



June 30, 2008

James C. Duff, Director
Administrative Office of the U.S. Courts
Secretary to the Judicial Conference of the United States
One Columbus Circle NE
Washington, D.C. 20544

RE: Public Access to Opinions of the U.S. District and Bankruptcy Courts
E-Government Act of 2002 and Reauthorization

Dear Director Duff:

Thank you for your letter of June 2, 2008 describing the efforts of the Administrative Office's Electronic Public Access (EPA) Working Group and the Judicial Conference's Committee on Court Administration and Case Management. I am aware of the challenging issues facing these committees in the areas of technology and privacy relating to public access.

I would very much wish to have a face to face meeting with one or more members of these committees to discuss the issues I raised in my May 7 and May 9 letters.

Specifically, I would like to know whether there are barriers to my suggestions as to which I am not aware. I hope I have not taken a simplistic view as to what is entailed in moving over all opinions to a separate directory available for search engine indexing and bulk downloading, with some type of meaningful and persistent file name for each opinion.

I would also like to know if there is a roadmap to making these lower court opinions more available, and the steps and timeframes in that roadmap.

Further, let me add that providing greater access to the lower court opinions requires resolution of a number of "minor" and "technical" issues. Only by addressing the minor issues will the overall major and important objectives be reached.

With that in mind, I would like to provide some more supporting information concerning just two "minor" issues as to possible non-compliance by some courts with the E-Government Act. Of course, I do recognize the very full glass, and by these comments I do not wish in any way to disparage any court or the efforts of the Judiciary.

The two following examples are illustrative only, and, I am not trying to single out any particular court.

1. Not Providing Opinions Text Searchable Opinions.

Alas, the Southern District of New York posts many opinions which are not text searchable. In some opinions, the text is searchable, except for the last page containing the court's signature. On the other hand, this Southern District does seem to do a good job of marking as written opinions only substantive opinions, rather than including minor orders.

2. Marking Large Numbers of Non-substantive Order as Written Opinions

The Northern District of California is one of many courts which mark as "Written Opinions" a large number of mere orders such as scheduling orders, orders setting hearings, notices of case status, etc. to the point that it is not possible to easily identify written opinions in the written opinion report. Clearly, the Northern District of California, as compared to the Southern District of New York, has a completely different concept of what should be marked for the Written Opinions report.

I would appreciate your forwarding my letter to the EPA Working Group and the Committee.

Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Alan D. Sugarman".

Alan D. Sugarman

cc: Senator Joseph I. Lieberman
Senator Susan M. Collins