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Legal community embraces the electronic age

By Anthony S. Niedwiecki

Legal research has gone through many changes over the past few decades. Lawyers began using Westlaw and Lexis on computer disks in the 1990s and then these services made their databases available on the Internet in the 2000s. In recent years, we have seen an increase in other online services, including a number of free and less costly databases. Even federal and state governments have developed better webpages, increasing the accessibility of legal information for anyone with a computer. Though some lawyers continue to use print-based resources, the practice is in decline as the legal community moves to engage and embrace the evolving electronic age.

We are undeniably in the middle of another big change in the way legal information is made available to lawyers. In an effort to save money and to make the judiciary even more accessible to the public, state courts around the country are changing how they publish their official opinions. Instead of assigning a publisher to be the official reporter of opinions, states are making them immediately available through court databases that are open and free to the public. In some states, courts are discontinuing their contracts with publishers and making court websites the main depository of legal opinions.

Following this recent trend, the Illinois Supreme Court decided this past summer to stop printing advance sheets and bound volumes of Illinois court opinions. Instead, it will only publish cases in electronic form on the Illinois Supreme Court website. Chief Justice Thomas L. Kilbride said the

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move is to save money and make the court more efficient: "So much legal research is now done online . . . that it makes the publication and purchase of official printed volumes unnecessary and a waste of money and resources." The new policy took effect last July.

Allowing lawyers to use and cite to cases found online has several benefits. Along with obvious ease of access, data management capabilities and immediate access to case law, the most significant benefit is that it doesn't require that lawyers pay for more costly commercial services to find and use judicial opinions. Instead, lawyers can simply go to the website and download the cases. Though significantly more cost effective, there is still room for improvement. The Illinois Supreme Court database, for example, is still quite difficult to use and doesn't provide very robust search tools. Lawyers often find it necessary to still use Westlaw, Lexis or print digests to find the cases, but these problems are becoming more the exception than the rule across the country.

Another benefit of having official opinions placed on a free database is that lawyers can cite the official opinion as soon as it is decided. Currently, most state courts produce a slip opinion until the official opinion is published by a commercial source. Placing the opinion on a public database and making it the official source, eliminates the need for slip opinions and lawyers do not need to wait weeks to be able to cite to the official opinion.

The shift to publishing cases on a public domain system has also caused courts to rethink how to cite to legal authority. Opinions published online may not contain page numbers, making it impossible to cite to the specific page in an opinion. Both the Bluebook and ALWD Citation Manual require that lawyers pinpoint specific page numbers in their citations. As a result, the state judicial system needed to develop a new citation system. In the process, it completely revamped the way lawyers must cite Illinois judicial decisions.

With the state's new public domain citation system, lawyers will instead cite to the paragraphs of the cases. The new rules imposed last summer require judges to number each paragraph of their opinions. In addition, the new citation form changes the entire form of the citation, no longer following Bluebook citation rules.

Under the new citation system, a citation will look like this:

Doe v. Smith. 2011 IL App (1st) 123456, ¶¶ 14-17.

This Illinois citation can be broken into five different parts:

- The name of the parties in italics — *Doe v. Smith*;
- The year of the decision — 2011;
- The court — IL or IL App (1st) or IL App (2d), etc.;
- The docket number for the Illinois Supreme Court or the last six digits of the docket number in the Illinois Appellate Court — 123456; and
- The reference to the exact location of the relevant material by paragraph number, known as the pinpoint citation — ¶¶ 14-16.

When an opinion is written, the judge is also required to include the correct citation at the beginning of the opinion, allowing lawyers to simply copy the citation form used by the judge. Even though the courts are not contracting with any publisher to produce printed copies of the cases, Westlaw, Lexis and other publishers will still make the opinions available and have begun including the paragraph numbers and citation as it appears in the official opinion.

At first, it might seem like courts will not be able to issue unpublished opinions because everything is placed online, but the rules allow judges to make orders unpublished by simply adding a “- U” at the end of the cite. An example of an unpublished opinion would look like this: *People v. Doe*. 2011 IL App (3d) 101010 - U.

Although the Illinois Supreme Court’s move to this new publishing and citation system is intended to save money and make legal research and citation easier, the lack of a simplified search court database in

Illinois requires lawyers to still use other such services first. Though clearly an evolutionary process, the courts need to pick up the pace to truly make research easy and inexpensive — updating their databases with the newest and most efficient technology.

Not surprisingly, law schools across the country are similarly evolving to expose students to these same advances. At The John Marshall Law School, for example, a number of new learning modules are being developed to train students on the types of

technology they will see while practicing law — including e-discovery and the electronic filing of documents. In fact, the first such learning module, on finding and citing to cases under the new Illinois Supreme Court Rules, will be made available, for free, to students and lawyers alike. The goal of such law school programs is to deliver “practice-ready” students to the legal marketplace and, in parallel, help speed the learning of these valuable technology advances across the legal community.