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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

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The Honorable John D. Bates
Director
Administrative Office of the Courts
One Columbus Circle, NW
Washington, D.C. 20544

September 12, 2014

Dear Judge Bates:

On August 10, 2014, the Administrative Office of the Courts (“AO”) announced that it will no longer provide electronic access to several decades of closed case files through Public Access to Court Electronic Records (“PACER”). Citing incompatibility with the next generation of the Judiciary’s case management system, the AO removed the following cases from PACER and advised the public that they would now have to obtain these case files directly from each court:

- U.S. Court of Appeals for the Second Circuit (cases filed prior to January 1, 2010)
- U.S. Court of Appeals for the Seventh Circuit (cases filed prior to January 1, 2008)
- U.S. Court of Appeals for the Eleventh Circuit (cases filed prior to January 1, 2010)
- U.S. Court of Appeals for the Federal Circuit (cases filed prior to March 1, 2012)
- U.S. Bankruptcy Court for the Central District of California (cases filed prior to May 1, 2001)

Created over 25 years ago, PACER is home to millions of court documents that were previously accessible only by requesting them from the relevant court. This often involved a trip to the court clerk’s office and cost considerable time and money. While PACER is not perfect, it provides a significant benefit to the public: at the stroke of a few keys, the public can now search for important briefs, court orders, written opinions, and other related filings, and receive the information instantaneously. Servicing over a million users in the last few years alone, PACER has not only dramatically improved access to information, it has helped increased transparency of the federal judiciary.

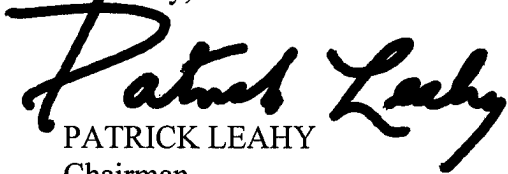
Wholesale removal of thousands of cases from PACER, particularly from four of our federal courts of appeals, will severely limit access to information not only for legal practitioners, but also for legal scholars, historians, journalists, and private litigants for whom PACER has become the go-to source for most court filings. It is additionally concerning that this announcement was made without any warning to the public, and without prior notification or consultation with Congress. Moreover, the AO’s announcement did not detail what steps, if any, are being taken to ensure that these important case files are properly preserved.

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We live in a digital age. Requiring requesters to travel to the clerk's office of individual courts to retrieve actual documents, or to submit an email request and wait several days for a response, is a dramatic step backwards from the centralized system that PACER provides. Furthermore, it is reported that requests made by email to individual courts could incur a \$30 to \$60 processing fee—a troubling increase in costs compared to the 10 cents per page that is currently charged to retrieve documents from PACER. PACER was designed to provide easy and affordable access to all members of the public, not just those who have the time and resources to submit lengthy and numerous requests to the courts.

Given the potential impact of the AO's recent decision, I urge that the AO take immediate steps to restore access to these documents. If you have any questions, please contact Chanda Betourney of the Senate Judiciary Committee at (202) 224-7703. Thank you in advance for your assistance in this matter.

Sincerely,

A handwritten signature in black ink that reads "Patrick Leahy". The signature is written in a cursive, flowing style with a large initial "P".

PATRICK LEAHY

Chairman

Senate Judiciary Committee