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Letter to Donna Bausch regarding Westlaw, December 4, 1992

Ed Edmonds

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December 4, 1992

Donna Bausch
Law Librarian
Norfolk Law Library
1300 Dominion Tower
999 Waterside Drive
Norfolk, VA 23510

Dear Donna:

Please find attached a copy of a letter to me from Wendy Crowdus, President of the Houston Area Law Librarians, regarding DIALOG access through the Westlaw Service. I would be interested in your thoughts on this subject, and I would be happy to relay any information directly to West or back to Wendy Crowdus. Thank you.

Sincerely,

Ed Edmonds
Associate Dean for Academic Affairs and Director of the Law Library

EE: jt

Enclosure
November 5, 1992

Edmund P. Edmonds
President
Southeastern Chapter of the American Association of
Law Libraries
Loyola University School of Law Library
7214 St. Charles Avenue
New Orleans, LA 70118

Dear Fellow Chapter President:

The Board of Directors of the Houston Area Law Librarians (HALL) met on October 21, 1992 and adopted the enclosed resolution, which I have sent to Mr. Dwight D. Opperman, President and CEO of West Publishing Company, with copies to Mr. Thomas J. McLeod, Manager of WESTLAW Account Management & Government, and to Mr. Patrick Tierney, President of DIALOG Information Services.

HALL’s concern for the difficult and potentially damaging situation for law librarians and the legal community created by WESTLAW’s policy of unrestricted access to DIALOG on WESTLAW for all holders of WESTLAW passwords developed in our chapter’s Professional Development SIS. Previously, individual chapter members who were also law library managers attempted to persuade our local WESTLAW office to block DIALOG on WESTLAW for selected passwords. WESTLAW has steadfastly refused to allow selective password access to DIALOG on WESTLAW despite the precedent for limited access set by vendors such as Mead Data Central and INFORMATION AMERICA. The HALL Board concluded that this policy on the part of West Publishing severely compromises the ability of law librarians to fulfill their responsibilities as information managers for their organizations. (I am also enclosing a copy of Connie Pine’s article "The Managerial Librarian," a version of which was published in the September/October 1992 issue of PLL Perspectives. This article provides a thorough discussion of the information resources management issue.)

On behalf of our Board of Directors, I urge you to discuss this important issue with your Board of Directors, and if you are in accord with the resolution of the HALL Board, to join us in our effort to persuade West to reconsider its policy with a similar resolution. Please feel free to incorporate any or all of our wording into your own statement.
I am including a number of enclosures that I believe will help to clarify this issue and enable you to develop your own response as quickly as possible.

Sincerely,

Wendy Crowdus
President
Houston Area Law Librarians
November 3, 1992

Mr. Dwight D. Opperman
President and CEO
West Publishing Company
610 Opperman Drive
Egan, MN 55123

Dear Mr. Opperman:

The Board of Directors of the HOUSTON AREA LAW LIBRARIANS, a chapter of the AMERICAN ASSOCIATION OF LAW LIBRARIANS, met on October 21, 1992 and adopted unanimously the enclosed resolution.

For many years law librarians and WEST PUBLISHING COMPANY have pursued a course of mutual commitment and support in their efforts to provide the legal community with the most complete and accurate information available. The recent configuration of unrestricted access to DIALOG on WESTLAW for all holders of WESTLAW passwords, however, severely compromises and impedes the fulfillment by law librarians of their professional obligation to guide users to complete, reliable, and cost effective results from the range of information sources available and necessary to the legal process.

The Board of Directors of the HOUSTON AREA LAW LIBRARIANS recognizes that the consequences of relaxed quality control in the provision of information sources may be costly and grave - to the legal community and to information vendors and providers. Accordingly, the Board of Directors of the HOUSTON AREA LAW LIBRARIANS submits the enclosed resolution to WEST PUBLISHING COMPANY and respectfully requests that it change its policy to facilitate selective password access to DIALOG on WESTLAW. By so doing, WEST PUBLISHING COMPANY will continue to support the efforts of information professionals to provide an ever improving environment for the acquisition of accurate, appropriate, current, complete, and cost effective information. At the same time, WEST PUBLISHING COMPANY will provide further evidence of its reputation for integrity and its commitment to excellence.

Sincerely,

Wendy Crowduz
President, Houston Area Law Librarians
cc: Thomas J. McLeod, West
Pamela Kleintop, West
Patrick Tierney, DIALOG
Joyce Camp, DIALOG
Tina Byrne, DIALOG
RESOLUTION

WHEREAS, WEST PUBLISHING COMPANY, which has maintained a reputation for integrity and high standards, has been a longtime friend and partner of lawyers and law librarians alike; and

WHEREAS, WEST PUBLISHING COMPANY has provided an excellent legal research tool in WESTLAW; and

WHEREAS, law librarians, as information resources managers, are commissioned to search out and select the best sources to provide for their organizations' information needs; and

WHEREAS, sources of non-legal information are large in number and vary widely in accuracy, currency, and price; and

WHEREAS, the consequences of a relaxed quality policy in the acquisition of non-legal information can be costly and grave to all concerned; and

WHEREAS, making non-legal databases available indiscriminately in law firms and corporations is imprudent and irresponsible in terms of quality assurance; and

WHEREAS, WESTLAW is widely distributed within law firms and corporate legal departments, frequently with no restrictions at all; and

WHEREAS, unrestricted distribution of DIALOG on WESTLAW disables an organization's system for guaranteeing the best choices in the selection of sources of non-legal information: Therefore be it

RESOLVED, That the association known as HOUSTON AREA LAW LIBRARIANS, a CHAPTER of the AMERICAN ASSOCIATION OF LAW LIBRARIES, respectfully urges WEST PUBLISHING COMPANY to honor the commitment to quality and service that it shares with law librarians by respecting its role as provider of information resources, and, at the same time, respecting the law librarian's role as selector and manager of information resources; and be it

RESOLVED further, That the aforementioned association hereby formally calls upon WEST PUBLISHING COMPANY to modify its distribution policy for DIALOG on WESTLAW by allowing corporate and law firm information resources managers who wish to do so to specify which of their WESTLAW users shall have access to the DIALOG databases on a password by password basis.
ADOPTED, by the Board of Directors of Houston Area Law Librarians, this twenty-first day of October, 1992.

Margarette Bull
SECRETARY

Kenny Crowder
PRESIDENT
RESOLUTION TO WEST PUBLISHING COMPANY:

MR. DWIGHT D. OPPERMAN
PRESIDENT AND CEO
WEST PUBLISHING COMPANY
610 OPPERMAN DRIVE
EGAN, MN 55123

COPIES TO:

MR. THOMAS J. MCLEOD
MANAGER OF WESTLAW ACCOUNT MANAGEMENT &
GOVERNMENT RELATIONS
WEST PUBLISHING COMPANY
610 OPPERMAN DRIVE
EGAN, MN 55123

AND

MR. PATRICK TIERNEY
PRESIDENT
DIALOG INFORMATION SERVICES, INC.
3460 HILLVIEW AVENUE
PALO ALTO, CA 94304

AND

LOCAL WESTLAW REPRESENTATIVE

AND

REGIONAL DIALOG REPRESENTATIVE

AND

DIVISIONAL DIALOG REPRESENTATIVE
MEMORANDUM

TO: Wendy Crowdus, President
    Board of Directors
    Houston Area Law Librarians

FROM: Rosemary Minard and Connie Pine, Co-coordinators
    Professional Development SIS
    Houston Area Law Librarians

DATE: October 20, 1992

RE: Proposed Resolution to West Publishing Company

The Professional Development SIS of HALL met on June 18, 1992, and voted
unanimously to recommend that the HALL Board of Directors officially address the issue
of DIALOG on WESTLAW as it affects the ability of private law librarians to fulfill
their professional responsibilities regarding information format and source selection. The
SIS requests and recommends that the Board issue a formal resolution on behalf of
HALL, protesting West Publishing Company's policy of refusal to allow private
organizations which subscribe to Westlaw to determine which password holders within
their organizations shall have access to DIALOG on WESTLAW.

West's inflexible policy of mandatory unrestricted access to DIALOG on WESTLAW
is a departure from precedent. Mead Data allows private law libraries to subscribe to
LEXIS without subscribing to NEXIS as well. It also offers selective password access
to NEXIS. INFORMATION AMERICA and PRENTICE HALL ONLINE offer
blockage of access to their DUNS services. West continues to facilitate selective
password access to its several gateway services. These flexible and sensible policies
enable the private law librarian to fulfill information management responsibilities.

When WESTLAW announced the debut of DIALOG databases on WESTLAW, many
librarians requested that the DIALOG access capability of some or all of their users'
passwords be blocked. Two Houston private law librarians were successful in having
passwords blocked, but West otherwise responded to the requests for blocking by saying
that it could not be done. It was later learned that this refusal was not a matter of
technological capability, but rather one of unilateral policy.
Eventually, West discontinued blocking passwords at the two private law libraries mentioned earlier, adamantly refusing to modify DIALOG policy in order to accommodate information resources policy at subscriber institutions.

It is of utmost importance that law librarians press West to reverse its policy. The choice of the most appropriate and economical format and source for information retrieval is one of the librarian's foremost responsibilities to his or her institution. A number of factors are involved in the selection of appropriate non-legal information resources, among them accuracy, currentness, reliability of search results, and cost. These factors vary widely among many competing resources. The only person within a corporate or law firm environment who is equipped to evaluate the various resources is the librarian. Even if DIALOG on WESTLAW were perfect (and it is not), the best resource for requested information may be another database vendor or another format altogether (print, microform, CD-ROM, vertical file, e-mail, telephone call, etc.). A searcher who retrieves data from DIALOG on WESTLAW may unwittingly secure information that is dated or incomplete. He or she may receive an indication that a search has resulted in no hits when in fact there are many hits.

When access to non-legal databases is indiscriminate, the effective management of non-legal information resources is greatly impaired. By extension, the information resources management policies of the legal departments and law firms are compromised.

Perhaps we as law librarians have become accustomed to feeling totally powerless against powerful publishers. Perhaps we have become comfortable in that powerlessness. Perhaps that powerlessness does not exist. Perhaps, if we combine our efforts, we have quite a lot of power indeed. The Professional Development SIS believes that librarians must be vigilant in their efforts to protect sponsoring institutions from the financial losses, liability consequences, and general confusion that may result from their inability to provide users with appropriate guidance and formats.

We urge the Board of Directors of Houston Area Law Librarians to adopt the enclosed Resolution. We further urge that the Board send copies of the Resolution and accompanying memorandum to all other AALL chapters and to the Council of Chapter Presidents, urging each group to support our effort by adopting the Resolution and sending it to West Publishing Company and DIALOG. Finally, we recommend that, when adopted, this Resolution be published in the HALL Newsletter in order to inform the membership.

We thank the Board in advance for its support in this matter.
Whatever the combination of words that make up a private law librarian's title, the essence of the job description is always management. We manage people, money, space, data, and time in order to provide and manage information resources. The providing of information services frequently keeps us so busy that we may not be fully attentive to our roles as managers. But managers we are, and, because of the dramatic expansion in numbers and types of information resources available for our use, the job has been growing increasingly complicated in recent years. Currently, this is particularly true with regard to the management of online resources.

Gone forever are the days when the definition of information resources was limited to purchased print materials and microforms, the vertical file, and the telephone to the outside world. And thankfully so. The outside world has become the inside world and the variety of its manifestations is mind-boggling.

The number of useful online services seems to increase daily. New interlibrary networks appear, offering additional sources of information and different means of information delivery. More and more libraries and companies are offering fee-based information and document retrieval services. CD-ROM technology is looking for a niche. And an organizational LAN or WAN is becoming the norm.

While an ever expanding world of information resources and better methods of delivering them is exciting and rewarding, the proliferation of electronic formats and information sharing capabilities greatly impacts our management of information resources. Our chief concerns relate to the relative value and cost of information which is available from multiple sources.

The issue of cost is obvious. Law firms are in fierce competition for new business. At the same time, their longtime clients are shopping elsewhere for better prices. Clients are insisting on negotiated attorney fees rather than the traditional hourly billing methods. Often clients refuse to pay for some or all online charges; at other times, they refuse to pay for any markup on online costs. All private law librarians are struggling with ever tighter budgets. Recognizing that the economics of the legal
marketplace are different now, we are obligated to continually seek and select the most cost efficient means of meeting the information needs of our organizations.

The issue of value is equally obvious. When a law firm or corporation hires a law librarian, the expectation, whether explicit or implicit, is that the librarian will provide the very best in information resources while keeping the costs as low as possible.

Meeting this expectation has become a major challenge requiring constant evaluation and re-evaluation of new and existing information sources. Because all sources are not equal, our evaluation of potential sources must be based on completeness, accuracy, currency, timeliness of delivery, appropriateness of format, and cost.

Sources of legal information have been relatively limited in terms of format and have consequently required minimal management attention. WESTLAW and LEXIS are frequently made available to all interested and trained attorneys and legal assistants within a law firm or corporate legal department. These users have become familiar with WESTLAW and LEXIS and are usually able to search successfully. They are generally knowledgeable about the online and traditional options for the legal information they are seeking. They are encouraged to use online legal services as research tools, combining them with print, CD-ROM, and microform materials.

Both LEXIS and WESTLAW are totally word-searchable, very straightforward, and worthy of user confidence. The cost of using either WESTLAW of LEXIS is significant, but neither seems consistently more expensive. LEXIS does provide the searcher an opportunity to control costs somewhat: subscribers may request that each user be assigned both hourly and transactional passwords. This option permits the user to perfect searches or do several different searches on the hourly password, and then switch to the transactional password if online browsing is required.

The management of non-legal information resources is much more complicated, particularly with regard to online services. Law librarians find what seem to be the same databases appearing on multiple services. A closer examination reveals that, although they may come from the same ultimate producer, important differences exist which render them unequal in value. When selecting non-legal online services, currency and frequency of update become significant issues. Quality and cost can vary dramatically between systems. Search logic and file structure can range from simplistic to impossible. Results can range from reliable to "something is better than nothing". Clearly, the proper selection and use of non-legal databases is critical.

Determination of access to non-legal online services is another issue in the management of information resources. Access to non-legal online services has been and should be limited to trained library staff. As searchers, we must be well acquainted with the universe of retrieval options in order to accomplish the discovery of all available information on expert witnesses, the performance of exhaustive patent searches, the establishment and verification of corporate connections, the uncovering
of every possible asset lead, the provision of decisive information concerning potential clients. Selecting the best single source or the best combination of sources, regardless of format, to provide thorough and reliable results is essential.

Non-legal databases number in the thousands with wide discrepancies in their value and cost. These non-legal resources differ greatly in search strategy and search aids, making them tend to be more difficult to use than legal online services. As online searchers, we must know how to compensate for the various limitations in the services. The infrequent searcher struggles with the process and eventually produces results of questionable value and reliability. We alone in our organizations are uniquely able to provide efficient and successful searching of non-legal online services. We alone are informed about non-electronic options for non-legal information. Our expertise and experience are invaluable to our organizations.

The line between legal and non-legal online services has been blurred for some time. Most LEXIS users also have access to NEXIS; both WESTLAW and LEXIS offer regulatory information which is available on non-legal services. Other stand-alone services offer quasi-legal or law related information. Generally, however, the system of selective "end-user" access to online services has been the norm. As stated above, access to legal databases has been largely unrestricted, while access to non-legal databases has been limited to appropriate library staff.

This system seemed to work reasonably well until 1991 when WESTLAW introduced DIALOG on WESTLAW. The problem is not that DIALOG has been incorporated into WESTLAW, but rather that WESTLAW has unilaterally implemented a distribution policy which profoundly affects us all. That policy denies the right of the WESTLAW subscriber to block access of selected passwords to the DIALOG files. Therefore, when universal access to WESTLAW is provided, universal access to DIALOG is automatically provided as well. We cannot distribute WESTLAW to our attorneys and legal assistants without distributing DIALOG at the same time. The WESTLAW response to complaints has been, in essence, "take it [all] or leave it". Hence the law librarian’s effective management of information resources of all types is thereby dramatically impaired.

WESTLAW’s inflexibility on the DIALOG issue is a departure from precedent. For private law librarians, NEXIS is an optional companion to LEXIS, not a compulsory one. A subscriber may request LEXIS-only access for all or for selected passwords. WESTLAW continues to offer its gateway services on an optional password by password basis. Upon request, INFORMATION AMERICA will block subscriber access to Duns Business Records Plus. WESTLAW has the technical capability of providing selective password access to DIALOG on WESTLAW (e.g., WESTMATE beta test passwords will not access DIALOG, and WESTLAW did block out DIALOG for several months for two private law libraries). However, WESTLAW officials remain adamantly unwilling to offer access options for DIALOG on WESTLAW to their subscribers.
This situation presents management problems which cannot be ignored because they compromise the most basic of management issues. Criticisms and shortcomings of DIALOG on WESTLAW are not the issue here. The issue is that a vendor of legal information resources has established a non-negotiable distribution policy which is in direct conflict with the selective distribution policies of most law firm libraries and corporate law libraries, and, by extension, with the procurement and quality policies of the law firms and corporations themselves. Without the capability to monitor and select appropriate retrieval sources for various kinds of non-legal information, the capability of the information professional to consistently provide the best work product for the best price is severely undermined. Law librarians are caught in the unenviable position of choosing either to sanction the existence of a potentially hazardous information environment or to cancel most of the passwords to a major legal research tool.

We must deal with this and future challenges to our effective management of information resources. Whenever they occur, strong complaints must be registered with the vendors involved (in this instance, both WESTLAW and DIALOG). Additionally, we must advise our administrators of the new conditions and the risks they represent. We must establish, distribute, and implement policies designed to overcome these risks. We must make ourselves more aware and more vocal in all our professional venues. We must share information with each other and work together to effect change. We must work within our organizations to create order out of the chaos of information sources that is developing around us. To do less is to allow a dangerous environment to exist in which clients can be advised on the basis of incomplete, out-of-date, or inaccurate information. To do less is to allow our attorneys to appear unprepared or incompetent. To do less is to knowingly allow conditions to exist which could lead to malpractice suits.

We are accountable to those who have trusted us to provide the best for them.

We must BE managers.