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Interview Transcript

Judge Terence L. Bruiniers, Judge, Superior Court, County of Contra Costa; Chair, Rules Subcommittee, Judicial Council Court Technology Advisory Committee. The rules subcommittee drafted the e-filing rules of court adopted by the Judicial Council, effective January 2003.

See <http://www.courtinfo.ca.gov/rules/titlethree/title3-74.htm>

CCN: Why must courts tap into the powers of computers?

Judge Bruiniers: I think it's important for courts to use computer resources and the Internet simply because those are the technology tools that will let us bring the courts into the 21st century. I remember when I started on the Court Technology Advisory Committee about five years ago, we were still struggling to bring all courts up to a base level of technology with computerization, networking, Internet capabilities—things of that sort that a lot of smaller courts didn't have. We've met that challenge, we've got courts up to a base level of technology. We're now in a process of establishing a communications architecture for the courts statewide. We're developing a case management system that will be available for use of the courts statewide. We have the modern technology tools to bring the courts into the 21st century. The challenge that we see in times of lean budgets is the requirement that we do more with less. In the private sector they say that they need to do things better, cheaper, faster. And we really have the same challenges. The way we process cases today really isn't very much different than the way we did it 150 years ago. And we have the ability to do it better, we have the ability to do it more efficiently, and we have the tools to do it more efficiently. Our core function, the administration of justice, doesn't change—we still have that basic responsibility. But we have better tools to do it with.

CCN: What kinds of e-filing capabilities is your court in Contra Costa County now implementing?

Judge Bruiniers: We're implementing what I think will be one of the first projects in the state that will fully integrate e-filing with our case management system. In other words, we will be filing directly into our case management system, incorporating the data directly into our case management system. We're going to begin this project in the complex litigation department, which I run, and hopefully we'll have the ability to expand that to all civil case types, or at least make it available in all civil case types, within a year or two after we're up and running in Complex Litigation. We've already begun initiating e-service, using one of the vendors, in a number of our cases, and the bar has responded very positively to that. We will have full e-filing capability with complete imaging of our documents, hopefully within six months.

CCN: Describe how e-filing can benefit an area such as complex litigation.

Judge Bruiniers: Complex litigation cases typically involve multiple parties. We have some cases with 20, 30 or more parties. It involves usually a far higher volume of filing. It's a more efficient way for us to manage those cases, to process the paper. The attorneys are able to simultaneously file with the court and serve all other parties with the documents in the litigation. Those documents, as soon as they are received and accepted by the court, are immediately available online to the court, to any of the parties in the case, and ultimately to the public as well.

CCN: Tell us what you'd say to colleagues in other courts to inspire them to learn more about implementing e-filing.

Judge Bruiniers: First of all, don't panic. This does not involve the necessity to learn any complex or particularly sophisticated new technology. Any judge who has used a Web browser and surfed the Internet is familiar with all the technology that's required to use this system. And occasionally colleagues here will still say, "Well, you mean I'm going to have to sit there and squint at a screen and read every piece of paper on the screen?" No, that's not necessary, either. Again, we will have paper on demand for any documents that any bench officer wants to have in paper or may need to have in paper in a particular file. But instead of having to go through multiple volumes to find that paper, it's immediately accessible. You simply point and click and print out what you need in a particular case without having to search through 4, 5, 10, 15 volumes to find what you're looking for.

CCN: Describe how e-filing is being funded, here and state-wide.

Judge Bruiniers: We had the opportunity to use our Complex Litigation Grant funding to provide the seed money for the pilot project here. And the initial pilot project will be largely funded here, using that Complex Litigation Grant funding for last year and for this year. On an ongoing basis, we plan on adding a transaction charge for electronic filing. I think it's probably going to be about a dollar per transaction, which should be sufficient to provide the funding to keep the infrastructure that we need for e-filing and to expand e-filing beyond complex litigation into other civil case types. Statewide, the e-filing capabilities are being developed as a component of the new California Case Management System, which is under way right now.

CCN: Tell us when your new system will be up and running.

Judge Bruiniers: We've been through some slippage on the schedule. I suppose that's not too surprising. When we started the project we set a pretty aggressive schedule and we tried to shoot for a six-month schedule for implementation from our kickoff. And that was a little unrealistic to begin with. We expected that we would have some slippage. We've had some delays, some on technical issues, some I guess I would term political issues. But, again, not to be unexpected when we're using multiple vendors filing into the system. So I think we've managed to work through those issues. We now have a date—it looks like the end of March, the beginning of April—when we will be able to

have a fully operational system. We'll be able to begin testing before then. But that will still bring us online within a year of our kick-off, which I think is not too bad, considering the problems you have to deal with in a pilot project of this sort.

CCN: Describe the benefits of having uniform standards for e-filing through all California Courts.

Judge Bruiniers: Uniform standards are critical to have e-filing implemented and accepted by the bar. It's one of the reasons we adopted the rules of court. The Court Technology Advisory Committee promulgated the e-filing rules, and those were adopted by the Judicial Council in January 2003. We now have some uniform rules so that the courts know how they have to adjust their business process to accommodate e-filing. But more importantly, if we're going to have e-filing accepted by the legal community and widely adopted by the legal community, the bar needs to have a consistent user interface. They need to have a vendor that they can work with to file in the same manner, using the same tools, regardless of whether they're filing in Contra Costa County or Alameda County or San Diego County. There has to be that uniformity before the bar will accept e-filing.

And from the standpoint of the e-filing service providers—the commercial vendors out there that we hope are going to be the standard methodology for e-filing—rather than having the court directly receive the filing from the attorneys, they will file through a commercial service provider, a value-added service provider, who will then hopefully do the marketing and the development of e-filing with the bar. The e-filing service providers need to have a consistent set of standards to write to. That's one of the reasons that so many of the vendors that were trying to come into the e-filing market five, six, and seven years ago have kind of fallen by the wayside: they haven't had a uniform set of standards to address. And the problems were a lot more complex, trying to adjust to proprietary systems that different courts were trying to develop.

Now, in addition to the rules of court, an e-filing working group just adopted the second generation of electronic filing standards. Those are the technical standards that were just promulgated August 25th that give the technical community, the e-filing service providers, and the case management system vendors a common set of standards to work to. So I think, again, now we have that baseline of technology that the vendors can rely on, the case management system vendors can rely on, and the courts can work with.

CCN: Describe what it will be like for attorneys to use it once the system is in place.

Judge Bruiniers: Well, for the attorneys or more likely in most cases, their staff, the attorney will simply log on to an e-filing service provider's site. The two vendors we're going to be using in Contra Costa County in the initial portion of the project are Lexis Nexis and One Legal; each one of them has their own Web site. The attorney logs on to a password-protected site. The attorney's information is already captured by the e-filing service provider. And as they file into various cases, the case information is captured by

the e-filing service provider. The attorney or their staff will fill out some basic information about the nature of what they're filing, whether it's a complaint, an answer, or a motion, and then attach their pleadings to the filing, what we call the filing envelope. It's simply a matter of taking the word processing document that they already have in their computer and attaching in the same way you do an attachment to an e-mail. The only substantial difference is that for documents and exhibits that have to go with the pleadings, instead of putting that document into a copier and making multiple copies of it, it'll go into a scanner, and it'll produce an Adobe PDF-formatted document, which the filer will also attach to the pleading. At that point, they select the court that they're filing to. The e-filing service provider determines the filing fee for them. They also select who they're going to serve with the documents, and typically that's everyone else in the case. They hit "Send" and that's it. They receive an almost immediate acknowledgment from the e-filing service provider of receipt. They'll receive, shortly, thereafter, an acknowledgment that the court has received the document. When the document is reviewed and approved for filing, they will receive an electronic receipt confirming that the court had accepted the document for filing. And they receive a proof of service electronically, indicating that all the other parties in the case have then been served with the document. This is all, literally, within a matter of moments, unless there is some problem that results in rejection of the filing. But they don't need to worry about having a messenger with a check for the right amount, the filing fee.

From the court's standpoint, we simply collect the filing fee on a batch basis from the filing service providers every day, and we're not processing checks from the attorneys. And once the document is accepted for filing, within a matter of moments it's up, it's live, it's on the Web, and the attorney can go to the website and confirm that the filing is there. That attorney and any other party in the case, any other attorney in the case—and the court, of course—will then have immediate access to that document. If it's a request for a motion or for an order, sometimes, unless it requires a hearing, it's something that I as the trial judge would receive an e-mail on, notifying me that the filing was there. I can go to the Web site and look at it, see if it's something that requires immediate action. In some cases, I can do a notice and an order and have that processed and back out within an hour or so.

CCN: Any final thoughts?

Judge Bruiniers: I think it's an exciting project. I think it's important in these projects to acknowledge the work that's gone for a number of years to get us to this point. People like Judge Judy Ford, who used to be the chair of the Court Technology Advisory Committee, now retired, was one of the leaders in this area. Alan Slater, court executive officer from Orange County, has been working hard on these kinds of projects for years. They were the ones who were willing to take the lead and to absorb some of the pain on projects that were not successful but that were necessary to get us to the point where we can start implementing the projects. And certainly, there have been a number of people who've been working on these issues for a long time to get us to the point where we are now. I think that projects like this hold an enormous amount of promise for the court. It

gives us the opportunity to institute some real cost savings in a number of areas. And I'm looking forward to it.

Another thing that's going to be required to make projects like this work in other courts is some real active judicial involvement. It's not going to happen unless the bench is prepared to become actively involved, not just in participating but in sponsoring these projects, taking some real ownership of these projects. In addition to the bench involvement, you really need to have the full support of the court executive, which we have here. You need to have an IT staff committed to the project, which we have here. You need all of these components in order to make these projects successful.