

A P P E N D I X IS E A R C H F E E G U I D E L I N E SI n t r o d u c t i o n

The following guidelines reflect, to the maximum extent possible, (1) the duty of the Clerk's Office to provide access to the court's records, and (2) the efficient use of the limited resources available in the Clerk's Office. These guidelines attempt to strike a fair balance between these two competing concerns. In addition, the guidelines are intended to be consistent with the search fee applicable to the other federal courts.

The guidelines are meant to inform the clerk's discretion, not to limit it. Thus, the guidelines are not meant to be hard-and-fast rules on the application of the search fee; rather, they are meant to be parameters within which the Clerk's Office may operate.

**Guideline No. 1**

*Any information which is easily retrieved, with a minimum expenditure of time and effort, will be considered a non-chargeable "retrieval," as opposed to a chargeable search. A search fee will not be charged for a single request for basic information readily retrievable through an automated database. A request of this nature will be considered a "retrieval" and will not be considered a "search."*

The advent of the automated database has greatly diminished the resource strain on the Clerk's Office when retrieving basic information about a case. Basic information is defined as any information which is easily retrievable from an automated database or from the front of a docket sheet. Basic information which may be retrieved without a search fee may include: (1) the name of a party when the case number is provided; (2) the number of a case when the plaintiff or defendant is known; (3) the date a summons or complaint was filed when the case number is provided; (4) the name of a party's attorney when the case number is provided; (5) the status of the case generally when the case number is provided.

The public is encouraged to come to the court to conduct searches for information, and to utilize the court's automated database. Within limits, the Clerk's Office will assist those attempting to use the docket sheets or computers placed for the public's use.

If the request is made by telephone, and does not require a written response, no charge will be imposed if it is a single request and can be answered easily by examining a docket sheet or through the automated database.

**Guideline No. 2**

*A search fee will be charged for any request for which accurate court number and docket information is not provided by the requestor and which therefore requires a physical search of the court's records.*

A request for information where documents or pleadings are not identified by the requestor, with accurate and complete court number and docket information, and which therefore requires a *physical* search of the court's records (whether automated or hard copy) will be considered a "search" which is properly chargeable.

**Guideline No. 3**

*With limited exceptions, a fee will be charged for all written search requests which require a written response.*

A written request is defined as any search request made in writing which requires a written response. Because of the time and resources which must be expended in order to respond to a written request, such a request will be considered a search which is subject to the fee, even if the request is for basic information which may be obtained from an automated database or the docket sheet. An exception is the situation where a written request for "basic" information (as defined above), can be responded to by having the Clerk's Office staff provide a handwritten response on the requestor's letter (as opposed to requiring a separate document in response) and where the requestor has provided a self-addressed, stamped return envelope. In this situation, the time and effort involved do not warrant the imposition of the search fee.

The search fee should be included with the request, and the Clerk's Office will not process a written request until the search fee is received.

**Guideline No. 4**

*Where requested information is available on an automated database, a requestor seeking information via the telephone may be required to utilize that database, instead of having a court employee conduct the information retrieval.*

Much basic information which is sought may be retrievable by a requestor through an automated database without the need for any direct communication with a court employee. In order to maximize the utility of the court's automated database and minimize the expenditure of court personnel time, the court may require a requestor to use that database. This guideline is applicable when users can reasonably be expected to avail themselves of that particular service.

**Guideline No. 5**

*When an automated database is available, a computer terminal with suitable data protection will be made available for use by the public.*

When a computer terminal is available for use by the public, the court may adopt the policy set forth in Guideline No. 4 for in-person requests for basic information, i.e., the Clerk's Office may require

an in-person requestor to utilize the public computer terminal rather than having a Clerk's Office employee retrieve the information.

#### **Guideline No. 6**

*Requests for archived documents shall be charged only the archive retrieval fee and not the additional search fee.*

Item 8 of the court's Schedule of Additional Fees provides that a fee shall be charged for retrieval of a record from any place that such record may be archived. The Schedule of Fees does not refer to any additional fee for such retrieval, and the court did not contemplate two separate fees (one for the request and one for the retrieval) to be charged when a particular document is off-site.

However, the search fee may be charged to an individual who makes a request to the Clerk's Office for box, location, and accession information of a document in order to conduct his or her own search of the Records Center. In such a case, a physical search of the court's records would be necessary in order to obtain the information, and a search fee would be appropriate.

In order to reduce the time involved in responding to these types of requests, and also to make this information more accessible to the public, the court may automate this information or make a duplicate accession number book available to the public.

#### **Guideline No. 7**

*The clerk has the general authority to refuse to conduct searches which are unreasonable or unduly burdensome.*

The clerk of court has the responsibility of being responsive to parties in interest in cases pending in the court. However, this does not mean that either the public or government agencies have an unfettered right to make unreasonable or unduly burdensome demands upon the resources and personnel of the Clerk's Office. The clerk will refuse to conduct searches which would require a disproportionate expenditure of time and/or resources, and will encourage entities making such requests to conduct their own search of court records. This includes a request for information which, instead of comprising a single request, includes a list of numerous names or items to be searched. Such requestor will be encouraged to utilize the court's automated database to obtain the desired information.

This procedure applies to federal agencies as well. Although search and copying fees are waived for federal agencies, the clerk is not required to accommodate search or copy requests from such agencies which are unduly burdensome or time-consuming. Because of the volume of requests that often comes from federal agencies, the court may invite or encourage federal agencies (or a local representative), to come into the court to conduct their own searches and will allow them to use court copy facilities.

**A P P E N D I X I I**

**ADVISORY NOTE**

The court, consistent with the policy of the Judicial Conference of the United States, has prescribed a fee for electronic access to court data, as set forth in the court's Schedule of Fees. The schedule provides that the court may exempt persons or classes of persons from the fees, in order to avoid unreasonable burdens and to promote public access to such information. Exemptions will be granted as the exception, not the rule. The exemption language is intended to accommodate those users who might otherwise not have access to this information in electronic form. It is not intended to provide a means by which the court would exempt all users.

The court has determined that the following persons and classes of persons are exempt from the electronic public access fees: pro-se plaintiffs in trade adjustment assistance actions; indigents; bankruptcy case trustees; not-for-profit organizations and voluntary ADR neutrals.