



Law Librarians of New England

A chapter of the American Association of Law Libraries

DATE: June 15, 2015

COMMITTEE: Trial Court Public Access to Court Records Committee

Judge Lauriat and Members of the Trial Court Public Access to Court Records Committee:

My name is Melinda Kent. I am the Manager of the Research Services department at the Harvard Law School Library and President of LLNE, the Law Librarians of New England. LLNE members work in college and university libraries, law schools, law firms and trial court libraries throughout New England. In each of these settings, we as librarians, and the lawyers, paralegals, faculty, students and members of the public who are our patrons, rely on the availability of court records for their work, study and for access to the justice system.

Public access to court proceedings and records is a fundamental principle of our judicial system. Access to court records is necessary both for those involved in a specific case and for the general public. In previous guidelines and policy statements, the Massachusetts courts have recognized that general public access to court documents allows the public to learn about the operation of the judicial system and fosters discussion of public matters. General public access to court records supports fairness, accountability and public confidence in the judicial system.

Court docket access is particularly crucial to the members of the public who come to law libraries for help navigating the justice system. Any system for providing public access to court records should be tailored to make access technologically, financially and physically easier for those whose access to the courts already faces significant barriers. A system which provided open online access to docket sheets and court documents would allow librarians to help these self-represented litigants and would remove barriers to access created by requiring litigants and researchers to come to the courts during business hours. In turn, this can alleviate the burden on court clerks and other court staff who would otherwise be needed to provide on-site help.

In law school, college and university libraries, scholars and students also use court records in a number of ways. As law schools move towards providing more experiential education, access to court documents becomes even more important. Professors use real court dockets and filings to provide realistic models for students learning trial practice and the nuts and bolts of lawyering. In addition, many of our students participate in legal clinics, representing real clients who would otherwise have limited access to legal

representation. In order to zealously represent these clients, students also need full access to court documents. As more court dockets and records become available online, scholars are also able to use these records to empirically study trends in justice and court administration. These studies in turn may be the catalyst for increases in fairness and efficiency in the courts.

As more material is put online, more is expected to be online. We do our banking via our phones and check out library books in the middle of the night. Modern researchers and lawyers expect quick and easy access to documents and dockets. When I started as a librarian almost fifteen years ago, getting court documents involved phone calls, letters, paid researchers and trips to the court. Increasingly, docket sheets and case documents are available online, saving the time and effort of both users and overworked court staff. Many states currently provide online public access to dockets. According to the National Center for State Courts, over a dozen (including our neighbor Connecticut) also provide online access to some case documents. These systems serve as a model for expanded access.

We ask that any new rules or systems created to provide public and online access to Massachusetts court records take into account the wide range of librarians, lawyers and other members of the public, both in and outside of Massachusetts, who have a vital interest in the work of the Massachusetts courts. With carefully drawn exceptions to protect safety and privacy, the guiding principles for any system should be transparency and open access. Systems for remote access should include at minimum online docket access and ideally should also provide access to court documents as well. Electronic and remote access should mirror onsite access whenever possible. Systems for remote access should also support accessibility and access to justice for all users, rather than create separate classes of access to general court information.

Thank you to the members of the Committee for your work on this issue and for giving me the opportunity to express my views and the views of LLNE. Please also let us know if there is any way that we, as information professionals can assist your Committee. We look forward to continued opportunities to provide public comment on this issue.