

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 18-9132

**ORDER ADOPTING THE RECOMMENDATIONS OF THE
JUDICIAL COMMITTEE ON INFORMATION TECHNOLOGY
FOR ACCESS TO ELECTRONICALLY FILED COURT DOCUMENTS
BY ATTORNEYS AND OTHER REGISTERED USERS THROUGH re:SearchTX**

The 75th Legislature created the Judicial Committee on Information Technology in 1997. *See* TEX. GOV'T CODE §§ 77.001-.032. To increase efficiency and transparency in the justice system, JCIT is required by statute, among other things, to develop a coordinated statewide computer and communications network, standards for an electronically based document system, and guidelines to protect the integrity and confidentiality of electronically stored information. TEX. GOV'T CODE § 77.031(3), (5)-(6).

In February 2017, the Supreme Court of Texas adopted previous recommendations from the Judicial Committee on Information Technology that provided for access to electronically filed documents by judges, clerks, and attorneys of record through re:SearchTX. *Order Adopting the Recommendations of the Judicial Committee on Information Technology for Access to Electronically Filed Court Documents by Judges, Clerks, and Attorneys through re:SearchTX*, Misc. Dkt. No. 17-9025 (Tex. Feb. 21, 2017).

As the previous order discussed, e-filing is more efficient and less expensive for parties and lawyers. It also makes possible access to e-filed court documents—e-access—that is more efficient for judges, clerks, lawyers, and parties, reducing costs to taxpayers, lawyers, and litigants. As importantly, by making court documents more readily available to the public, e-access provides greater transparency for the justice system that is critical to evaluating its operation, improving its procedures, and strengthening public trust. Like the statewide e-filing system, a statewide, e-access system offers many benefits both public and private. E-access also involves many difficult issues, including appropriate protections for legitimate privacy interests and funding for clerks' offices and local governments to support the system.

The limited access described by the 2017 order has been implemented, and JCIT has continued to study providing e-access to attorneys and other registered users through re:SearchTX. It has invited full input from all stakeholders—judges, clerks, local governments, lawyers, providers, and the public. At its public meetings on May 4, 2018, and June 13, 2018, JCIT approved the following recommendations to the Supreme Court for e-access for licensed attorneys and other registered users. Those recommendations, in substance, are as follows:

Role 4 — Licensed Attorney. A Licensed Attorney is an attorney licensed by the State of Texas that does not fall into Role 1 (Judge), Role 2 (Attorney on the Case, Visiting Judge), or Role 3 (Clerk).

Role 5 — Registered User. A Registered User is a user that does not fall into Role 1 (Judge), Role 2 (Attorney on the Case, Visiting Judge), Role 3 (Clerk), or Role 4 (Licensed Attorney), and registers in accordance with a process that promotes security and accountability.

Permission — Licensed Attorney. Licensed Attorneys can access case index information and all publicly available electronically filed documents relating to any case in which they may have an interest. This would exclude cases and documents that are restricted by Court Order, Rule, or Statute including documents containing un-redacted sensitive data (“Restricted Documents”).

Permission — Registered User. Registered users can access case index information and all publicly available electronically filed documents as set forth in the Technology Standards approved by this Court and the Court of Criminal Appeals.

Registration Process. To implement registered user access, it is necessary that the Office of Court Administration establish an online registration process that includes the identification information of the user such as name, address, phone number, email, and type of user similar to the eFileTexas registration process. The registration process should include requiring submission of a form of electronic payment.

Watermarks. Documents in re:SearchTX should be designated with a notation that the document is a “Copy from re:SearchTX.”

Safeguards. The re:SearchTX system should safeguard against cyberattacks and should preclude users from excessive downloading and consolidating, data mining, or accessing and selling records from the system without permission from the Office of Court Administration.

Fees. A fee of \$0.10 per page with a maximum of \$6 per document should be charged for documents retrieved for viewing or downloading from re:SearchTX by Licensed Attorneys and Registered Users. Attorneys employed by a legal aid entity funded by the Supreme Court should be exempt from these fees. Fees collected for this purpose should be remitted to the county from which the document originated. Once a document has been purchased, it should be available for download for up to 30 days.

After due consideration, the Supreme Court has concluded that these recommendations by JCIT should be accepted. It is, accordingly,

ORDERED that:

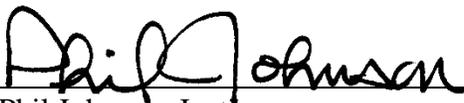
The Supreme Court of Texas adopts the foregoing recommendations of JCIT effective immediately. To implement the recommendations, the Office of Court Administration is directed to maintain for use by re:SearchTX an electronic copy of all e-filed documents, and all courts, clerks, and all other official custodians of court records are ordered to make all e-filed documents available to re:SearchTX.

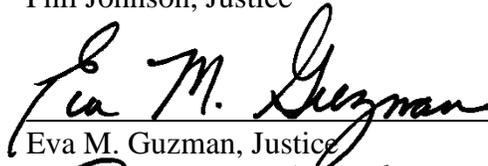
JCIT shall continue to review issues relating to privacy and access to e-filed documents and report regularly to this Court and the Court of Criminal Appeals.

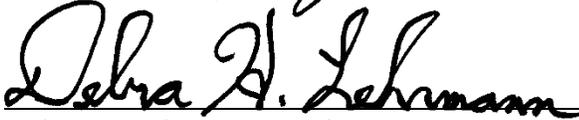
Dated: October 2, 2018.

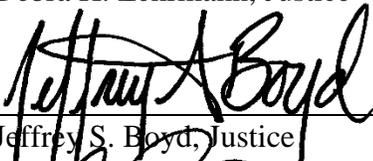

Nathan L. Hecht, Chief Justice

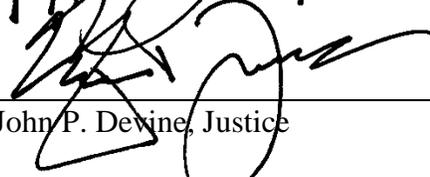

Paul W. Green, Justice

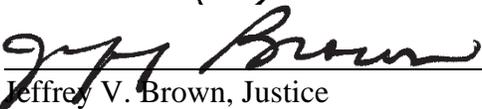

Phil Johnson, Justice


Eva M. Guzman, Justice


Debra H. Lehrmann, Justice


Jeffrey S. Boyd, Justice


John P. Devine, Justice


Jeffrey V. Brown, Justice


James D. Blacklock, Justice