff associated with the pilot project, and maintain adequate levels of staff support for the duration of the pilot project.
7. The Chief Judge of the District Court shall submit written reports to the Court of Appeals on the status of the pilot project on August 1, 2007, November 1, 2007, and February 1, 2008.

8. The State Court Administrator shall prepare an evaluation of the pilot project by April 1, 2008.

/s/ Robert M. Bell
Honorable Robert M. Bell

/s/ Irma S. Raker
Honorable Irma S. Raker

/s/ Dale R. Cathell
Honorable Dale R. Cathell

/s/ Glenn T. Harrell, Jr.
Honorable Glenn T. Harrell, Jr.

/s/ Lynne A. Battaglia
Honorable Lynne A. Battaglia

/s/ Clayton Greene, Jr.
Honorable Clayton Greene, Jr.

Filed: May 2, 2007

/s/ Alexander L. Cummings
Alexander L. Cummings, Clerk
Court of Appeals