

Public Access to Court Documents: Better, Faster . . . and Cheaper Than Ever Before

With the increasing presence of the Internet in today's society and the development of electronic files in the federal courts, the cost of obtaining copies of court documents is lower than any time in history.

Fees For Court Documents In Electronic Form

In 1990 the Judiciary was directed by Congress to set reasonable fees for providing remote public access to information available in electronic form. The initial fee for public access to electronic information, via a dial-in bulletin board service, was set by the Judicial Conference at \$1 per minute. In keeping with the judicial policy that public access fees be set at a level commensurate with the costs of pro-

charges for Internet and dial-up access for heavy use. Charges for light use were reduced considerably. At the same time, courts were authorized to make certain items, such as local rules and forms, opinions designated for publication, court calendars, news items, and other local information available electronically at no cost, and to exempt certain persons, such as indigents or bankruptcy case trustees, from payment of the fee.

Fees and CM/ECF

The advent of the Case Management/Electronic Case Files (CM/ECF) system, which will permit courts to receive electronic documents and to maintain electronic

copies will be available from the court for 50¢ a page, or electronically over the Internet for 7¢ a page

The availability of case information via CM/ECF and the Internet represents a dramatic increase in the level of access to public records. As always, documents will be available at the courthouse for inspection without charge, and the availability of public access terminals (which are funded from access fees) means that more than one person can examine the same document at any given time. Similarly, should a person require a copy of a court document, it will now be available without having to travel to the courthouse, and at a charge much lower than at any

A Brief History of Public Access And Fees

In the United States, three years after the establishment of the federal courts in 1789, Congress authorized clerks to charge the same fees as those charged by the state courts. For example, the cost of obtaining a copy of a document from the clerk's office of the Maryland court of appeals was set by the legislature in 1763 at nine pounds of tobacco. These fees were increased in 1799 to the amount charged in state courts plus one-third. Like their English predecessors, U.S. clerks of court received no salaries, deriving all compensation through the imposition of fees.

Although fees continued to be the major source of income for federal clerks, basing the fee schedule on practice in the states produced a lack of uniformity and wide disparities in the amount of compensation received by clerks. In 1841, Congress put a cap on the earnings of federal clerks, authorizing them to retain a maximum of \$3,500 per year for office expenses, with any excess receipts to be paid into the public Treasury.

Finally, in 1919, the concept of the self-supporting clerk was eliminated, as Congress directed that salaries and expenses of the clerk's office were to be paid from

appropriated funds and that fees for services in the clerk's office were to be set by Congress and paid into the Treasury.

In 1944, Congress authorized the Judicial Conference to set reasonable fees for miscellaneous services performed by the clerk. The following year, the Conference approved a fee of 40¢ per page for copies, the equivalent of \$3.81 today. This fee stood until 1973, when the Judicial Conference approved a fee of 50¢ a page, and a \$1 fee for a typed copy (\$1.93 and \$3.86, respectively, today). The 50¢ fee for a paper copy still applies today, along with the 86 percent lower cost for an electronic version.

viding existing services and for developing enhanced services, the per-minute fee was subsequently reduced twice, first to 75¢ and then to 60¢.

Attempting to keep pace with the digital revolution, the Judicial Conference, at its September 1998 session, set a 7¢ per page charge for Internet access to court documents, calculated to produce comparable

case files, brings improved public access to the federal courts. As documents are filed electronically, they will be provided simultaneously to attorneys of record and unrepresented parties, who can download or print and file them in whatever manner they choose. The first copy will be free to these parties, and replacement paper

time in the Judiciary's history. The development of CM/ECF, along with the Internet and the work of court staff, will improve the level of public access, while reducing access costs. The cost of copies of court documents has dropped steadily, and the advancement of technology has brought the citizen ever closer to the courthouse. 