

Summary of Court Users Group/ Berry Dunn Meeting on 9/28/20

Doug Rowe from Berry Dunn Consulting opened the Microsoft Teams meeting with the VBA Court Users Group in attendance at 12:00 p.m. on September 28. Mr. Rowe provided an agenda that included six items. Each of the agenda items is listed below, with a summary of the discussion related to each item. The Court Users Group provided a “Synopsis of Odyssey Issues That Require Immediate Attention” in advance of the meeting, linked [HERE](#).

1. Project Introduction – Act 120 Review

Mr. Rowe briefly referenced the requirement in Act 120 that the Judiciary meet with Odyssey court users to listen to and respond to court users’ experience with the Odyssey system and to examine alternatives to the per envelope e-filing fee charges. He noted that the Judiciary is also required to report to the Legislature regarding improving court users’ experience with the system, including costs, before October 30.

2. Workshop Purpose

Mr. Rowe explained that the purpose of the meeting was to discuss court users’ experiences to date regarding the Odyssey e-filing system, and to discuss opportunities for improvement of future phases of the e-filing system. The Court Users group is also scheduled to meet with Mr. Rowe on October 19. He is scheduled to meet with other court user stakeholder groups in the meantime.

3. Confirm desire for e-filing capabilities

This item on the agenda was not discussed in depth.

4. Discussion of e-filing experiences to date.

-Initial communications (prior to implementation). Mr. Rowe asked what initial communications consisted of, and whether the communications were helpful. Initial communications consisted of emails indicating that a new case management and e-filing system was coming, and the approximate timeline. There were email notifications about a bench bar in Windham and a bench bar in Windsor. Many attended with office staff, anticipating an instructive demonstration of the system. The sessions were described as disappointing and panic-inducing. Those who presented didn’t appear to have a good grasp of how the system would work in practice. There were technology issues during the presentations. The need for elevated access to view court records wasn’t made clear. Email communications also encouraged participation in a webinar, described in the next section. One person in the group had been invited to attend a user group session in the Fall of 2019 that was more helpful than the later sessions. Mr. Rowe observed that the pre-implementation sessions were more about education than training, when the communications had led users to anticipate training.

- Training (prior to and subsequent to implementation; formal and informal). Training materials on the Judiciary website at the time e-filing was launched in Windham, Windsor and Orange on April 20 were described as minimal and outdated. The audio connection for on-line training materials was poor. The webinar trainings were by a Tyler employee. They featured a small claims case as the sample case, and focused on how to make payments into the system. Instead of providing clear, step by step instructions, one training session was described as watching someone’s mouse clicking all over the screen without an adequate explanation of what the different choices were for selection. Following a VREF meeting in

June, where SA's and PD's were asked for input into their experience with the new rules, they indicated it was the first time they had been asked about their e-filing experience and provided numerous examples where improvement was needed. More docket-specific training materials were eventually added to the website. Only recently has training been provided specific to states' attorneys. Live trainings are preferred, so participants have the chance to ask follow-up questions. The Tyler webinar trainings are still lacking. Comments were that many issues are not addressed and e-filers have to take a "trial and error" approach to figuring out the answers to questions that arise in the e-filing process. At least one webinar was scheduled but didn't take place and no explanation was offered. A number of attorneys and office staff had logged on at the date and time indicated.

Numerous concerns about a lack of communication with law enforcement about the system and a lack of training for law enforcement about how to utilize the public portal of the system were expressed. Use of the system for Judicial Bureau is very different than use of the system for criminal or protection order matters. An example was given where a client was accused of violating an rfa that law enforcement could not locate in the system. Law enforcement throughout the state have not been able to verify conditions of release or the status of arrest warrants for defendants in the Odyssey courts.

Another training issue has been inconsistencies between how filings are handled county to county, and even clerk to clerk within a county. It would be helpful for court users to see what guidance is given to court staff, so court users can comply with the guidance. This would be especially helpful regarding rejected filings. A number of examples of filings being rejected for no stated reason or for invalid reasons have been offered. Court users don't blame court staff, recognizing the incredible strains that court staff are under to deal with the pandemic and the resulting backlog, as well as learning a new system during a time of high staff turn-over and vacancies.

- Support (i.e., Tyler and Judiciary). When court users have been able to connect to a knowledgeable docket clerk or to a knowledgeable court operations manager, they have been very helpful. More times than not, though, the direction is to contact the Judiciary Helpdesk or Tyler Support, It's not unusual for one to say that the other is responsible for the specific issue. Examples were given of days and even weeks before a response is given. A good number of times the response is that nothing can be done. With respect to the Judiciary Helpdesk, court users are sensitive to how overwhelmed the Helpdesk has been. Court users fear that the chances of the same Helpdesk being able to respond in a reasonable amount of time to the myriad of requests that will flow from a rollout to four new counties, including the largest one as well as a state-wide court, are small.

It's oftentimes unclear whom users should contact for specific issues. Mr. Rowe suggested a "crosswalk" where different support resources could be identified for different issues. An Odyssey "ombudsman" was also suggested, where one contact person per county would be the initial contact, who could route inquiries to the appropriate support resources.

Response time for support personnel has generally not been good. This has been especially frustrating when the issue is time sensitive or involves an emergency filing. As pointed out in the Synopsis of Odyssey Issues That Require Immediate Action, there is not an effective mechanism for bringing emergency matters to a judge's attention in a timely manner.

Mr. Rowe indicated that 25% of filers who responded to the survey didn't read the documents or attend a training before e-filing. It would be interesting to see whether those persons had less success or more

success navigating the system. The surveys were not provided to self-represented litigants, and it's unclear how much support self-represented litigants who wish to e-file are receiving. Mr. Rowe indicated that a "Guide & File" program for self-represented litigants is planned for the future but is presently not in production.

- **User Experience (i.e., usability, efficiencies, inefficiencies, system access)**. Court users in the BRACE counties note that documents in cases that have been scanned into Odyssey in advance of the e-filing roll-out have been difficult to locate in the portal. When the documents are located, information about the documents has been erroneously entered. Mr. Rowe asked that the specifics be emailed to him.

In addition to the concerns about delays in the acceptance of e-filed documents described above, concern was also expressed about delays in the courts emailing e-filed documents to the recipients. Examples were given of documents e-filed using the File and Serve option, and the recipient not receiving the document until many days later. When there is such a delay, it impacts response deadlines and also an attorney's ability to certify that service has been accomplished.

The lack of an effective mechanism for bringing time sensitive filings to a judge's attention was repeated. One example was a motion for a speedy trial in the criminal division that took thirty days to process, with inordinate processing delays at each juncture while the client waited in jail. Although Mr. Rowe indicated that the VREF allow for an exception in this situation, VREF 3 doesn't include an exception for delays in court processing times. Another example was an attempt to file a document in the probate division that was repeatedly erroneously rejected. Similarly, the VREF don't include an exception for processing errors. When asked if the processing delays were more in the past or whether they continue today, an example was given of a family filing that was filed on September 22 and was not served via email until September 28.

Brief mention was made of the current hiatus regarding the imposition of e-filing fees. An example was given of an e-filing fee recently charged for an appeal to the Vermont Supreme Court. Mr. Rowe asked that the details be sent to him.

Time didn't permit more discussion of court users' experience, but the Synopsis of Odyssey Issues That Require Immediate Correction spells out numerous critical issues that remain unresolved:

- Inordinate delays in processing e-filed documents
- No effective mechanism for judges to receive emergency filings in a consistently prompt manner
- Inordinate delays in transmitting court orders and hearing notices to parties
- Numerous documents rejected for no reason or for erroneous reasons
- Parties not being served with e-filed documents because of improper service contacts due to ineffective training
- Duplications and errors in the public contacts list
- Inability to file the same pleading simultaneously in multiple dockets, resulting in added burdens and opportunities for error for both e-filers and court staff
- Inconsistencies between hearing details in the Odyssey system versus on the court calendars

- Inability to access court records unless a notice of appearance is filed
- Search functions require in-depth exploration to an unreasonable extent
- No clear mechanism for alerting the Judiciary of e-filing issues and troubleshooting those that warrant immediate correction
- Low-income litigants' and many self-represented litigants' lack of access to e-filing system due to lack of technology resources

5. Considerations for Future E-Filing Phases

This item on the agenda was not discussed in depth due to time constraints, but presumably the points raised regarding ineffective communications, inadequate training, poor support response time, and numerous usability issues described in Agenda Item 4 inform what changes should be made in the same four areas regarding future e-filing phases.

5. Review and next steps – The Court Users Group is scheduled to meet with Mr. Rowe on October 19 from 2-4 p.m. Mr. Rowe will share the information he gathers from the court user groups that he's scheduled to meet with between now and then. The meeting ended at 2:10 p.m.