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## Law Focus

### Despite technology age, some area courts still deal in paper only

By Melissa Castro

Standing outside D.C. Superior Court's blocky midcentury building, you'd never guess the court is a technological leader among its cohorts in the Washington region, particularly if you've visited Fairfax County's "high-tech courtrooms" with wizardry that lets trial attorneys build dazzling visuals in real time.

But here's the difference between D.C. and most of the region's other courts: When you visit other courthouses to research a case, there's a good chance you'll come up empty-handed. The files could be anywhere — maybe in a judge's chambers, maybe not. Your guess is as good as the file clerk's, who, by the way, is pretty sick of fetching your dang documents all day.

In D.C., since 2003, any member of the public has been able to waltz into the clerk's office, stroll up to a computer, type in a few search terms and — voila! — up pops every document related to the case. It's a model that surrounding counties are racing to emulate and, ideally, improve upon.

Although most local jurisdictions are on the cusp of change, the barriers are more challenging than you might imagine, given a point-and-click society accustomed to unbridled shopping, stalking and surfing 24 hours a day.

The lagging technology doesn't just affect the hapless paralegals sent to fetch cases. Unimpeded access to case information helps keep the public safe by making it more difficult for criminals to outrun their records, and it helps keep government agencies and corporations honest by letting reporters act as watchdogs. For lawyers and litigants, a fully automated system can cut down on wasted time, to say nothing of wasted trees.

The "gold standard" for electronic case management systems is the federal system, called PACER, short for "Public Access to Court Electronic Records." Over the past decade, the federal court system has spent \$100 million turning PACER into an Internet-based service containing the more than 500 million documents filed in federal cases.

Local courts, on the other hand, are still trading in flat currency. Even D.C. is struggling to complete its system by making its civil document images available to online users outside the courthouse.

"People think this stuff is simple because it just goes on the Internet," said Brook Hedge, a D.C. Superior Court judge who chairs the court's technology committee. "It's not."

It takes millions of dollars to build the powerful servers needed to store the terabytes of information involved, and it can take years of experimental programming and coding to pinpoint the metadata that puts each document in its proper place in the universe.

Maryland, which in April announced plans to launch a new pilot electronic case management system, has spent nearly seven years and \$12 million developing the system and building the information technology infrastructure, according to judiciary spokeswoman Angelita Plemmer. Even when the pilot begins in 2012, it will operate only in Anne Arundel County before being rolled out in phases in other counties.

For now, if you want to see a file in Maryland, you have to go to the courthouse, fill out a form for each case that piques your interest, wait in line to turn in your forms, then wait for the file clerk to find the files somewhere inside the office's warren of shelves. If you want to request copies, that's a separate



D.C. Superior Court Judge Brook Hedge chairs the court's technology committee, which boasts one of the most advanced, transparent and accessible court document management systems in the area. Photo by Joanne S. Lawton

## The real paper chase

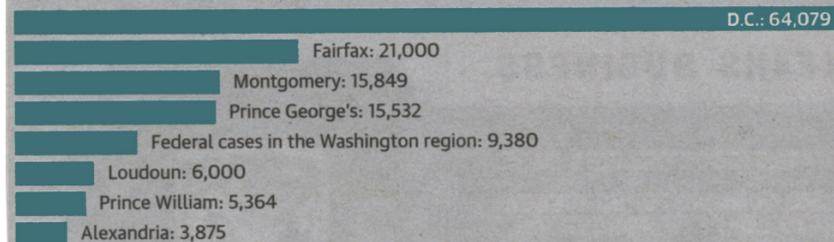
### Judging the metro area's courts

Courts across the region have different systems for handling documents filed with them. The differences make it harder for lawyers, judges and journalists to do their jobs in certain jurisdictions.

	Digital images	Party e-filing	Docket Web access	Web images	Subscription cost	Per page cost
Federal courts	Yes	Yes	Yes	Yes	Free	8 cents to access, max \$2.40 per document
D.C.	Yes	Yes	Yes	No	Not applicable	Free image access, 50 cents to print
Maryland	No	No	Yes	No	Not applicable	50 cents to copy
Alexandria	Yes	No	Yes	Yes	\$50/month or \$500/year	50 cents to copy
Fairfax	No	No	Yes	No	\$50/month or \$500/year	50 cents to copy
Arlington	Yes, but not public	No	Yes	No	Not applicable	50 cents to copy

### A mountain of documents

Here are examples of the number of civil cases handled annually by courts in the region.



Source: Clerks of court offices for each jurisdiction; the Administrative Office of the U.S. Courts

process. And you had better ask nicely.

It's the same situation in Arlington and Fairfax County, although Virginia's Supreme Court is developing a statewide system that will accept, maintain and share electronic documents — commonly referred to as e-filing. Alexandria's court already manually scans all paper filings and posts them online for paying subscribers.

Fairfax has long been a technological leader in other respects, so the clerk of that county's court, John Frey, has chafed under the slow progress he says he sees in Richmond. "The IT folks up at the Supreme Court keep telling me they're working on an e-filing system that will 'blow my doors in' within a year," he said, skeptically. "Well, if they blow my doors in, I'll grab onto their caboose."

In the meantime, Frey said, he is carefully considering other options he may pursue if the state Supreme Court doesn't act within a year or two. Fairfax could band together with a few other counties to build a regional e-filing portal or hire a private software vendor to build a Fairfax system. The latter option would cost between \$5 million and \$6 million — a wasted expense if the state ultimately provides a system, Frey said.

Alexandria's manual scanning system isn't an option in Fairfax, Virginia's largest jurisdiction. The Fairfax court receives more than 21,000 cases a year, compared with Alexandria's approximately 3,900.

Frey has even begged the federal courts to share their PACER software. "Nobody has nailed this except the feds," he said.

### Changes on the way

Several local and federal courts have plans for change. This is a look at some of them.

Federal	Users only charged if they accrue more than \$10 in fees per year.
D.C.	Online access to civil document images on the way.
Maryland	E-filing and online access to document images in Anne Arundel by 2012.
Alexandria	E-filing if state develops.
Fairfax	E-filing and in-person access to document images, possibly by 2012.

Frey said the feds told him the request would have to come from Richmond, and by the time Richmond made the request, the folks who run PACER had changed their minds.

"We lost the opportunity to have the federal system here, and I lay that directly at the Supreme Court's feet," Frey said. "And that's my frustration." (The Virginia Supreme Court did not respond to a request for comment.)

While Frey's chagrin may not be something the general public can grasp, the paper chase does effect the public.

"If you're hiring an employee or a nanny, don't you want to be able to check their records," Hedge asked, rhetorically. "And in family court, you want to know if the person suing for custody is about to be evicted from their apartment or has a criminal record. It

allows us to get more efficient justice and, ultimately, better justice."

For news organizations struggling with dwindling resources and staff, online court records can't come quickly enough.

Hedge clerked in D.C.'s District Court 35 years ago, when bulldog reporters practically lived at the courthouse. "I remember journalists coming into the clerk's office, and we had a basket for journalists where we'd just toss an extra copy of new complaints in there so they'd know what was going on," she said. "It was a very different environment."

Today, there are no baskets and the only reporters are camped out in television trucks parked outside, craning for glimpses of infamous criminal defendants. And, while it may be easy to pull up case documents at the D.C. courthouse, you still have to know what you're looking for — only PACER lets you search for all newly filed cases. "That could crash our system — we get 350 cases a day in landlord-tenant court alone," Hedge said.

Of course, "watchdogs" can bark both for and against public access to electronic records. A website, TheVirginiaWatchdog.com, is home to a privacy group that specifically opposes Internet access to court records. In a fit of pique after Virginia's legislature voted in 1997 to allow remote access to court records, TheVirginiaWatchdog.com linked to court records containing the birth dates or social security numbers of 11 Virginia legislators, including four from Fairfax County.

To compromise with privacy advocates, Virginia requires subscription fees for any remote access and has ordered that Social Security numbers be redacted by 2012.

Although D.C. aims to put civil records online as a policy matter, Hedge does understand the privacy concern.

"Half these people get pulled into court against their will," she said. "The 'law of practical obscurity' has ruled for so long, but now suddenly everything appears on Facebook. We don't want to do law by tweeting."

Despite the hurdles, Frey and others will keep plugging along to help you plug in.

"As an attorney or a reporter, you need to be able to do your job all the time, not just when court is open," he said.

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