

# Decisia, an Indispensable Tool for a Court's Intranet and Website

By Daniel POULIN and Joseph KHAYAT\*  
Email: [daniel@lexum.com](mailto:daniel@lexum.com) / [khayatj@lexum.com](mailto:khayatj@lexum.com)

National Conference of Appellate Court Clerks  
Forty-Second Annual Meeting  
Snowbird, Utah August 2-7, 2015

## Executive summary

A large number of American courts and a significant number of tribunals have set up information systems to make their decisions - both reported and unpublished, citable or not - available to serve their internal needs, the needs of the public, or both. In the first part of this paper, we examine their reasons for doing so and we summarize the main uses of these decision databases. Then we single out the best practices based on 20 years of work in the field and we present Decisia. We conclude with the main benefits of self-publishing for both the publishing institution and society.

## 1 Self-publishing in US courts

Court decisions and, in a more limited manner, tribunals' decisions are largely accessible in the US today. The distribution of court's decisions finds its roots back in 1789, with the publication by Ephraim Kirby of his Reports of Cases of the Superior Court of Connecticut. Public law reports were established in the nineteenth century, starting with the United States Reports of the Supreme Court in 1817. Numerous private law reports were established in the following years so that by the end of the nineteenth century that prolific reporting led to the invention of modern, much more structured and systematic case reporting by J.B. West. In the twentieth century, commercial reporting gradually supplanted public law reporting. It is only with the end the 1990s and the arrival of the Internet that courts came back to the business of publishing their decisions themselves. Self-publishing by the courts was then and still is sometime limited to "slip opinions", that is, versions of decisions liable to be corrected at a later date.

---

\* Daniel POULIN (Professor Emeritus at University of Montreal) is President of Lexum. Joseph KHAYAT is Decisia Product Specialist at Lexum.

Nevertheless, today, self-publishing of decisions by courts is probably significantly more exhaustive than ever.

A random exploration of the publishing activities of various court systems reveals a contrasted panorama. Some court systems offer archives composed of legally valid documents accessible through an absolutely bare-bones search system, in other cases, the decisions are presented as subject to correction but are fully searchable, some jurisdictions have set up advance systems where validity and usability are well combined and finally in some jurisdictions only media-worthy decisions are listed: all types of scenarios can be found. Despite the variation, it must be said that in almost every state appellate decisions are made available on the web, at least momentarily.

The Alaska Court System publishes decisions (slip opinions) on its website before they become available in the Pacific Reporter and, once they are reported, they are removed from the website. Oregon Courts provide a large archive of appellate decisions without the usual warnings relating to their correctness, but with a limited research function. South Dakota's Unified Judicial System similarly offers a major archive of Supreme Court decisions with a similarly somehow limited search function. The situation is similar in Utah. California Courts have chosen to secure access for the public to the entire California Official Reports, but with limited search functions, through LexisNexis. The Oklahoma State Courts Network combines a huge, though incomplete, archive of citable appellate decisions searchable through advanced search functions.

A complete state-by-state examination of courts' efforts to publish decisions is far beyond the scope of this short paper. More examples could be added, but a systematic exploration reveals that nowadays courts publish appellate courts decisions for the public on their websites. These systems are successfully implementing the principles of open court and transparency. Their capacity to serve even the most basic legal research is less certain, owing to the frequent transient nature of the documents published (slip opinions) and the bare-bones nature of the navigation schemes and search tools provided. The publishing efforts just described are motivated by both internal and external reasons.

## **2 Reasons to publish**

This conference is not the forum and I am not the person to inform appellate court clerks on the importance of past decisions in a common law tradition; I also cannot pretend to have a sufficient understanding of the reasons that have led to the selective publication policies or non-citation rules currently applied. I will nevertheless briefly tread upon these matters as they form the fundamental basis for publishing decisions.

### **2.1 Publishing on an intranet to serve internal research needs**

The main reason to publish decisions relates to the fact that, beyond developing law through the common law principle past decisions embody the wisdom and experience of an adjudicative body. For a court or a tribunal, or any adjudicative body for that matter, past decisions constitute the fundamental knowledge base.

Three frequent needs with regards to that knowledge base are not easily served by generic commercial legal databases.

### *Consulting a decision database enriched with data fields from the case management system*

Combining internal data with the decisions database can provide a unique research tool. A judge may have a solid recollection of an especially well-thought analysis she read a couple of years ago in a colleague's decision without remembering the precise case. In such a situation, having a well-designed system to search the full set of decisions rendered by the court could be very effective. Indeed, one could key in her query, which could be simple or elaborate and even use data fields from the case management system.

### *Consulting a decisions database with a collection exactly fitting the needs of the court*

In an internal decision database system, a court may assemble sets of documents which do not exist anywhere else. For instance, most courts do not distribute every decisions rendered. Decisions of a more procedural nature may never get distributed. But for those who "produce" these decisions, the possibility of consulting them with full text queries could lead to significant savings in time.

### *Providing a decisions database to participants in the judicial process*

Courts strongly feel the need to provide tools to *pro se* litigants. Library personnel and court resources generally could be less taxed if the court were able to provide a freely accessible database of its decisions to the participants involved in the justice system.

Behind all these elements sits a concern for effective use of the limited resources of the institution. Any improvement in the support given to judges may lead to better justice but also to more efficient processes. Lessening the pressure put on staff by participants who need to instruct themselves on the law could also lead to significant savings.

## 2.2 Publishing on the Internet to serve the public and ensure transparency

Courts make their decisions accessible to the general public for at least two fundamental principles and two practical reasons. First, the law must be accessible because *ignorance of the law is no excuse*. Second, courts want their decisions largely accessible to reflect their openness and the transparency of the whole justice system. Third, in practical terms, a court's decision database constitutes the layperson's legal information system. Indeed, some people have an intense need to consult a decision database. This need becomes especially acute when one wants to lay a problem or defense arguments before a court without the assistance of a lawyer. For *pro se* litigants, a decision database published by a court will probably not suffice, but could help significantly. In those situations a court providing a good decision database will also benefit by reducing the burden put on its staff. Fourth, similarly conducive to the efficiency of the court, a court decision database is the ideal platform to distribute, in a well-ordered manner, decisions to various stakeholders, be they from the media or the publishing industry.

### *To inform the general public*

All of us are presumed to know the law, and this presumption supposes that the law is accessible and can be learnt. It is no surprise that modern courts, and most appellate courts if not all of them, have chosen to make their decisions available to the public on the Internet, the public library of our times.

It is obvious that nobody in the public will read decisions from beginning to end on a regular basis. Very few of us have ever attempted to read a dictionary either. However, the availability

of this material makes it possible for someone to look at decisions when the issues at stake are important to her. At other moments, a situation hotly discussed in the media will lead an interested person to look at a decision for themselves. Situations will vary: some of us are inspired by sheer curiosity, others by civic indignation, but whatever the motive the fact that court decisions are there to be consulted is a source both of knowledge and of security.

*To ensure transparency, to nurture public trust toward the institution*

The availability of a court decision database on the Internet is also a supplementary source of trust in the judicial institution. Among the general public, one can check for oneself that similar things are treated in similar ways. Here again, no one will read thousands of pages every month, but the information is there to be scrutinized. The transparency that courts impose on themselves is often likened to a rampart for ensuring the integrity of the institution. In our times, with the Internet all around us, the best way to achieve that transparency is for a court or tribunal to publish its decisions on the network.

*To provide a search tool for pro se litigants*

*Pro se* litigants come out of the general public. They are often people who find themselves drawn into the justice system by unforeseen circumstances. With enough money, a lawyer will represent them, but for a large segment of the population that money is just not available and professional representation is out of reach. In such situations, people try very hard to solve their legal problems by themselves, and this is it not easy.

To help that particular clientele, a court decision database must be more than the list of the still-not-reported decisions or another time-limited selection. The court database must also offer more than the single route of getting to decisions by providing the names of the parties to a case or the file number. What is required for helping a *pro se* litigant is a full retrieval system, a system lending itself to researching the law. The benefits accruing from providing such a system include higher success in achieving the ideal of equality before the law, but also the potential savings coming out of a more efficient strategy for supporting this particular segment of the population.

What has been said concerning *pro se* litigants can be extended to other litigants as well. Just as we sometimes check the web before visiting our physician, we may want to check the law for ourselves before going too far in suing some other person. Better informed citizens may be wiser in their behavior and save time, money and, simultaneously, court resources.

*To ensure orderly distribution to publishers and media*

For many courts, setting up a decision database is the obvious solution for providing an automated response to requests for decisions that used to be met by personnel. Timely distribution of new decisions is especially important to serve the needs of justice system auxiliaries in the media and the legal publishing industry. For a court, the simplest, most efficient way to serve these clienteles is to maintain a decision database accessible to them.

Today, in most countries where case law is a major part of their legal system, court decisions are published. In Australia and Canada, for all intents and purposes, all court and tribunal decisions are available on court websites or websites working with the courts. In the US, almost all decisions from appellate jurisdictions and all decisions rendered by federal jurisdictions are made available on the Internet. In the paragraphs above we reviewed the reasons why courts set up those decision databases, now it is time to review the best practices in this field.

### 3 Best practices in court decision publishing

Decisions are costly to “produce”, and, once rendered, be they reported or “unpublished”, citable or not, they form an extremely valuable asset. In a time of limited financial resources, courts must find ways to leverage that asset at the lowest possible cost.

When publishing decisions, courts often have similar objectives, but not the exact same ones. What is essential in one context will be avoided in others for assuredly valid reasons. What follows is a rather long list of ideal characteristics that could be aimed for. We may look at this inventory as a wish list rather than as a set of minimal requirements. Many extremely valuable court decision databases have a high degree of success in some respects, even though their designers have chosen to avoid some other desirable characteristics for reasons that are absolutely valid on the local level.

#### 3.1 Best practices

##### *Minimal operation costs – API, no staff time required*

Courts do not make money with their decision databases. What they can hope for is to save judges’ and staff time, and that this will result in overall budgetary savings. In such a context, it seems imperative to choose an approach that is as effective as possible. What really counts here is the “total cost of ownership”: how much it costs not only to start, but also to operate. Approaches that can be tied to the other court information systems to be “nourished” are to be preferred. If the decision publishing system is to stand alone, it must provide for as much automation as possible in order to minimize staff involvement in its operation.

##### *Full-text availability*

Whether we are considering decision publishing as the response to the requirement of transparency, as the fulfillment of a duty to inform about the law, or as the most expedient way to distribute public documents to those who need them, decisions’ texts must be entirely accessible. Summaries and short abstracts can be enhancements when the full text is available, but they can never be substitutes for it.

##### *Timeliness*

To serve some of the needs contemplated above, such as distribution to the media and publishers, a court decision database should be updated without delay once the judge or the bench has decided that a decision should be circulated. The best way to achieve this is to make sure that the publishing solution chosen by the court can be connected to the court’s case management system or that the publishing process is almost entirely automatic.

##### *Comprehensiveness*

Once published, a decision can stay in the court decisions database forever. There is no need to remove files after a short time or once they are published in some other way. The collection of decisions must be preserved forever. This approach is required if the court decision database is to be of any use to *pro se* participants in the justice process. Actually, most of the courts that publish their decisions keep their historical holdings. Usually all decisions since the mid-nineties are available, but in some jurisdictions (e.g., Oklahoma) notable effort has been put into reconstructing the complete case law of a court, with success.

### *Accessibility (meeting the ADA requirement through compliance with WCAG 2.0)*

Over the last decade, the measures required to make a website accessible have been identified and codified by the World Wide Web organization through the Web Content Accessibility Guidelines (WCAG). The current form of these guidelines is version 2.0, and it is similar to Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d). Technological choices complying with these requirements are mandatory in most contexts.

### *HTML (search and highlighting)*

Court decision databases usually store searchable PDF documents or HTML documents. The former preserves the appearance of the original file while the latter make it possible to design more powerful legal information systems. Indeed, with today's conversion technology, there is not much to be lost by using HTML files only, especially when paragraphs are numbered. Some court decision databases combine both formats to respond to everybody's needs by offering both the original formatting and the powerfulness of a full research website. This is probably the best practice in the field.

### *Navigability ("browsable content")*

Some court decision databases can only be browsed, others can only be searched, but fortunately most let users do both. Limiting access to a search mechanism can serve the needs of the immediate participants in a case, but is of no use for those who want to search the law or even for achieving court transparency goals. The best practice is to let users not only search, but also browse the collections of decisions available with, ideally, many browsing alternatives, such as by date, name, topic, etc.

### *Full-text searchable*

In the best decision databases, search mechanisms are not limited to searching a short list of identifying data (file number, parties' names or date) and provide for real search needs with a full-text searching engine. Furthermore, in a text-heavy context such as the law, one needs not only to be able to search for a strict pattern made of a sequence of characters such as that usually offered in PDF-based databases, but also to be able to express one's information needs with a search syntax powerful enough to really find the information one needs. The best practice is to offer search tools powerful enough to do legal research.

### *Multi-criteria search tools*

It is a good practice to offer, on top of full-text search, the possibility to add search criteria that address various data about a decision: its date, file or docket number, the judge's name, parties' names and so on.

### *Intranet-specific functions*

In the case of decision databases used to serve internal users on the intranet, it can be opportune to add various fields of more administrative nature to help judges and court staff locate decisions efficiently.

### *Best-version publishing*

When possible, authoritative versions of decisions must be the ones available from the court decision database, in any case, it is certainly a best practice to publish the best version available

to the court. If editorial processes are in place, reviewed decisions should be posted on the website.

#### *Citation availability (medium neutral and paragraph numbering)*

When a court wants to maximize the benefits of its court decision database and to reinforce the public nature of its decisions, adoption of a vendor and medium-neutral citation should be considered. Over sixteen (16) jurisdictions in the US have already adopted a neutral citation system and neutral citation is now the main mode of reference in Canada and Australia.

This long list of best practices may appear overwhelming to some courts. It must be remembered that each institution must consider the list in light of its own circumstances. Furthermore, some very good court decision databases have only a subset of these recommended characteristics.

It remains to introduce a tool that can make provision of a powerful court decision database both efficient and cost-effective: Decisia.

## 4 Lexum's Decisia

Decisia is an online tool developed by Lexum for decision-making bodies wishing to self-publish their decisions from their own websites, intranets and extranets. Decisia has been serving dozens of courts in Canada since 2012. Courts, boards, tribunals, agencies, and other similar institutions use Decisia to power their public websites, to offer awareness subscription services, or simply to meet internal access needs. Decisia is designed to be simple for judicial bodies which self-publish their decisions internally or on their public websites.

From the point of view of its end users, a Decisia-powered court publishing system is a portion of the court's website, looking like all other portions of the website but powered by specialized software. Decisia sites are fully compliant with the best standards with regard to accessibility. From the point of view of the publishing court, Decisia is machinery hosted by Lexum able to generate the decision database section of its website (or its intranet). Operationally, Decisia is designed to be a turnkey service available to the court 24/7. For updates, a court's Decisia can be programmatically fed by the case management system or nourished by clerical staff through a web interface providing automation services.

Decisia constitutes a new tool offered to courts, a tool which was until now missing for those wanting to streamline the operations of a court Internet/Intranet decision service. Decisia is different from case management software: it does not manage cases, but instead strengthens the legal research aspect of court operations. It has similarities with commercial legal information services, but offers a different set of features and, above all, remains under the control of this issuing court and its content belongs entirely to the court.

### 4.1 User view of Decisia

For a *pro se* litigants or any member of the public looking for a decision, Decisia appears simply as a part of the court website. For instance, the decision database set up with Decisia could appear under the "Opinions" tab of the client court website. When consulted, the Decisia part of the court website offers various ways to access decisions. Decisions can be browsed chronologically, by case name or according to other criteria. The decisions themselves appear in HTML with a PDF version available for those who prefer that format. For judges or court staff

who access an intranet decision database the outlook will be similar, but the set of decisions available could be more extensive and the browsing and search criteria more numerous.

End users may also elect to subscribe to awareness services based on email or RSS feeds. RSS notifications are ongoing. An email alert is sent daily and includes a basic digest of all documents published in the previous 24 hours. Decisia offers various configurations of such mailing lists to accommodate the need for public notification, internal user notification or notification restricted to subscribers of new private content.

### *Searching and browsing*

Decisions are accessible through sophisticated search mechanisms specifically designed for legal documents. Decisia's search system uses a wide range of available search criteria. The content manager at the court can assign dates, subjects, parties' names, references, etc., so that users can use them to search and browse.

Decisia's search engine supports full-text search with or without Boolean connectors. Proximity criteria and wildcards are also available. While searching, exploitation of the decisions found is made simpler with advanced sorting, faceting and filtering options. Once a promising document is identified, assessment of its interest is supported through highlighting of query terms and the ability to navigate among them.

### *Accessibility*

Decisia is designed with courts' needs in mind, and compliance with applicable web accessibility standards is an important concern for the whole judiciary. More specifically, Decisia ensures compliance with the Web Content Accessibility Guidelines (WCAG) 2.0 Level AA for both its access interfaces and all documents published. WCAG 2.0 standards are similar to the requirements of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

Furthermore, Decisia's public and management interfaces can be made available in many languages (Spanish for instance). Multiple language versions can be combined into individual Decisia accounts.

## **4.2 Court view of Decisia**

Decisia infrastructure is managed by Lexum, but control over and ownership of content remains with the court at all times.

### *Deployment*

Decisia does not require IT or web specialist resources. Within days, Decisia can be set up and court staff can start managing the decision database. The attention of court personnel can remain focused on court business and delivering decisions while Lexum takes care of the technology and infrastructure. There is an initial migration of a certain number of documents, and additional archives are often processed as an option. Thus, when Decisia is put online, all the documents of a client court can be available from day one.

### *User rights and content management*

Decisia features a secure zone providing intranet users and external subscribers with a restricted space for publishing and searching documents. For example, when the status of a document is set to "intranet/subscription", access is then limited to intranet users or subscribers. It is also

possible to restrict access to an entire collection, thereby making all the documents included in that collection accessible to specific users only.

User rights are managed through the web-based administration interface. Three levels of permission are available: Administrator, which entails the right to configure Decisia and manage other user rights; Editor, which entails the right to manage content; and, in a closed system, Intranet User or Subscriber, which entails the right to search and view the internal section of the system. User rights can be granted to the public or restricted to subscribers and internal users.

#### *Audit trail*

Decisia offers an audit trail showing the history of all database records, including any creation, updating and deletion of content. The audit trail contains information about the actions and their authors, as well as a time stamp identifying when the change occurred.

#### *Hosting*

Hosted and supported by Lexum, Decisia does not require any infrastructure or other IT resources from the court. Decisia is hosted on Lexum's server infrastructure and is equipped with enterprise-level security and uptime.

### **4.3 Operation**

Decisia has been designed as a tool for courts, but as a tool that is highly efficient so to not tax the time of the court when automation is possible.

#### *Automated conversion*

Decisia automatically converts MS Word and WordPerfect documents into PDF and HTML formats. The upstream system via API or the content manager through the web-based administration interface simply submits the MS Word or WordPerfect document and the document is published online in HTML and PDF. When necessary, web accessibility of resulting PDF and HTML files is ensured. Documents supplied in PDF format only are displayed inline within the webpage.

#### *API and Web services*

Structured metadata and files can be submitted to Decisia by programmatic connection to the court's case management system in order to fully automate the publishing process. This option is especially valuable for clients managing a large volume of documents. Similarly structured metadata can be exported from Decisia by web service in order to integrate its content with distant systems. In addition, administrators can easily export the results of a Decisia search.

#### *Auto-fill*

Decisia's auto-fill option can retrieve decision data such as dates, citations, docket numbers, case names, names of parties, judges or counsel, and much more, from your documents with one simple click. This tool automatically extracts relevant data from the document and stores it in the Decisia database, thereby saving staff data entry time and preventing the possibility of errors.

#### *Flexible data and field configuration*

Tribunals, boards and agencies do not all have the exact same document management and publishing needs. Decisia makes it possible to create and name decision databases, to select

optional and mandatory metadata fields of the court's choice from among a large set of options, and to configure the content of tabs and drop-down menus according to local requirements. These choices are easy to make through the user-friendly web-based administration interface.

Altogether, these features ensure that Decisia will operate as efficiently as possible for the client court.

#### 4.4 Decisia and Case Management Systems

The functionality provided by Decisia cannot be found in common Case Management Systems (CMS). CMS let courts manage their operations, while Decisia provides legal research and publishing functionality. By design, CMS are data driven and they usually offer limited functionalities for searching in the decisions' text. In other terms, CMS are administrative tools while Decisia is more oriented towards the law. The sort of decision publishing system made possible by Decisia appears as an important complement to CMS. Finally, in most situations Decisia can relate to CMS through an Application Programming Interface (API) or web services. This feature can entail significant savings for clients.

#### 4.5 Decisia and commercial database systems

Decisia has some similarities with and several differences from commercial legal databases available on the Internet. Like commercial legal databases, Decisia is serious about process, usability, searching and convenience for its end users. Decisia is built to help its end users search the law.

However, Decisia is a tool that is controlled by the court and its content and output belong to the court. While most commercial publishers promote their systems for the added-value they provide, Decisia-built systems will only incorporate material originating from the client court.

Because it is not tied to commercial proprietary content, Decisia is more suitable for the various uses contemplated by a court, be that a legal information system for the *pro se* litigants or a tailored internal system for judges and court staff.

### Conclusion

Today's courts, especially those in appellate jurisdictions, are more involved than ever in circulating their decisions. The variety of aims and modalities in court publishing on the web is considerable and this diversity was probably inevitable as long as no tools were available to support this particular need.

In this paper, we have reviewed the main reasons why courts publish their decisions. We have identified a long list of recommended practices in doing so, and we have presented a tool, Decisia, designed to help courts publish decisions for internal or external purposes. Decisia is sophisticated enough for the court, simple enough for the public, yet cost-effective to run and operate.

Decisia can help to lessen the pressure on court personnel resulting from the public's queries about decisions but also from the pressing demands on the court system brought about by *pro se* litigants. Beyond that, Decisia can serve court goals with regards to demonstrating openness and attachment to transparency.

By using a standardized tool, courts can make significant savings on implementation and operation costs of decision databases while enjoying a more effective system to serve their aims.

## Information about Decisia

Internet: <https://lexum.com/en/products/decisia>

### In the United States

Contact Joseph KHAYAT, Decisia Product Specialist  
Email: [khayatj@lexum.com](mailto:khayatj@lexum.com)  
228 Park Ave S #89955  
New York, NY  
10003-1502  
Toll-free: 1-855-798-3553 ext. 1

### In Canada and all other markets

Decisia Team direct line: 1-514-316-2093  
Lexum Headquarters  
Email: [info@lexum.com](mailto:info@lexum.com)  
4200, Saint-Laurent #910  
Montreal, QC  
H2W 2R2  
Tel: 1-514-316-2100  
Toll-free: 1-855-316-2100  
Fax: 1-514-843-8499  
<http://lexum.com>