



2 September 2020

Karen Mitchell
Clerk of Court
United States District Court
1100 Commerce Street, Room 1452
Dallas, TX 75242

Re: Expanding RSS feed functionality in your district

Dear Clerk Mitchell,

I am writing in response to your invitation, as relayed to me by Chief Deputy Lyon, on the topic of the Court's recent changes to the RSS feed of recent filings in your district. I am the executive director of Free Law Project, a 501(c)(3) non-profit organization in Oakland, California that works to make the U.S. legal system more fair and efficient. To put it simply, we are delighted that you have chosen to enable this feature. This is a huge win for the public and the judicial system.

Chief Deputy Lyon has informed me that your Court Advisory Committee carefully discussed enablement of RSS feeds during their last meeting, and that the following categories of filings were enabled in the feed:

order, order-cr, charge-cr ,cmp, and answer

Lyon explained that, "these categories provided notice of the most important information without cluttering the feed with every document in every case." While I understand this sentiment and I applaud the changes so far, I am writing to urge you to either expand your default feed to include all entry types or to create a *second* feed that has all entry types.

Having contacted many courts about this topic, our observation is that many courts and ECF administrators do not realize that the latter option — creating multiple RSS feeds — is possible, and for reasons similar to those explained by Chief Deputy Lyon, they make configurations similar to yours. However, during our study of this feature, we learned that the Eastern District of Arkansas has several feeds. One

has criminal charging documents,¹ another has civil complaints,² and their default feed simply has everything.³ If my understanding of your Court's current approach is correct — that the goal is to provide an uncluttered feed for those who want it — then I believe providing several distinct feeds in this way is a simple solution that should satisfy all stakeholders. Those who want an uncluttered feed can have the current one, and those that want a complete one can have a new one at a separate location.

In the alternative, if having multiple feeds is not feasible at your Court, then I urge you, and the Court Advisory Committee if necessary, to again consider including all filing types in your feed. Doing so changes the feed from something that can be relied on to learn about new cases into something that can be relied on for *both* new cases and new filings — it makes it more useful.

This change is also expected to soon be the recommendation of the Administrative Office of the U.S. Courts. In their recently-published notes from the June PACER User Group meeting, they state that they will, “conduct outreach this summer to encourage all federal courts” to “fully and consistently implement RSS feeds.”⁴ The Reporter's Committee for Freedom of the Press, a national organization representing numerous media organizations, also recently stated that, “every court should implement a *complete* RSS feed as an efficient means of notifying the press and public about case developments” (emphasis added).⁵

In supporting your current configuration, Chief Deputy Lyon explained that in your district the public can sign up for Notices of Electronic Filings (NEFs), and that such notices can fill the gap created by the current configuration of the RSS feed. That is, interested parties can learn about cases through the feed, and then use NEFs to stay up to date. We acknowledge that this is true, but in our experience talking to journalists and other PACER users, we have learned that NEFs are a tool that is only used by the most advanced PACER users — most users do not know the feature exists and would never think to sign up for the service. Indeed, these notices are not mentioned at all in the PACER User Manual,⁶ and there is no reference to them that I am aware of anywhere within the PACER system itself.

1 https://ecf.ared.uscourts.gov/cgi-bin/rss_outside2.pl

2 https://ecf.ared.uscourts.gov/cgi-bin/rss_outside3.pl

3 https://ecf.ared.uscourts.gov/cgi-bin/rss_outside.pl

4 https://www.uscourts.gov/sites/default/files/epa_public_user_group_conference_call_minutes_june_2020_0.pdf

5 <https://www.rcfp.org/appeals-court-ruling-pacer-fees/>

6 <https://pacer.uscourts.gov/sites/default/files/files/PACER%20User%20Manual.pdf>

Furthermore, even for those advanced users that know NEFs are available, a key distinction between getting information from a complete RSS feed versus through NEFs is that the feed happens by default and the NEFs require that you take an affirmative step to receive updates. This adds friction to the process of learning about new filings.

Complete feeds are also consistent across jurisdictions. This means that the people who use and rely on the various feeds do not have to remember what is available from each court, because everything is simply available everywhere. By contrast, when partial feeds are configured, users have to remember which feeds provide which entry types, and have to adjust their work accordingly. They must ask themselves questions like:

“Is the Western District of Oklahoma complete, or was that the Eastern District?”

“Will I learn about cases as they come out in the Northern District of Texas or do I have to wait until there’s an order in that jurisdiction?”

These kinds of questions, created by differences between jurisdictions, make legal practice more difficult for those that study, follow, or work in more than one jurisdiction. Such differences are often unnecessary, and we hope that by making all feeds complete, we can avoid these jurisdictional differences in RSS feeds going forward.

The final stakeholder that benefits from complete RSS feeds are legal technology providers. While the needs of these companies can sometimes be easy to dismiss, it is important to recognize that they too are contributing to a fair and just legal system. Like journalists and the public generally, many organizations use RSS feeds to learn about new filings so that they can notify their users. When RSS feeds are complete, legal technology providers can rely on them to notify their users about new filings. When the feeds are partial, providers must develop slower, more expensive, and more convoluted approaches to solving the problem. Serving legal technology providers also serves their users so they can stay more up to date with filings in various cases.

In summary, the AO has stated that they will soon encourage complete feeds across all jurisdictions. We believe that for consistency, simplicity, and empowerment, that is the best way forward, but we also want to emphasize that this may not be an

either/or problem — it should be possible to configure multiple RSS feeds to satisfy all stakeholders.

We are thrilled that the Court has enabled their feed, and we hope the Court will consider reconfiguring it to be complete.

Thank you for your time and consideration,

A handwritten signature in black ink, appearing to read 'Michael Lissner', with a long horizontal line extending to the right.

Michael Lissner
Executive Director
Free Law Project

CC: Chief Deputy of Operations Leigh Lyon