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LIBRARIES & LEGAL RESEARCH

Michigan Supreme Court records and briefs: New access to a historical resource

BY VIRGINIA C. THOMAS

To understand the meaning of specific legislative language, we may review House of Representatives and Senate journals, bill texts, committee and commission reports, hearing testimony, bill analyses, and other sources generated during the lawmaking process.¹ The creation of administrative rules and regulations leaves a similar trail of breadcrumbs.

Case law is a bit different. Judges explain the reasoning of their respective courts in written opinions. Briefs, motions, and other filings submitted by litigants are essential to educating and informing the court in its deliberations. They frame the issues at hand, present legal arguments, and guide the court in applying precedents. Amicus briefs may advance policy-based information that shows the broader impact of the court's opinion on our society. Collectively, these filings are truly a treasure trove that speaks to the development of Michigan common law, case by case.

BACKSTORY

Online availability of state high court records and briefs has expanded in the past 20 years. Westlaw and LexisNexis began selective coverage for Michigan Supreme Court filings in 2000 and other services, including Bloomberg Law, have since included these filings as well. For more than a decade, the Michigan Supreme Court has put on its website records and briefs for current cases granted leave to appeal.² Prior to then, the Court distributed print copies of these filings to law libraries across the state designated as repositories for these materials.

As with many historical collections, the records and briefs are practically undiscoverable in print format. No comprehensive or even partial index existed. Repository collections, which were started at different times, varied in scope, completeness, and arrangement.³ It is doubtful whether there has ever been a single complete collection in the state. A researcher would have to check a specific repository's collection to determine which, if any, filings for a case were available in that library. Therein lies the rub.

The Supreme Court's advances in making current records and briefs searchable and accessible online for free has inspired law librarians and legal researchers to brainstorm ways to do the same for the Court's retrospective filings.

FAST FORWARD TO 2019

Wayne State University's Arthur Neef Law Library is among the academic law library repositories for the Michigan Supreme Court records and briefs. We have maintained a substantial print collection of Court material dating back to 1850. In 2019, the library received a two-year grant from the Institute of Museum and Library Services (IMLS).⁴ That grant funded a project that extracted metadata from filings in the Wayne State collection.

Metadata selected for this project include title, date, case name, docket/calendar number, Michigan Reports citation, litigants, and attorneys — all essential elements that help to identify specific filings. The metadata for each filing was entered on a spreadsheet; once the filings were scanned electronically, the corresponding metadata was embedded into them, enabling researchers to identify and retrieve the full text of the filing online.

Our publisher partners, Google Books and LLMC Digital, coordinated the scanning and uploading of images to their respective platforms.⁵ Other Michigan academic law library partners shared filings in an effort to make the digitized collection as complete as possible.⁶

PROGRESS TO DATE

A few months after the project was launched, the COVID-19 pandemic took hold. Mandatory facility shutdowns and staff turnover resulted in unavoidable delays. A projected two-year project turned into three. Despite the setbacks, we have made major progress toward our collaborative goal.

Our IMLS grant was extended for a third full year, enabling our team to complete most of the metadata extraction from the Wayne

State collection. The extension, which ran through September 2022, also allowed our team to digitize and upload a significant percentage of filings to Google Books and LLMC Digital. As of this writing, Wayne State has extracted metadata for its entire collection of Michigan Supreme Court case filings from 1850 through 2011, and more than 50,000 filings have been scanned and uploaded to the Google Books and LLMC Digital platforms.

All filings are presented in PDF format, full-text searchable on Google Books, and downloadable at no cost. The filings have also been incorporated into the LLMC Digital collections. Scanning will continue until all filings from which we have been able to extract metadata have been processed.

ARE WE THERE YET?

A funny thing happened as we began working our way through this project. We anticipated finding cases in the Michigan Reports for which there were no filings in the Wayne State collection. Initially, the plan was to ask our academic law library colleagues to loan us filings from their collections. However, we were not prepared for the number of gaps we encountered. Locating, processing, restoring, and returning loaned filings would have disrupted the continuity of the project's workflow.

We've kept a running list of cases missing filings and are figuring out how best to fill in the gaps.

RESEARCH TIPS

Google Books

Google Books, which launched in 2004, provides online access to a "universal collection" of more than 40 million books, journals, and other printed materials.⁷ Through its Library Project, Google Books partners with libraries worldwide to make books in the public domain discoverable and "fully available to the public."⁸

- Access Google Books from your web browser by typing "Google Books" into the address bar or by going directly to its homepage at books.google.com.
- Given the huge amount of content in Google Books, it's important to be as specific as possible in devising your search. For example, to find a particular filing or multiple filings from a single case use the docket number, case name, opinion release date, Michigan Reports citation, and/or type of filing as search terms. The advanced search option permits a more targeted search for research concepts, facts, or individuals across multiple cases.⁹
- Google Books provides search support at support.google.com/websearch/answer/9523832 [<https://perma.cc/79DC-CRYA>].

LLMC Digital

LLMC Digital is a non-profit cooperative of libraries dedicated to preserving legal titles and government documents while making

inexpensive digital copies available through its online service.¹⁰ Its more than 500 members include universities, law schools, law firms, courts, and community colleges.

LLMC Digital is primarily a subscription-based product.¹¹ Several research libraries in Michigan, including the Library of Michigan and law school libraries, may offer mediated onsite or password-protected remote access to the service.

- The LLMC Digital home page is at llmc.com. However, subscribing libraries likely will provide access through their online catalogs.
- The Michigan Supreme Court records and briefs filings can be accessed either through the U.S. States and Territories Collection or a special records and briefs tab.
- Searches are template driven by citation, brief type, party name, and full text.

These new tools have taken some time to build, and the work continues. Even at this stage, we believe they are useful in researching Michigan's rich common law history.

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ENDNOTES

1. Brown, *Legislative Intent and Legislative History in Michigan*, 30 L Reference Services Q 51 (2011), available at <<https://repository.law.umich.edu/librarian/9>> [<https://perma.cc/7C2F-2UA4>]. More recently, the Supreme Court of Michigan also has used corpus linguistics analysis to clarify legislative language, *People v Harris*, 499 Mich 332; 885 NW2d 832 (2016). All websites cited in this article were accessed March 7, 2023.
2. *Briefs*, Mich Supreme Court, Mich Courts <<https://www.courts.michigan.gov/courts/supreme-court/briefs/>> [<https://perma.cc/8E85-NV8X>].
3. The Wayne State University Law Library arranged its print collection of records and briefs by Michigan Reports citation. Other repository libraries have used different methods for organizing their collections, e.g., term of court, opinion release date, or calendar/docket number.
4. "The mission of IMLS is to advance, support, and empower America's museums, libraries, and related organizations through grantmaking, research, and policy development," *Mission*, Inst of Museum and Library Services <<https://www.imls.gov/about/mission>> [<https://perma.cc/Y23K-FSK5>].
5. Michigan is the fourth state whose retrospective high court records and briefs have been made available online through this initiative.
6. In conjunction with a designee from the Michigan Supreme Court staff, our Michigan academic law library partners also advised on the project.
7. Lee, *15 years of Google Books*, The Keyword, Google (October 17, 2019) <<https://www.blog.google/products/search/15-years-google-books/>> [<https://perma.cc/B3X5-8ZFL>].
8. *About the Library Project*, Google Books <https://support.google.com/websearch/answer/9690276?hl=en&ref_topic=9255578> [<https://perma.cc/28V7-MTE6>].
9. *Advanced Book Search*, Google Books <https://books.google.com/advanced_book_search> [<https://perma.cc/KTF3-SW9K>].
10. *Mission Statement*, LLMC Digital <<https://llmc.com/>> [<https://perma.cc/Z3Q3-NECG>].
11. Though most of its resources are available by subscription, LLMC Digital recently announced its Open Access initiative which offers unrestricted access to select titles, *LLMC Digital Open Access*, LLMC Digital <<https://llmc.com/openaccess/search.aspx>> [<https://perma.cc/9AHR-S49V>].