

January 8, 1992

Steven M. Emmert, Esq.
Legal Department
9443 Springboro Pike
Post Office Box 933
Dayton, Ohio

Dear Steve:

You will recall that in our discussions of royalty share last fall I indicated that while I was willing to accept the offered 25% royalty share that willingness depended on greater clarity about how the online revenues subject to that share were being and would be determined. I noted that from the documentation accompanying the very modest royalty payments I had received so far it was impossible to determine exactly how the amounts related to use of the files containing the database I have created. You promised to see that I got that detail, but I have received none to date. Eager to wrap these issues up, I thought I might assist the process with a series of specific questions about how the range of user transactions involving the treatise and related files are handled. My hope would be that with full information about these matters we can settle all issues at a meeting within the next few weeks as proposed in my most recent letter.

Attached is a sample section of the treatise. I assume that you and others involved are familiar with its structure and with the content and source of the set of files in which it and the others are nested, files denominated TABLE, SOCSEC, PMSSCA, PMSSRL within the set labeled Martin on Social Security. That set along with referenced portions of the U.S. Code and Code of Federal Regulations represent the contents of what our agreement contemplated going on a CD-ROM (the "database") with royalties being paid on the resulting revenues.

TABLE

The entry point recommended on the descriptor page and all documentation of the treatise is the TABLE file. This file, written by me is conceptually part of the treatise, it contains material that in print would be found in the main volume. Reasons of functionality led to the separation of this part of the treatise into a separate file. It is an ADF file so that the user's selecting that file secures all the TABLE documents. The

structure allows the user to move around that set of documents and the legend added by MDC at the first screen says that only "connect time charges" apply.

- - -

Can you explain to me how the user is charged for time spent in the TABLE file and how that translates into royalties?

SOCSEC

Volumes I and II of the treatise are contained in the SOCSEC file, including a table of contents for both volumes and an combined index of important words and phrases. The structure contemplates that the user will move to SOCSEC and around in it using the LEXSEE function. The first screen of the TABLE file instructs the user how to go to the table of contents of the desired volume or to the index. From the table of contents or index the user moves to the most relevant section of the treatise using the LEXSEE function and from that section to other related sections in the same way. In other words, while some users may run a search against the SOCSEC file (the users guide recommends a search that will retrieve all the sections of a volume or a portion of volume II) most use will be in the form of LEXSEE moves.

- - -

Can you explain to me how the user is charged for LEXSEE moves to documents in the SOCSEC file and for time spent examining such documents and how that translates into royalties?

Can you explain to me how the user is charged for searches of the SOCSEC file and for time spent examining the search results and how that translates into royalties?

LINKS

In breaking out the constituent elements of the CD-ROM product the Martin-MDC agreement defines and deals with "links" -- the software connections between the treatise and materials referenced by it. In the online version these links take the form of executable LEXIS scripts prepared by me and set off by the symbol "=>". Both TABLE file and SOCSEC file documents are filled with such links. These scripts are in some cases quite complex since they are designed not only to deliver the user to documents identified by me as in point but the relevant place in those documents. That is true, for example, of most references to the statute. (See the attached section.) With the cases in PMSSCA and the rulings in PMSSRL, a different form of link is enabled by topic tags that tie relevant documents into the treatise. As you know these topic codes are prepared by me for inclusion in a non-displayed segment of the documents I identify. The typical link from the treatise to the relevant cases includes both the topic code and a preformulated search designed not to select documents but rather to bring the user to

the relevant portions of the coded documents using the KWIC display mode. (In other words the topic code alone will retrieve the relevant cases; the added search words have been carefully screened to be sure that adding them to the search in order to bring up the key portions of the decisions in KWIC will not cause loss of any of the cases carrying the topic code.)

- - -

Can you explain to me how the user is charged for LEXSEE and LEXSTAT moves along treatise links to the referenced documents and for time spent examining them and how that translates into royalties?

Can you explain to me how the user is charged for following the links out of the treatise to cases or rulings making use of the topic codes and for time spent reviewing those documents and how that translates into royalties?

SEARCHES OF PMSSCA OR PMSSRL NOT LAUNCHED FROM THE TREATISE

The cases in PMSSCA and rulings in PMSSRL are linked to the treatise in their entirety as well as through the topic codes and the topic codes have been set up to reflect varying degrees of precision. All cases in those files have been identified by me as within the scope of the treatise and as having precedential value.

Searches of those files (PMSSCA and PMSSRL) that make no reference to the topic segment represent, nonetheless, use of what I would call a global treatise link. Traditional word searches of the other case and ruling files in the PUBHW library that have not been selected and coded by me, of course, do not use the treatise nor do such searches of the CFR file or the USCS file. As the user's guide points out and the TABLE file enables, users may search PMSSCA and PMSSRL using the topic code (links) without going through the SOCSEC file. The topic code structure indeed enables traditional word searches of issue clusters that represent parts of the treatise; the codes SSFAM, SSDIS, SSGEN, SSATT are specifically designed for that purpose.

- - -

Can you explain to me how the user is charged for searches of PMSSCA and PMSSRL that make use of the topic codes even though they may not be launched from the SOCSEC or TABLE files and for time spent examining the results and how that translates into royalties?

Can you explain to me how the user is charged for searches of PMSSCA and PMSSRL that make use of the collection and selection of material in those files but do not use the topic codes and for time spent examining the results and how that translates into royalties?

CONCLUSION

These questions are not interrogatories asked in a hostile tone but a simple effort to understand. I know what I have built and

how it is designed to be used. Some of the features of the online structure reflect an assumption about how users are charged (separation of part of the treatise into a TABLE file is an example), but I gave no thought at all to royalties in setting up the file and link structure. However, now that we are focusing on the royalty issue in the context of a proposed amendment of the contract term I need to understand how our agreement that I will receive royalties on online use of the "database" will be implemented. With MDC having decided not to do a CD-ROM, the provision about compensation for an online version, originally an after thought, becomes the only framework for my receiving return on this venture. In my judgment we need a clear understanding about how the revised percentage will be applied before signing the revision so that if other adjustments in its language are called for or side understandings about how the original language is to be interpreted we can take care of them at the same time.

Sincerely,

Peter W. Martin
Edward Cornell Professor of Law

cc: B. Graupmann
G. Pollard
B. Reisz
R. Jacobs

LEVEL 1 - 1 OF 199 DOCUMENTS

PRICING INFORMATION

Although only connect time charges apply while using this TABLE file, when going from the TABLE file to any other file by using the .cf (change file) command or the use of lxt (Lexstat(TM)) or lxe (Lexsee(TM)), the customary charges apply.

P. Martin, Social Security Law - Treatise and Selected LEXIS Materials
Copyright (c) 1990, 1991, 1992 by Prof. Peter W. Martin

===== FILE OVERVIEW
=====

This set of tables to the treatise, selected cases and rulings prepared by the author covers the issues of entitlement, benefit calculation, and procedure in the programs popularly known as Social Security.

For	TRANSMIT
Treatise Table of Contents	
Vol.1 - Overviews	=> lxe 1 SOCSEC 1
Vol.2 - Topics	=> lxe 1 SOCSEC 2
Treatise Index	=> lxe 1 SOCSEC 10
Tables of:	
Searchable Topics	=> 2 Recent Developments => 3
Statutory Provisions	=> 198 User's Guide => 4
Regulations	=> 199
Explanation of Treatise and Tables	=> p*explain

TABLE OF HEADINGS

General Issues of:		Disability Benefits:	
Coverage and Proof	=> p*1	Claimant Categories	=>
p*10			
Benefit Calculation	=> p*2	Context for Disability	
Judicial Review	=> p*3	Determination	=>
p*11			
Administrative Process	=> p*4	Establishing Disability	=>
p*12			
Constitutionality		Difficult Types of Disability=>	
p*13			
and Interpretation	=> p*5	Medical Evidence	=>
p*14			
Family Benefits:		Availability of Work	=>
p*15			
Spouse Benefits	=> p*6	General Issues	=>
p*16			
Parent Benefits	=> p*7	Attorneys Fees:	
Child Benefits	=> p*8	Equal Access to Justice Act	=>
p*17			
General Issues	=> p*9	Social Security Act	=>
p*18			

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1 P. Martin, Social Security Law 2 (January 20, 1992)

2. TABLE OF CONTENTS - VOLUME 2

See also:

Table of Contents - Volume 1	=>	lxe 1 SOCSEC 1
Index of Important Terms and Phrases	=>	lxe 1 SOCSEC 10

LEXSEE

[*14] Issues of Medical Evidence

In General	=>	lxe 2 SOCSEC P 800
Treating Physician	=>	lxe 2 SOCSEC P 810
Non-Examining Physician	=>	lxe 2 SOCSEC P 820
Need for a Medical Exam	=>	lxe 2 SOCSEC P 830
Failure to Obtain Treatment or Use Medication	=>	lxe 2 SOCSEC P 840
Side Effects of Treatment or Medication	=>	lxe 2 SOCSEC P 850
Treatment of New Medical Evidence	=>	lxe 2 SOCSEC P 860

[*15] Establishing the Availability of Work
Claimant Can Perform

In General	=>	lxe 2 SOCSEC P 900
Use of Occupational Dictionary	=>	lxe 2 SOCSEC P 910
Vocational Expert Testimony or Report	=>	lxe 2 SOCSEC P 920
Hypotheticals Posed to Vocational Expert	=>	lxe 2 SOCSEC P 930

[*16] General Issues Unrelated to Establishing Disability

Special Insured Status Test for Disability Benefits		
In General	=>	lxe 2 SOCSEC Q 100
Variant Applied to Blind Claimants	=>	lxe 2 SOCSEC Q 110
Interplay of DI With Benefits Under		

TEXT	=>	p*text	RULINGS AND POMS	=>
p*rulings				
CASES	=>	p*cases	OTHER TREATISE SECTIONS	=>
p*treatise				
ACT AND REGULATIONS	=>	p*act	OTHER REFERENCES	=>
p*other				

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2 P. Martin, Social Security Law P 810 (January 20, 1992)

P 810. ISSUES OF MEDICAL EVIDENCE - TREATING PHYSICIAN

[*text] While the Agency has the ultimate responsibility for evaluating the claimant's medical condition, courts have held that the Agency and an administrative law judge (ALJ) hearing an appeal must give special weight or attention to reports and testimony from a physician who has treated the claimant. Such testimony and reports are distinguished from those coming from physicians who have simply examined the claimant in order to evaluate his or her condition for purposes of the claim.

The different circuits of the U.S. Court of Appeals hold different views on how the Agency should weigh treating physician testimony, on when the rule applies, and on whether it extends to the physician's ultimate conclusion about the claimant's condition.

New regulations on treatment of medical evidence issued by the Agency in August 1991 purport to codify or replace these judicial interpretations.

LEXSEE

[*cases] ===== CASES

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KEY CASES:

- Kirby v. Sullivan, 923 F.2d 1323 (8th Cir. 1991) => lxe 923 f2d
1323
- Rautio v. Bowen, 862 F.2d 176 (8th Cir. 1988) => lxe 862 f2d
176
- Schisler v. Bowen, 851 F.2d 43 (2d Cir. 1988) => lxe 851 f2d
43
- Williams v. Bowen, 844 F.2d 748 (10th Cir. 1988) => lxe 844 f2d
748
- Gonzalez-Ayala v. Secretary, 807 F.2d 255
(1st Cir. 1986) => lxe 807 f2d
255
- MacGregor v. Bowen, 786 F.2d 1050 (11th Cir. 1986) => lxe 786 f2d
1050
- Ward v. Heckler, 786 F.2d 844 (8th Cir. 1986) => lxe 786 f2d
844
- Harris v. Heckler, 756 F.2d 431 (6th Cir. 1985) => lxe 756 f2d
431
- Newhouse v. Heckler, 753 F.2d 283 (3d Cir. 1985) => lxe 753 f2d
283
- Gallant v. Heckler, 753 F.2d 1450 (9th Cir. 1984) => lxe 753 f2d
1450
- Coats v. Heckler, 733 F.2d 1338 (9th Cir. 1984) => lxe 733 f2d
1338
- Lashley v. Secretary, 708 F.2d 1048 (6th Cir. 1983) => lxe 708 f2d
1048
- Mitchell v. Schweiker, 699 F.2d 185 (4th Cir. 1983) => lxe 699 f2d
185
- Sitar v. Schweiker, 671 F.2d 19 (1st Cir. 1982) => lxe 671 f2d
19
- Hankerson v. Harris, 636 F.2d 893 (2d Cir. 1980) => lxe 636 f2d
893

TO RETRIEVE ALL CASES CLASSIFIED TO THIS TOPIC:

=> .es;.cf;PMSSCA;TOPIC(P810) and treat! or phys! or doctor

TO RETURN => lxe 2 SOCSEC P 810

2 SOCSEC 810, *cases

LEXSEE

[*act] ===== REFERENCES TO ACT AND REGULATIONS
=====

THE ACT:

=> lxt 42 usc 423;.fo;5 a individual or treating phys!;.vkl;.fu
(42 U.S.C. 423(d)(5)(A) (Disability Defined))

REGULATIONS:

=> lxt 20 cfr 404.1527
(20 C.F.R. 404.1527-404.1528 (Conclusion by physician concerning
your disability))
=> lxe 56 FR 36857
(August 1991 regulations on medical evidence)

[*rulings] == REFERENCES TO SOCIAL SECURITY RULINGS AND POMS
=====

TO RETRIEVE ALL RULINGS CLASSIFIED TO THIS TOPIC:

=> .es;.cf;PMSSRL;TOPIC(P810)
TO RETURN => lxe 2 SOCSEC P 810

POMS:

DI22505.010
DI22505.065

[*treatise] ===== TREATISE REFERENCES
=====

RELEVANT OVERVIEWS (Volume 1):

Disability Benefits

2 SOCSEC 810, *treatise

LEXSEE

- 170 - In General => lxe 1 SOCSEC
- 171 - Entitlement => lxe 1 SOCSEC
- 180 - Disability Determination
 - In General => lxe 1 SOCSEC
- 181 - Procedure Employed => lxe 1 SOCSEC

TO RETURN => lxe 2 SOCSEC P 810

RELATED TOPIC SUMMARIES (Volume 2):

- 330 ALJ's Conduct of Hearing - ALJ's Development of Hearing Record => lxe 2 SOCSEC E
- 400 Adequacy of ALJ's Decision => lxe 2 SOCSEC E
- 300 Threshold Test of Severity => lxe 2 SOCSEC P
- 400 Listed Impairment or Equivalent => lxe 2 SOCSEC P
- 620 Claimant's Residual Functional Capacity => lxe 2 SOCSEC P
- 800 Issues of Medical Evidence
 - In General => lxe 2 SOCSEC P
 - Treating Physician [CURRENT SECTION]
 - Non-Examining Physician => lxe 2 SOCSEC P
- 820
 - Need for a Medical Exam => lxe 2 SOCSEC P
- 830 - Failure to Obtain Treatment or Use Medication => lxe 2 SOCSEC P
- 840 - Side Effects of Treatment or Medication => lxe 2 SOCSEC P
- 850

2 SOCSEC 810, *treatise

LEXSEE

- Treatment of New Medical Evidence => lxe 2 SOCSEC P
860

TO RETURN => lxe 2 SOCSEC P 810

[*other] ===== OTHER REFERENCES

=====

NO JOURNAL OR A.L.R. REFERENCES ON THIS TOPIC

===== END of SECTION

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LEXSEE

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TO RETURN => lxe 2 SOCSEC P 810

POMS:

DI22505.010
DI22505.065

[*treatise] ===== TREATISE REFERENCES
=====

RELEVANT OVERVIEWS (Volume 1):

Disability Benefits

LEXSTAT

FOCUS

(5)(A) An individual shall not be considered to be under a disability unless he furnishes such medical and other evidence of the existence thereof as the Secretary may require. An individual's statement as to pain or other symptoms shall not alone be conclusive evidence of disability as defined in this section; there must be medical signs and findings, established by medically acceptable clinical or laboratory diagnostic techniques, which show the existence of a medical impairment that results from anatomical, physiological, or psychological abnormalities which could reasonably be expected to produce the pain or other symptoms alleged and which, when considered with all evidence required to be furnished under this paragraph (including statements of the individual or his physician as to the intensity and persistence of such pain or other symptoms which may reasonably be accepted as consistent with the medical signs and findings), would lead to a conclusion that the individual is under a disability. Objective medical evidence of pain or other symptoms established by medically acceptable clinical or laboratory techniques (for example, deteriorating nerve or muscle tissue) must be considered in reaching a conclusion as to whether the individual is under a disability. Any non-Federal hospital, clinic, laboratory, or other provider of medical services, or physician not in the employ of the Federal Government, which supplies medical evidence required and requested by the Secretary under this paragraph shall be entitled to payment from the Secretary for the reasonable cost of providing such evidence.

LEXSEE

[*act] ===== REFERENCES TO ACT AND REGULATIONS
=====

THE ACT:

=> lxt 42 usc 423;.fo;5 a individual or treating phys!;.vkl;.fu
(42 U.S.C. 423(d)(5)(A) (Disability Defined))

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TO RETRIEVE ALL RULINGS CLASSIFIED TO THIS TOPIC:

=> .es;.cf;PMSSRL;TOPIC(P810)
TO RETURN => lxe 2 SOCSEC P 810

POMS:

DI22505.010
DI22505.065

[*treatise] ===== TREATISE REFERENCES
=====

RELEVANT OVERVIEWS (Volume 1):

Disability Benefits

To be able to browse preceding or succeeding code sections, transmit B.
The
first page of the document you are currently viewing will be displayed in
FULL.

Title 20--Employees' Benefits; Revised as of April 1, 1991

CHAPTER III--SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF
HEALTH AND HUMAN SERVICES

PART 404--FEDERAL OLD-AGE, SURVIVORS AND DISABILITY
INSURANCE (1950-)

Subpart P--Determining Disability and Blindness
MEDICAL CONSIDERATIONS

@ 404.1527 Conclusion by physicians concerning your
disability.

20 CFR 404.1527

We are responsible for determining whether you are disabled.
Therefore, a
statement by your physician that you are "disabled" or "unable to work"
does not
mean that we will determine that you are disabled. We have to review the
medical findings and other evidence that support a physician's statement
that
you are "disabled."

LEXSEE

[*act] ===== REFERENCES TO ACT AND REGULATIONS
=====

THE ACT:

=> lxt 42 usc 423;.fo;5 a individual or treating phys!;.vkl;.fu
(42 U.S.C. 423(d)(5)(A) (Disability Defined))

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=> .es;.cf;PMSSRL;TOPIC(P810)
TO RETURN => lxe 2 SOCSEC P 810

POMS:

DI22505.010
DI22505.065

[*treatise] ===== TREATISE REFERENCES
=====

RELEVANT OVERVIEWS (Volume 1):

Disability Benefits

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Social Security Administration
AGENCY: Social Security Administration, HHS.

20 CFR Parts 404 and 416
Standards for Consultative Examinations and Existing Medical
Evidence

[Regulations Nos. 4 and 16]
RIN 0960-AB22

56 FR 36857

August 1, 1991

ACTION: Final rules.

SUMMARY: Section 9 of Public Law 98-460 requires that the Secretary issue regulations to establish standards for consultative examinations. These regulations must include standards for determining when to obtain a

TEXT	=>	p*text	RULINGS AND POMS	=>
p*rulings				
CASES	=>	p*cases	OTHER TREATISE SECTIONS	=>
p*treatise				
ACT AND REGULATIONS	=>	p*act	OTHER REFERENCES	=>
p*other				

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2 P. Martin, Social Security Law P 810 (January 20, 1992)

P 810. ISSUES OF MEDICAL EVIDENCE - TREATING PHYSICIAN

[*text] While the Agency has the ultimate responsibility for evaluating the claimant's medical condition, courts have held that the Agency and an administrative law judge (ALJ) hearing an appeal must give special weight or attention to reports and testimony from a physician who has treated the claimant. Such testimony and reports are distinguished from those coming from physicians who have simply examined the claimant in order to evaluate his or her condition for purposes of the claim.

The different circuits of the U.S. Court of Appeals hold different views on how the Agency should weigh treating physician testimony, on when the rule applies, and on whether it extends to the physician's ultimate conclusion about the claimant's condition.

New regulations on treatment of medical evidence issued by the Agency in August 1991 purport to codify or replace these judicial interpretations.

Sign off: 3:19 P.M. Eastern Time, FEBRUARY 20, 1992.
Elapsed time for this research session: 6 MINUTES, 16 SECONDS.
Number of searches executed during this session: 0.

Your LEXIS NEXIS RESEARCH will not be stored.

Your telephone link to LEXIS NEXIS will now be automatically
disconnected.

Memorandum

January 16, 1992

To: Bryan W. Graupmann

From: Peter W. Martin

Subject: Revised Treatise Documents

=====

The enclosed disk includes revised documents for the SOCSEC and TABLE files.

They should be ready to load.

The disk is set up with separate directories for the new volume 1 documents, the new volume 2 documents and the new Table documents.

The file naming convention is, I trust self-evident. Each document on the disk should substitute for its equivalent on line.

If you have any trouble with this please contact me. As soon as these are loaded, I would appreciate a call so that I can check to be sure everything is "ok".

March 25, 1992

Mr. David A. Berger
Vice President, Legal Information Services
Mead Data Central, Inc.
9393 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

Dear Mr. Berger:

I write to acknowledge your letter dated March 4, post-marked March 10. It arrived in Ithaca during my absence, sometime between March 13 and March 20. That is why this reply is delayed.

MDC's decision does not come as a huge surprise. It had become clear to me from the company's failure to undertake any marketing effort on behalf of my treatise and related database, that the work both by itself and as a prototype for other author-created specialty collections had very low priority. While I am not surprised at MDC's decision, I am aggrieved by it.

Furthermore, in the light of the dealings between your company and myself under the agreement dated October 28, 1988, I am forced to treat MDC's termination as a breach of that contract rather than the exercise of a right reserved in it.

In hopes that our parting can be as amicable as possible under the circumstances, I want to be clear about how I understand our contractual posture following the removal of my work from LEXIS on June 6. I had told Steve Emmert when he communicated MDC's intention by phone that I hoped your letter would be clear about some of the following matters thereby limiting the scope for potential dispute. Since it is silent on all of them, I am forced to assume the worst in considering where MDC's action leaves me.

My claims arising out of the agreement are of two types, but they are interrelated. First, while MDC may be done with my treatise and related materials, I am not. I want a clear acknowledgment from MDC that it will neither use my work, the material I have selected, organized, designed, and written, to compete with me nor hinder my proceeding with another publisher to distribute this work to the lawyers, administrators, and judges who need good information about Social Security law. Second, the termination of this agreement before it has run its full five year course causes me substantial financial loss. The measure of that loss depends heavily on what position MDC takes on the other issues arising out of our contract -- issues that are old between us, but now altered dramatically by the termination. But however those other issues are resolved my loss is significant, MDC has caused it, and I want fair compensation.

Leaving all legal arguments aside let me draw your attention to my situation as of June 6. I have written a first rate new reference work that must compete with several established references.

(Most are in print, but one went online in WESTLAW following the appearance of my treatise on LEXIS.) Not only is my work a new entrant in a competitive field but it is utterly novel in format, being designed for electronic distribution and use rather than print publication. During the past year, my work has been fully exposed to competing publishers, most significantly West. Now with only 3 months time I must find another distribution path. Unlike other third party works on LEXIS, mine has been distributed exclusively by MDC. Perhaps, in anticipation of this final decision or at least reflective of the lack of commitment culminating in it, MDC made no effective efforts to market the work, despite assurances to the contrary at a meeting in Dayton last July. So far as I know, neither MDC's one-page blurb with which I assisted last summer nor MDC's Bricklin demo that was created incorporating my suggestions ever got out into the market or even so far as your company's field representatives. By contrast West's Social Security Reporting Service has long been aggressively marketed to the relevant segment of the bar. It is, for example, handsomely represented by a brochure that West mailed out last summer (not unlike those MDC has more recently been distributing describing several of its specialty libraries). I had to prepare my own brochure and have it printed at my own expense, being told that MDC could not or would not prepare such material. I traveled at my own expense to demonstrate these interrelated LEXIS files at the annual meeting of the National Organization of Social Security Claims Representatives (where West had a representative). I took two days of my time, uncompensated, to present a live demonstration to over 200 Georgia lawyers less than a month before I learned of MDC's decision to terminate. In short, I have been severely handicapped during the critical period for this novel publication and am out of pocket to boot.

You may not recall my letter to you in December of 1990. I attach a copy (attachment A). As the letter notes that was not the first time I raised the issue of MDC intentions or the need for a revised contract. Had you then been clear about MDC's intentions, I would not have sunk all the effort I did into shaping this work to the limitations and environment of LEXIS and to speaking, demonstrating, and writing about these LEXIS files. Following that letter, during 1991, I met twice with MDC representatives in Dayton to pursue issues of our working relationship. At the second of those meetings your company's representatives promised amendments that would acknowledge MDC's release of CD-ROM publication rights, deal with termination rights, and adjust the royalty share to reflect that MDC was not providing the level of marketing normally provided by a publisher. MDC proceeded to delay in following through on those undertakings which your people knew I needed in order to succeed in negotiations with potential CD-ROM publishers. As a consequence of that delay I am currently without such a publication agreement

in place.

If I am unable to salvage this work, I shall view my losses as the value of my time devoted to the project over the three year period from 1989 on during which that work was not supported by sabbatic leave or other income from Cornell. Without going into the calculation, I figure the amount to be at least \$150,000. Even if the reference can be brought in timely fashion to CD-ROM, upon the work's removal from LEXIS my substantial effort in working around the limitations of the online environment becomes wasted effort. For example, each section of the treatise contains elaborate LEXIS scripts that permit the user to move directly to a subsection of the statute and to the relevant portion of relevant cases in a KWIC display mode. This programming has absolutely no value outside the LEXIS environment and represented a great deal of work.

If, as I hope, I am able, with reasonable dispatch, to get the work out on CD-ROM my sunk investment in this project will not be a complete loss. On the other hand, if MDC continues to prevent such publication by others through its failure to cede rights nominally held by it under our agreement my losses will be compounded.

Your letter purports to terminate the agreement under paragraph 13.1. But that paragraph, like the rest of the agreement, contemplates that MDC has published my work on CD-ROM. It has not, although as my letter to Jim Roemer also in December of 1990 made clear, I continued to (and still continue to) be open to CD-ROM publication with your Michie subsidiary. (Attachment B) As I read the agreement, a 13.1 termination allows MDC to hire others to maintain my material and to use my name in connection with it. I assume from your statement that you are removing the treatise from LEXIS in June that you may not claim all the "post termination" rights that the agreement says follow a 13.1 termination but in the absence of the clarity on this subject that I asked Steve Emmert to provide I am forced to assert the following:

Following the removal of my treatise from LEXIS on June 6, any use by MDC of material written by me in connection with this project through reproduction, transmission, or preparation of derivative works will constitute copyright infringement. This includes but is not limited to the treatise, links, distinctive user interface, and process description. The treatise and links include the searchable topic codes devised by me that define and permit topic by topic searching of the files currently denominated PMSSCA and PMSSRL.

The provisions of paragraphs 3.1, 3.2, 3.3 and 3.4 that would permit MDC to use material or marks prepared by me and the right to use my name set out in paragraph 4.5 are in my view terminated by MDC's decision.

Your letter refers only to the treatise. I should note that if LEXIS continues to offer files covering the Social Security area after June 1992 it will be appropriating my work, for I identified important elements and even specific documents in that collection without compensation. For background on this point, I attach copies of my letters to Jack Simpson and Jim Roemer dated February 18, 1990 (Attachment C).

Your letter tells me to direct any questions about your letter to Steve Emmert. For a year I have been dealing with Mr. Emmert and throughout this period he has either equivocated or made commitments he later did not honor. Most recently he promised information on how the meager royalty payments I have received to date relate to the contract terms. Perhaps the difficulty has been that Mr. Emmert was not given sufficient authority. I shall be pleased to continue to deal with Mr. Emmert, but only if you assure me that he has authority to settle the range of issues addressed in this letter on behalf of MDC.

Sincerely,

Peter W. Martin
Jane M.G. Foster Professor of Law

cc: S. Emmert

February 3, 1992

Mr. Bryan W. Graupmann
Mead Data Central
9393 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

Dear Bryan:

Here is the set of revised table documents I promised you last week.

In the "TABLES" subdirectory you will find replacements for all TABLE documents except -- (a) those I sent you recently (TABLES 1,3, and 4) and (b) the last two (TABLES 198 and 199). Each file carries the number of the TABLE document it replaces in its name.

I hope that as these new TABLE documents go in the "April 1991" date message that is automatically displayed in this file as part of some general GUIDE dating program can be turned off.

Also on the disk in a "SOCSEC" subdirectory you will find replacements for one document in volume 1 (1 SOCSEC 252) and for four documents in volume 2 (2 SOCSEC E 010, 2 SOCSEC E 100, 2 SOCSEC E 200, and 2 SOCSEC E 300). I have altered the sequencing codes in these documents so that they should take their proper place if retrieved by a search; they are changed in no other way and so show the same date as the documents they replace.

I shall be demonstrating the on line treatise and related materials at a Georgia Social Security seminar this Friday. If these new documents can go up quickly that would be great, but if there is any doubt about having things right on Friday please wait until after the weekend.

Sincerely,

Peter W. Martin

June 25, 1992

Mr. Gary G. Pollard
Senior Director, Editorial Services
Mead Data Central, Inc.
9393 Springboro Pike
Post Office Box 933
Dayton, Ohio 45401

Dear Gary:

Thank you for seeing our wind-up agreement through to conclusion. The contribution called for by paragraph 11 should be by check payable to Cornell University. Please have the check sent with a covering letter indicating that the contribution is in support of research in the area of computer-based legal information at the Cornell Law School to Ms. Frances M. Bullis, Associate Dean for Development and Public Affairs, Cornell Law School, Myron Taylor Hall, Ithaca, NY 14853. Please also copy me with that letter so I can make sure that the sum does not get diverted to landscaping or purchase of uniforms for the hockey team.

Sincerely,

Peter W. Martin

Specifications -- Folio

Document Type

Act -

Each section, subsection and sub-subsection is in a single group,
e.g. |402(b)(3)|
Larger units are retrieved by |402*|

Regulations -

Each section and subsection is in two groups, one derived from
its section or subsection ID and the other from its subpart, e.g.,
|404.1003(b)||Subpart B|

Cases -

Entire case is group named by a cite ID, e.g. |245 f.2d 1042|
Each case has a cite version -- standard citation one line, e.g.
Smith v. Sullivan, 245 F.2d 1042 (11th Cir. 1989)
That cite version should be preceded by a link to an overview
screen that links to chunks of the decision -- synopsis where there
is one, each opinion and each opinion subdivided according to the
logical divisions in the decision itself, e.g., I. FACTS. Footnotes
should be linked.

That overview screen should also link to a view that is the single
full view of the decision in a "for print" format.

How to deal with interior page numbers? Each opinion chunk
should be grouped by cite and page number, e.g., |245 f.2d
1042||1042||1043| and its reference line should carry that
information. Supreme Court decisions but not Court of Appeals and
District Court decisions should carry page markers, e.g. <p.345>.
The cite group can be converted to a volume pointer |245 f.2d *| to
allow a jump cite to part of opinion. Jump cite should link to cite
line and relevant folio.

Bold and underline should be drawn from print version.

Treatise Section -

Entire section is identified by two groups, volume and section
number, e.g., |2 socsec||p 810|

Each section has a cite version -- section number and heading.

That cite version should be preceded by a link to the text of
the section followed by a set of reference links (the text and reference
links being in two folios -- one grouped |text| and the other
|references|.

Some of the references should lead directly to the item. Others
should lead to a list.

The all cases link should pull up a screen inviting selection
of decisions of a particular circuit (Supreme Court and 11th) or those
bearing on a particular state (Supreme Court, 2nd, and N.Y.).

[Should the references folio offer a print version of the
section?]

Meeting with Chip Cater -- Thomson Electronic -- Feb. 21

Cater outlined the structure of the Thomson empire and Thomson Electronic's place in it.

In brief the parent company TTC has three main units -- Travel (major private tour company based in the UK), Thomson Newspapers (dominant or sole paper ;in middle-sized communities in U.S. and Canada), and TIPG (2.5 Billion).

The latter, the publishing group, includes the following units: TBR (college texts, especially strong in science and social science), TBI (medical economics, just acquired Micromedic, principal asset is physician's deskbook), TISL (diverse UK or international publications), TFS (a collection of entrepreneurial financial information services online), and TPP (Electronic Publishing) which is headed by Kathryn Downing. Under Kathryn are Dave Oliveiri (out of LCP statutes) who is in charge of federal and national markets and Chip, technology and specialties, and another vice president who has state products.

Chip is a creative writing graduate of Hamilton College, who moved into the information business via newspaper writing and into technology through managing an information business. He says that EP should be able to do two specialty products a year.

He indicated on non-disclosure that EP was scoping out a Superfund disk. They have out an RIA tax disk which I have on loan (FOLIO). The acquisition of a small Arkansas CD-ROM firm that had acquired the Arkansas decisions has given EP immediately saleable products -- using the LOIS inteface, friendly full text retrieval without hypertext -- EP has produced disks for Arkansas, Connecticut, Rhode Island, and Georgia. The disks use the Kabase platform. Better than 50% of these CDs are being bought by solo practitioners.. in other words EP believe they have found a fresh market rather than taken market share away from West.

The California CD-ROM is ready to be pressed. The New York beta disk has just been reissued in a cleaned-up version.

Chip seems far more skeptical about FOLIO as a platform than Andy Wiszkowski. He will send me information on a more sophisticated alternative that has a less friendly front end. I owe him some sample documents.

TO DO: work up 401 and 402 in full updated version to specification and then send them. Work up Subparts A and B of the regulations and send as above. Send the three Supreme Court decisions in FOLIO. Send a treatise section in both LEXIS and FOLIO, with accompanying character counts.

March 6, 1992

Ms. Kathryn Downing
President & COO
Thomson Electronic Publishing
655 Washington Boulevard
Stamford, Conn. 06901-3793

Dear Kathryn:

As the attached letter to Chip Cater reports MDC has given me oral, soon to be written, notice that it is terminating our contract and removing my treatise and associated material from LEXIS in mid-June. I am angry and out of pocket, but in an odd way relieved.

Between us, given MDC's lack of commitment, disinterest in marketing, etc., termination seems preferable to nominal maintenance.

That step does make me eager to firm up CD-ROM publication plans. What is possible on that front will also affect how (and even whether) I assert claims against MDC under the contract they are now terminating. I don't want to assert any claims that might complicate moving ahead smoothly with a Thomson CD-ROM publication, but if it turns out I must scrape up the resources to proceed on my own to publish a CD-ROM version I am likely to be far more aggressive.

Sincerely,

Peter W. Martin
Jane M.G. Foster Professor of Law

P.W. Martin
3/27/92

DRAFT SCRIPT -- FOR DEMO OF MARTIN CD-ROM
USING THE LEXIS VERSION TO ILLUSTRATE

Martin on Social Security Law is the only Social Security research tool with a fully integrated set of references, issue by issue, to the Act, Regulations, cases, rulings, POMS, ALR Annotations, and journal articles. Through LEXIS (or computer access of a CD-ROM) these references can provide immediate access to the full text of most of the cited documents. The treatise is thus not just a reference. It organizes and gives access to a full Social Security library. That library is searchable by full text search or by citation as well, but the treatise integrates the entire collection.

Like a print treatise, Martin on Social Security Law, guides the researcher to relevant material through a full table of contents and index. It does not require special database searching skills.
[1st screen]

Suppose, for example, an attorney represents a Social Security disability insurance claimant who has been denied benefits despite favorable medical evidence from a doctor he had seen several times for treatment. Consulting the table of contents to Volume 2 of the Martin treatise (**lxe 1 SOCSEC 2**) **[2nd screen]** or the index (**lxe 1 SOCSEC 10**) the attorney finds that disability issues surrounding medical evidence are covered in sections P 800 through P 860 of volume 2. **[3rd screen]** And that section P 810 covers the topic "treating physician." Like all references in this treatise those in the table of contents and index are executable. In other words, they contain the precise commands to access the cited section or document, in this case, "**lxe 2 SOCSEC P 810**". On a CD-ROM this would be a simply point and click on the section number.

Executing that reference the attorney finds at section P 810 both a summary of the topic and further executable references that retrieve relevant cases, the key statute and regulation provisions, Social Security Rulings, as well as any law journal articles or A.L.R. Annotations in point. **[4th screen]** Circuit differences and recent amendments of the act or regulations are specifically noted in the treatise -- again with references than can be followed.

In addition to a short list of key cases, any one of which can be retrieved at once, the section provides an executable topic search of Martin's selected Social Security cases
".es;.cf;PMSSCA;TOPIC(P810) and treat! or phys! or doctor". **[5th screen]** Executing that search yields several hundred of decisions on the topic, including more than one hundred from 1991 (all circuits except the seventh had at least one decision in 1991 referring to

the weight to be given a treating physician's testimony). Like any LEXIS search, this search launched from the treatise can be modified to limit the reference to decisions of a particular circuit or District Court, Judge, or Date.

Each treatise section carries similar links to the statute, regulations, and rulings. **[6th screen]**

Each treatise section also carries a full set of cross references to other relevant parts of the treatise. **[7th screen]**

On topics where there are relevant journal articles or A.L.R. annotations those are cited too. **[8th screen]**

The capacity to follow all these references with ease and in any order puts the research in full control. **[9th screen]**

He or she has immediate access to the full text of the statute as it bears on the issue. **[10th screen] [11th screen]**

And to the regulations. **[12th screen] [13th screen]**

Including recent additions or amendments. **[14th screen]**

All this material is brought within a point and click computer move, topic by topic, in this new type of treatise -- with the ability to block and print or save to disk any important passages the researcher finds. **[15th screen]**

March 6, 1992

Mr. Chip Cater
Vice President Technology
Thomson Electronic Publishing
11 Farnsworth St.
Boston, Mass. 02210

Dear Chip:

I promised to send you some sample files. Here they are. I was delayed by a shouting match with MDC last week. Actually they spoke softly when telling me of their intent to terminate our contract and remove my database from LEXIS in June and I shouted. However, with that contract terminated all issues of CD-ROM publication rights are moot, i.e. MDC has not only no interest (evident for 2 years) but no claim. In addition the contract has a provision for my licensing MDC provided materials post-termination, about which it says "MDC's permission will not be unreasonably withheld."

This disk contains three sample treatise sections in the form they reside on LEXIS (2SSP750.GWP, 2SSP800.GWP, 2SSP810.GWP). You have seen in my FOLIO mockup how I envision treatise material functioning in a true hypertext environment. The files named SUBPARTA.MKP and SUBPARTB.MKP are from the regulations. As I told you I have both the statute and the regulations marked up in a generic markup code, source and targets of all links. These files were created from that code, with macros that converted it to the FOLIO markup code. The file named ACT401402.FF contains the first two sections of the Social Security Act, Title II, with the conversion taken the further step to a FOLIO flat file. The mockup I showed you had these portions of regulations and act in FOLIO.

The final set of files, ten with the extension ".ADD" are the ten most recent U.S. Court of Appeals decisions on Social Security during 1991. With the exception of one bit of proprietary MDC data which I have removed, these files are in the format that I store the cases in my working collection after downloading them and categorizing them against the treatise. You will notice that the first field, denominated MCATG:, contains my topic codes. I maintain a separate database on all coded cases that contains some additional editorial matter, most importantly the data to produce a standard short-form citation. The two data sets are tied together by the document's file name (which is derived from the court, year, and lexis cite number). I envision generating top matter for cases from the latter to merge with full text (omitting some of the data carried in LEXIS -- e.g., full names of all the parties, the full dates of all actions).

The MDC decision increases my impatience to settle on CD-ROM publication plans. Please, let me know what else you need from me to help you and your colleagues decide whether you want to be my publisher.

Sincerely,

Peter W. Martin
Jane M.G. Foster Professor of Law

cc: K. Downing

New York LawDesk Presentation -- May 19, 1992

I. Introduction

My perspective on this important event is that of educator and author. For over twenty years I have been a member of the law faculty at Cornell -- working with young men and women preparing for careers in law and writing about law for both law students and practitioners.

Law is a professional field that depends heavily on information. Whatever impression they create among those they serve lawyers and judges can never be sure they know all law bearing on a reasonably complex issue, in its most current completeness, without doing research. No matter how carefully and thoroughly they mastered a topic in law school, the endurance of that mastery is limited by two fundamental facts -- First, law is constantly changing and elaborating, yesterday's law or understanding of law, if often not today's, and Second, each case is different. And so, as their clients' or other parties' needs direct, lawyers and judges must find or research the law using information skills, methods of analysis, and an understanding of legal landscape and vocabulary they first acquired in law school.

That is why training law students to conduct legal research with thoroughness and efficiency is one of the core aims of any good law school curriculum.

That is why, throughout the history of legal education in this country, strong law libraries have been at the center of strong law schools. In fact, when Cornell University decided to establish a law school slightly more than a century ago, the **first** thing the university did was to acquire a law library. The **second** was to recruit a faculty.

Today, the connection of legal information and legal research skills to legal education is no less clear but the changes in information technology of the last decade have exploded the concept of what a law library is. Law students at Cornell and other top institutions learn how to research complex issues using computers in the library and in their dorm rooms and in the school's teaching law office, our legal aid clinic. They learn how to combine distant and local computer-based information with the print resources of a century old law library.

In roughly ten years computers have moved from the fringe of legal education and legal research to its core. But breathtaking though the change has been; it has only begun. The challenge for legal educators today is to prepare law students with research skills that they can carry and develop through a period of enormous change. A related challenge is to prepare students for doing legal research without a full-blown law school library -- in other words with the more modest information resources available to most lawyers and judges -- and to be able to do that research both efficiently and economically.

Computers have become so important to legal education so quickly because during the eighties a new form of comprehensive national law collection was built -- massive online databases of court decisions, statutes, regulations, and journal articles. Vendors of these information services saw to it that law schools were able to introduce students to their use. But mitigating the widespread enthusiasm over the power and breadth of the two online legal information services, has been a concern shared by legal educators and law firms that in the sheltered atmosphere of the law school students acquire learn work habits that are very costly, too costly in practice. For use of these on-line systems is costly and these collections have far greater breadth than most lawyers need for most matters.

As the power of computing in the law office and judicial chambers has grown, the technology predicate for a second generation electronic law library -- a focused desktop library has been laid. Just as this represents important gains for lawyers and judges, it opens exiting prospects for legal education.

II. The Developments of Which LawDesk is a Precursor

I teach Cornell's basic course in legal research. In our first session, during my students first week of law study, I break an unsettling truth. I tell them that while they may think of law as a fundamentally conservative profession, THE WAYS LAWYERS, JUDGES, AND OTHERS HAVE LOOKED UP THE LAW DURING THE PAST CENTURY WILL NOT BE THE WAY THEY WILL FIND THE LAW DURING MOST OF THEIR CAREERS. I explain that they are becoming lawyers during a transition period -- which requires that they work in mixed media -- print and electronic. This requires that they learn effective use of both media today -- and more importantly that they develop the flexibility to assimilate the new methods and tools of information access that will be released in the near future that they work at learning generic

skills. Books are not obsolete, but law books no longer stand alone. The serious risk in a period like this is that of total reliance on the new or old (as though it were a matter of generational preference) or an unspoken belief that the mix will remain fairly constant.

Speaking of the most important near-term development, I told my students this past fall:

The immediate future holds law on a disk. That means far better user control over the information, an opportunity to mix your own notes and work product with externally generated law documents, better tools for navigation and appropriation. It means far more economic distribution and more competition -- which should drive the price down. But means trouble both for those who have held firm in the conviction that law can be practiced cost-effectively without a computer, on the one hand, and those on-line enthusiasts, on the other, whose understanding of computer-based legal research is at the "which key do I push level." Today -- were I a tax lawyer I would have the Internal Revenue Code and regulations on disk -- and use the on-line systems for update. Were I a litigator I would have the Federal Rules of Civil Procedure on a disk.

And next fall, I shall add:

Were I practicing law in New York, I could and would get reported state court decisions on LawDesk.

III. Uses of LawDesk in Legal Education

That is what I told and will tell my students but experienced educators know that telling is not teaching, hearing is not learning. What LawDesk and similar collections of law on a disk allow is for students to learn these critical lessons by doing.

Let me explain how I see this powerful information resource being integrated with legal education at Cornell using a concrete example or two.

A. An Important Vehicle for Learning Generic or Fundamental Research Skills

In the introduction to legal research course that I teach students spend a great deal of time learning by doing. In a

structured setting I present them with problems that they must research. For that learning to work they must be free to spin their wheels, make mistakes and learn from them. With information systems that carry time or search charges there is a constant risk that the freedom to work inefficiently will lead to costly work habits. Another important goal of my instruction in legal research is to integrate legal research with the use of its fruits in problem-solving and various forms of legal writing.

Having this large collection of New York decisions in a collection that one can use without having to be conscious of unit charges puts the focus where it belongs which is on efficient use of the lawyer's time. It allows assignments that involve students experimenting with alternative research strategies and receiving swift feedback. Having legal information delivered with software that permits the law student or lawyer or judge to appropriate key portions of relevant decisions and move them directly into personal notes offers an integration of research with analysis and writing that neither print nor the on-line systems allow. In other words, a disk like this strikes me as an ideal vehicle for helping students to learn generic research skills which then be transposed to print materials on the one side and the broader but more costly and less flexible on-line systems on the other.

How would I use it? Let me give you a sample problem as I might present it to a group of beginning law students -- a problem designed to introduce students to the ways of: first, finding a relevant statute and then, second, finding the key cases interpreting that statute as it applies to a specific legal problem.

Here is the problem [overhead #1]:

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PROBLEM FOR A LEGAL RESEARCH CLASS

You represent a resident of New York (not a celebrity but an ordinary citizen) who, to her chagrin, has just appeared on the cover of a national magazine with the caption "OBESITY -- IS IT A PROBLEM?" She had no dealings with the magazine and was, indeed, unaware her photograph had been taken. Can she sue the magazine for damages?

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Has the law student covered this topic or anything like it in class? No. The challenge for the law student is to exercise a growing familiarity with law journal articles -- to find the 1983 Albany Law Journal article covering the Right of Privacy in New York -- or to work with the index of the annotated New York statutes and by one these routes or some other find a reference to the pair of sections in the New York Civil Rights law that establish a right to sue for invasions of a right to privacy.

But finding those sections is just the beginning. Here it is [overhead #2]:

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§ 50. Right of privacy

A person, firm or corporation that uses for advertising purposes, or for the purposes of trade, the name, portrait or picture of any living person without first having obtained the written consent of such person, or if a minor of his or her parent or guardian, is guilty of a misdemeanor.

§ 51. Action for injunction and for damages

Any person whose name . . . or picture is used within this state for advertising purposes or for the purposes of trade without the written consent first obtained as above provided may maintain an equitable action in the supreme court of this state against the person, firm or corporation so using his name . . . or picture, to prevent and restrain the use thereof; and may also sue and recover damages

=====
=

The right to sue exists only when a picture is used for "advertising purposes or for the purposes of trade." The statute does not define these phrases. Of necessity, the New York courts have had to. There are many ways to find those decisions applying the statute to cases similar to the problem that launched the student's search. Among those I shall want my students to exercise include:

Using the annotations of the statutory compilation in which they have found the statute, students find brief descriptions of decisions they should read -- with citations of specific decisions by the

parties' names and volume of page number of the official reports.

This is a point at which next fall I would want them to be able to turn to this collection of decisions. References under these two sections spray across shelves of print volumes. With the disk the student can with name or citation pull up the 1990 Court of Appeals decision in the case of *Finger v. Omni Publications* -- in full text: [overhead #3].

Having read and analyzed this decision retrieved from the disk the student does not have to hop back to the statute for another reference; for the disk allows the student to follow this decision's leads with a power and flexibility that are startling and new.

This 1990 decision [overhead #4] relies on two prior decisions of the Court, *Arrington v. New York Times* and *Murray v. New York Magazine*. With LawDesk these citations can be followed, immediately, in context -- even before the student has finished reading the full text of the *Finger* decision she or he can pull up the prior cases on which it draws, read them, refer back and forth among them, and return. [overhead #5] [overhead #6]

I would expect to encourage students to experiment with ways of searching for relevant decisions without relying on the statute annotations and to compare results of various approaches.

I would want them to experiment with the table of statutes, for example.

The disk, even more obviously, offers a way of teaching generic word search skills. Knowing that the relevant decisions will refer to sections 50 or 51 of the New York Civil Rights Law, I would want my students to discover (without being told) that searching this disk or the case headnotes using the terms 50 or 51 and civil rights will retrieve useful decisions.

B. An Important Vehicle for Instruction in Various Fields of Law

Learning by doing is not confined to law school courses in legal research. It is common practice in topical courses such a commercial law or domestic relations or property to present students with problems to think about in relation to decisions and statutes they have read, furnishing one or more case citations for students who

want to check their analysis against that of the court confronted with a similar problem. In the upper class course on Intellectual Property I teach, I might present the same issue of statutory interpretation in this way. [overhead #7] Whether done in class or through printed course materials this type of exercise is far less effective than it should be because the difficulty students face in getting to the decision to check their own analysis against it. Providing the same reference on a disk or in a local area network will I expect lead to easier and therefore closer integration of research with topical course instruction.

C. Clinical Education

A final point about learning by doing, concerns the "pulling it all together" that many law students experience in a clinical law course. The Cornell Legal Aid Clinic is a teaching law office, staffed by five full time clinical teachers. In our clinical courses students represent New York residents with family law, benefit law, consumer or housing law problems under the supervision of these experienced lawyers. In representing their clients they learn to do legal research on real problems with real interests at stake. For the same reasons that LawDesk is so attractive a resource for lawyers like Loren Glassman, it foresees it being important to the teachers and students in our clinic.

IV. Conclusion

In concluding, let me emphasize what has up to now been unspoken. I view the changes of which this event is representative as opening immense potential gains for those who seek and use legal information. The fundamental opportunity for all of us is to shape a system that does the job better. The acquisition of legal information is a major expense for the legal profession and a personal impossibility for most members of the public. So long as information is assembled in libraries and lawyers, administrators, judges, and citizens must go to those places to find and use legal information we will have gross inequality of access. With the print library structure, few who live and work outside of large metropolitan centers have adequate access to legal information. Indeed, urban practitioners who are not part of a large firm often face major logistical difficulty in getting information. The sorry truth is that the public institutions founded to expand access, the court and county law libraries, are seriously underfunded right across the United States, with inadequate collections, inadequate staffing, and inadequate

services. Electronic information systems like this make it possible to dream of lawyers, judges, and citizens having easy access to up-to-date, understandable, and comprehensive collections of legal information no matter where they are located geographically or institutionally. And that is an exciting prospect.

The comprehensive online systems carry three significant limitations or costs. One is obvious; these collections have far more breadth than most lawyers need for most matters. Lawyers find most of their research confined to the law of a particular jurisdiction or specialty. Paying for a complete electronic library when one's research needs are more simply satisfied something many lawyers concerned about costs -- for themselves and their clients -- hesitate to do.

The second cost or limitation is less obvious. That is its problem. These collections are not complete but they seem so. Too often I find students believing the search is over when they have stepped away from the computer.

The third cost lies in the compromises that must be made when databases are vast. The large online systems require huge computers and transcontinental communication which exact a cost in terms of performance, functionality, and user control. Putting critical legal information directly at the lawyer's or judge's computer allows forms of manipulation and use that the behemoth online systems cannot match.

June 26, 1992

Ms. Kathryn Downing
President & COO
Thomson Electronic Publishing
655 Washington Boulevard
Stamford, Conn. 06901-3793

Dear Kathryn:

Last January, with your permission, I took the Copyright Act, Patent Act, and Lanham Act into FOLIO and surrounded them with other materials in a set of interrelated infobases supporting my intellectual property course.

Having found this format every bit as successful with students as I had hoped, I am about to send samples around to selected law teachers for examination and feedback. The new Legal Information Institute at Cornell will offer these materials to law teachers and students at a price set to cover costs and also (if all goes well) to generate a modest revenue stream that will be used to build similar references in other fields. No personal gain is involved.

An issue this raises for Thomson is whether you want these three statutes to carry the designation USCS. The statutes were all downloaded from the USCS version on LEXIS this past January. As you know, I then had the task of conforming the Lanham Act to the print version. My assistants have just proof read the three statutes against the print USCS to my satisfaction but there is always some risk of discrepancy. Moreover, these versions of USCS do not have your editorial notes. If you wish all places that "USCS" appears will become "U.S.C." On the other hand, I would be pleased to retain the current designation with any disclaimer or explanation your folks might want.

I checked to see what the print supplements (by West and its subsidiary Foundation Press) do. Needless to say, they carry the designation "U.S.C.A."

Other matters:

In two weeks or so, I'll be sharing with you three topical outlines done in FOLIO that link to the LAWDESK New York CD-ROM.

I am excited by the possibilities for such electronic secondary literature and would like the reaction of your people to these prototypes.

MDC and I have finally reached agreement. The signed settlement

obligates MDC to furnish machine-readable copies of all the primary material I will need on a Social Security CD-ROM and resolves all outstanding intellectual property issues.

Our new Institute is putting a server on the Internet with support from NCAIR. A first project aiming to expand use of the Internet by legal academics by assembling a directory of e-mail addresses has been wildly successful.

Sincerely,

Peter W. Martin
Jane M.G. Foster Professor of Law

December 18, 1992

Ms. Kathryn Downing
President & COO
Thomson Electronic Publishing
655 Washington Boulevard
Stamford, Conn. 06901-3793

Dear Kathryn:

With the end of the semester, I've finally had the time to focus on the contract terms that I promised you and John DeFeo I would attempt to draft. My earlier letter on this subject, dated November 4, covered the scope of the project and division of labor. My subsequent discussions with John lead me to believe that we are in full agreement on that score.

There are two unresolved areas that I can see: (a) the financial terms and (b) duration, performance protection, and related termination rights.

Here are my ideas on both.

(a) Financial Terms

Proposal: A royalty of 15% of the gross revenue from the first x CD-ROM subscriptions each year (or some other easily calculated benchmark), 20% on subscriptions above that number as well as any additional revenues derived from this product. (An alternative would be to set the royalties at 10% of gross revenues for the first three years, stepping up to 20% of gross revenues thereafter.)

Explanation: My agreement with MDC, like my standard form book contract with West, contained a royalty formula of 20% of gross. In reaching the 1988 understanding with MDC, I secured and shared with MDC a Little, Brown author's agreement which contains the concept of a two-step royalty (15% and 20%) I've adapted in the above proposal.

I don't know what number "x" should be and invite you to propose a proper number for the cross-over point. My notion is that that number should be set at a level where the project becomes comfortably profitable for Thomson. I don't want my front end royalty share to jeopardize the profitability of this venture for Thomson. On the other hand, at the point where market acceptance reaches the level for which we both hope I would like a larger share, reflecting that my level of creative involvement and ongoing maintenance are more than equal those of a print author. Recognizing that it may be important, on your side, to distinguish this from other royalty arrangements within TPP I would suggest that my bringing rights to all the MDC data to this project is ample ground for treating this as a special case. My understanding is that not having to pay MDC or some other data source for the cases, rulings, statutes,

regulations and annual updates represents a very substantial cost saving.

(b) Duration, Performance, Termination

Proposal:

* An agreement with a definite y year term (i.e. running to the end of 19??), with Thomson having the right to renew for a second y years (and third ...) upon written notice six months prior to the term's end.

* At the end of the arrangement, whether upon the completion of its initial or renewal term or, at an earlier point, by mutual agreement of the parties, Martin will retain his copyright in the treatise material and the document codes that connect the primary law material (such as statutes, regulations, cases, and rulings) to the treatise structure. Martin will also retain his license to use the primary law material itself, including a license to use it in the form to which it was converted for inclusion on the CD-ROM.

Explanation: My basic approach here is simple and once again I invite you to propose numbers that fit Thomson's perspective. The creation of a specified term allows Thomson to let the project go after a reasonable initial term, should revenues be disappointing or for any other reason. Renewal terms (as many as you would like) protect Thomson against my walking off with a successful product.

My interests are, I believe, adequately protected by the assurance that the agreement will not be terminated before the end of the term except by mutual agreement and by my intellectual property rights.

The one risk for Thomson this framework does not address is a failure on my part to perform the updating necessary to keep the product current, identifying and coding new cases and rulings and revising the treatise text as necessary. In the event of a very successful product, Thomson might want the right to assume maintenance, offsetting its resulting additional costs against royalties (or making some other appropriate financial adjustment). Going a step further with this particular scenario, Thomson might want an option to acquire all my intellectual property interests in this product upon my death or permanent disability, at a price set by impartial third party appraisal.

Sincerely,

Peter W. Martin
Jane M.G. Foster Professor of Law

cc: J. DeFeo

INTRODUCING A NEW RESEARCH TOOL --

MARTIN ON SOCIAL SECURITY LAW

= = =

WORKING WITH LEXIS® ON LINE

TREATISE AND DATABASE

Peter W. Martin, Esq.
Edward Cornell Professor of Law
Cornell Law School
Ithaca, New York

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I. Nature and Location of Treatise and Database

Martin on Social Security Law is the first law treatise to be written specifically for computer-based use. It was published on the LEXIS® service, June 1, 1991.

Martin on Social Security Law is the only Social Security research tool with a fully integrated set of references, issue by issue, to the Act, Regulations, cases, rulings, POMS, ALR® Annotations, and journal articles. Through LEXIS these references provide immediate access to the full text of the all cited documents (with the exception of the POMS and those journal articles not on the LEXIS service). The treatise is thus not just a reference. It organizes and gives access to a full specialized library.

Not only is the referenced library of materials comprehensive, it is up-to-date. As the Department of Health and Human Services issues new regulations or promulgates annual revisions in the benefit formula in the Federal Register and Congress amends the Act, those changes are reported in Martin on Social Security. They are reported as recent developments, but they are also referenced in the appropriate treatise sections, and all these references provide direct access to the full text of the relevant document. Updating is handled completely on line; there are no separate pocket parts or replacement pages.

The flexibility of LEXIS allows the material to be organized to meet the different needs of different researchers, ranging from a private attorney specializing in Social Security representation to the person needing guidance on eligibility and benefit amount to the judge confronting a particular Social Security issue.

All LEXIS references in Martin on Social Security are executable as written. They are references that have been written and tested by the author. Users can find appropriate authority without having to think of their own search terms. They need not remember or master all important LEXIS commands. To retrieve the authorities referenced by this treatise, all the user must do is transmit the LEXIS reference as presented in the treatise.

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FOCUS and KWIC are trademarks of Mead Data Central, Inc.

ALR is a registered trademark of Lawyers Cooperative Publishing.

II. An Example of the Scope and Flexibility of this Research Tool

Like a print treatise, Martin on Social Security Law, guides the researcher to relevant material through a full table of contents and index. It does not require special database searching skills.

Suppose, for example, an attorney represents a Social Security disability insurance claimant who has been denied benefits despite substantial evidence of alcohol abuse. Consulting the table of contents to Volume 2 of the Martin treatise (**lxe 1 SOCSEC 2**) or the index (**lxe 1 SOCSEC 10**) the attorney finds that disability issues involving alcoholism or drug addiction are covered in section P 750 of volume 2. Like all references in this online treatise those in the table of contents and index are executable. In other words, they contain the precise commands to retrieve the cited document, in this case, "**lxe 2 SOCSEC P 750**".

Executing that reference the attorney finds at section P 750 both a summary of the topic and further executable references that retrieve relevant cases, the key statute and regulation provisions, Social Security Rulings, law journal articles, and A.L.R. Annotations.

In addition to a short list of key cases, any one of which can be retrieved at once, the section provides an executable topic search of Martin's selected Social Security cases "**.es;.cf;PMSSCA;TOPIC(P750) and alcoholI or drug or addict!**". Executing that search yields over 100 decisions on the topic, better than a dozen from 1991, including important recent decisions from the 1st, 7th, and 8th Circuits, U.S. Court of Appeals. Like any LEXIS search, this one can be modified to limit the reference to decisions of a particular circuit or District Court, Judge, or Date.

Returning to the treatise section "**lxe 2 SOCSEC P 750**" the researcher can next proceed to follow its executable references to the regulations "**lxt 20 cfr 404.1525**" and "**lxt 20 cfr 404.appendix 1**", to the two relevant Social Security rulings ".es;cf;PMSSRL;TOPIC(P750)", to the two relevant law journal articles available in full text on LEXIS "**lxe 50 TENN. L. REV. 425**" and "**lxe 17 GA. L. REV. 217**", to the cited subsection of the statute "**lxt 42 usc 423:fo;d disability defined;vk1;fu**", and to an A.L.R. annotation "**lxe 39 A.L.R. Fed. 182**", plus numerous cross references to other sections of the Martin treatise that may bear on such cases.

From one section of the treatise the researcher is directed to a full collection of authorities on alcoholism and Social Security disability determinations. The treatise brings the organization of a book or specialty service directly into LEXIS where its "electronic footnotes" can provide immediate full-text access to all the important underlying documents.

III. Finding This Resource in LEXIS

Martin on Social Security Law is located in the LEXIS Public Health and Welfare library. To use it, transmit "PUBHW" at the LEXIS library menu. Once in the Public Health and Welfare library the user simply transmits "TABLE" and the collection is opened. (It is also available in the LABOR and ESTATE libraries.)

LIBRARIES -- PAGE 1 of 2

NAME	PG	NAME	PG	NAME	PG	NAME	PG
- - - - - L E X I S - U S - - - - -							
GENFED	1	CODES	1	LEGIS	1	STATES	1
				ALR			6
ADMRTY	2	FEDCOM	2	MILTRY	3	CORP	2
				LAWREV			6
BANKNG	2	FEDSEC	3	PATENT	3	EMPLOY	2
				MARHUB			6
BKRTCY	2	FEDTAX	3	PUBCON	4	HEALTH	3
				LEXREF			6
COPYRT	2	IMMIG	3	<u>PUBHW</u>	4	INSRLW	3
				ABA			6
ENERGY	2	INTLAW	3	REALTY	4	STENV	4
				BNA			6
ENVIRN	2	ITRADE	3	TRADE	4	STSEC	4
				CCHSKY			6
ESTATE	2	LABOR	3	TRDMRK	4	STTAX	4
FEDSEN	2	LEXPAT	4	TRANS	5	UCC	5

AC for AUTO-CITE

LXE (LEXSEE) to retrieve a case/document by cite

SHEP for SHEPARD'S LXT (LEXSTAT) to retrieve a statute by

cite - - - - -

NAME PG DESCRIP

NAME PG DESCRIP

----- CASES -----	---	P.MARTIN ON SOCIAL SECURITY LAW
Combined COURTS & SSRULE	<u>TABLE</u>	6 Table of SocSec Topics
Fed Pub Benefits & SocSec	SOCSEC	6 Martin SocSec Treatise
State Pub Benefits & SocSec	PMSSCA	7 Martin Selected Cases
Social Security Rulings	PMSSRL	7 Martin Selected Rulings

--- U.S. CODE/CFR/FEDERAL REGISTER ---

USCS	2	Titles 26,28,29,30,42,45
PUBLAW	2	Public Laws
USCODE	2	Combined USCS & PUBLAW
ALLCDE	3	Selected State Codes
CFR	3	Titles 20, 26, 29, 42, 45
FEDREG	3	Federal Register
ALLREG	3	Combined FEDREG & CFR

IV. A Brief "How To" Guide

A. PRELIMINARY SUGGESTIONS AND EXPLANATIONS

1. USE THE EXECUTABLE REFERENCES: With few exceptions, the cross references and footnotes of this collection are executable. That means they are written so that you can follow them immediately by transmitting the reference to the LEXIS service precisely as written. The symbol "=>" is used throughout to indicate that what follows is an executable LEXIS command or string of commands. The command may move you around within a single document; that is true of all "p*" commands, e.g., "p*act". Other reference commands will take you to another treatise section or launch a search for all cases in point or deliver the key subsection of the Social Security Act. The subject of the reference or a brief explanation of the action a command will produce always precedes the "=>" symbol.

2. WINDOWS RESEARCH SOFTWARE USERS: The Martin treatise and collection of related material are designed to take full advantage of the LEXIS® 2000 Research Software for Windows™. This environment saves research time and reduces error by allowing the user to point and click or block and transmit the executable references in addition to giving such "screen driven" access to all the standard LEXIS commands. The Windows environment is especially helpful for taking notes since it comes with an integrated Notepad and two different ways of recording research session results -- the Diary and Recording files. This Guide will offer specific points for Windows users when appropriate. For more complete documentation on the LEXIS 2000 Research Software for Windows consult its accompanying User Guide.

B. OVERVIEW OF THE COLLECTION

This collection provides a complete set of reference materials -- a treatise in 2 volumes, selected cases and agency rulings, the Act, agency regulations, and important secondary literature including both ALR Annotations and law journal articles.

Four files, updated regularly, make up its core:

TABLE: The initial entry point for most users. This file contains an explanation of the full collection and its use, an easy cross over to the treatise which is located in the separate SOCSEC file. TABLE also contains overviews of the Act and regulations, a full table of topic codes that provide direct access to the relevant cases in the PMSSCA file and rulings in the PMSSRL file, plus a report on recent developments.

SOCSEC: The treatise, divided into 2 volumes. Each treatise section contains executable cross references to other relevant sections in both volumes. Those in volume 2 include topic searches that yield relevant cases and rulings. They also include executable references to the Social Security Act, the regulations, ALR Annotations, and law journal articles.

PMSSCA: All of Martin's selected Social Security decisions, coded with topic codes that link them to the treatise. PMSSCA presently contains all Social Security decisions of the United States Supreme Court, those of the U.S. Courts of Appeal from 1983 to present, U.S. District Court decisions from 1988 on, plus selected earlier decisions.

PMSSRL: All of Martin's selected Social Security rulings, coded in the same

fashion as PMSSCA. Excluded from this file are rulings that the Agency has rescinded or otherwise held obsolete.

C. HOW AND WHERE TO BEGIN

The collection can be entered in several different ways. Which is best will be determined by the context and nature of your research problem and by your familiarity with Social Security Law and the LEXIS service in general.

1. USING THE TABLES OF CONTENTS

You can use the treatise Tables of Contents or the Index of Important Terms and Phrases to find the most likely starting point for your research and move directly from the Table of Contents or Index to that section, following its executable reference. Since each treatise section carries its own table of relevant other sections in executable form, your first section within the treatise will lead you to others. These moves from Table of Contents to treatise section and from one treatise section to another all utilize the LEXSEE® feature. Each treatise section has a unique LEXSEE citation that consists of its volume number, the treatise file name "SOCSEC" and the full section number. Section 150 of volume 1 is retrieved by the LEXIS command "lxe 1 SOCSEC 150" and section D 400 of volume 2, by the LEXIS command "lxe 2 SOCSEC D 400".

2. BROWSING THROUGH THE TREATISE OR PORTIONS OF IT

If you would rather browse through the treatise, section by section, that is readily done. To browse the treatise you need to launch a search against the SOCSEC file that retrieves either the full treatise or the portion of interest to you. The file has been constructed to make this easy. The treatise documents contain a CITE segment that can be used for such retrieval along with any volume or section number limitations. The search "CITE(SOCSEC)" launched in the SOCSEC file will retrieve the entire treatise. The search "CITE(1 SOCSEC)" will retrieve all of volume 1; the search "CITE(2 SOCSEC)", all of volume 2. Since the sections in volume 2 include a letter followed by a space and a 3 digit number it is easy to retrieve the set of sections dealing with any broad topic. For example, the spouse benefit sections are retrieved by the search "CITE(2 SOCSEC H)"; the sections dealing with establishing disability, by the search

"CITE(2 SOCSEC P)".

Having retrieved a set of treatise sections you can display them in the CITE format. That will present the treatise or portion of it you have retrieved as a list of the section numbers and headings. You can select any section from that list as the place to begin browsing by transmitting its number on the list and the command for display in the FULL format.

You browse forward or backward through the retrieved sections by calling for the next document or previous document. During a browse you can display the documents in FULL format or, if you want to limit yourself to the treatise text without bothering with each section's references you can use the SEGMENT format and view only the TEXT segment. (To access the SEGMENT display format transmit the command ".se". The SEGMENT format will also allow you to browse through sections looking only at their references of a particular type -- reviewing just the references to Act and regulations or journal articles and ALR Annotations, topic by topic. Each of the section segments indicated by the "p*" references at the top of the screen in FULL display constitute a portion of the section that can be separately displayed in the SEGMENT format.)

3. USING THE TABLE OF SEARCHABLE TOPICS AND TOPIC CODES

a. TOPIC CODES

The files containing the selected Social Security cases and Social Security Rulings, PMSSCA and PMSSRL, are linked to the treatise by topic codes. Each case and ruling has been assigned codes that relate it to the appropriate sections of volume 2. With only a few

exceptions the code for a section is the section number compressed, that is, the section number with no space between the letter and number. For example, the topic code that relates to 2 SOCSEC A 100 is A100; the topic code for 2 SOCSEC D 400 is D400. (Topic codes that include an asterisk or "000" are the one exception to this rule.) To retrieve cases or rulings that deal with a particular treatise topic you merely search the appropriate file, PMSSCA or PMSSRL, using the topic code and limiting your search to the TOPIC segment. The search for all decisions dealing with the topic covered in 2 SOCSEC U 100 is "TOPIC(U100)".

b. SEARCH TERMS ASSOCIATED WITH TOPIC CODES

The sections of volume 2 of the treatise contain executable searches utilizing these topic codes. The references to cases also include words likely to be associated with the discussion of the topic. For example, the search for topic A600, which concerns proof of age, is "TOPIC(A600) and age," and the search for topic B320, which concerns application of the excess earnings test to self-employment income, is "TOPIC(B320) and earning or self-employ! or retire!". The search terms combined with the topic code are not necessary for retrieving the relevant cases; the topic code alone will do that. Their role is limited to allowing movement to the portions of the documents covering the topic using the KWIC™ display format.

c. WHEN TO USE THE TABLE OF SEARCHABLE TOPICS

The Table of Searchable Topics allows the user who wants only to retrieve cases or rulings relevant to a point to bypass the treatise. To use it you go directly to the full Table of Searchable Topics, document 2 in the TABLE file, find the topic of interest in that table, transmit the number you find there which will take you to the appropriate table document.

That document will contain topic code searches as executable references ready to be launched against the PMSSCA and PMSSRL files. Where appropriate a topic table document will also alert you to any recent changes that may not be reflected in the cases (such as an amendment to the Act) but are reported on in the treatise, with references. All topic tables include treatise references allowing you to move directly to the corresponding section of the treatise.

WINDOWS USERS: You may use the mouse to block any executable reference and then point and click on TRANSMIT or use the transmit or enter key. Keep two important tips in mind when using this "block and transmit" technique:

1. Block only the portion of the reference FOLLOWING the arrow, otherwise the search will not be effective.

-Example: Vol. 2-Table of Contents => lxe 1 SOCSEC 2
*block off only " lxe SOCSEC 2 "

2. Block the complete reference all the way to the end. If the reference extends to a second line you must block the second line all the way out to the margin for the first line!

-Example:=> .es;cf;cfr;part(k) and cite (20 cfr w/1(416.100*
or 416.1121*))-----
*block all the way to the end of the line above

4. DIRECT ACCESS OF INDIVIDUAL TREATISE SECTIONS

If you know the treatise section with which you wish either to begin or to resume research you can go directly to it upon entering the Public Health and Welfare Library (PUBHW). All you need to do is use the LEXSEE feature and the section's LEXSEE citation. For example, to go directly to section N 100 of volume 2 you would transmit "lxe 2 SOCSEC N 100".

If you keep a printed copy of the treatise Tables of Contents, you can use it to find the treatise section with which you want to begin your research and make regular use of this technique.

The treatise can, in fact, be accessed, using the LEXSEE feature, from any library in the LEXIS service; you need not be in PUBHW. However, in order to use the references to cases, rulings, and regulations in a treatise section, as written, you must be in PUBHW.

D. DIFFERENT RESEARCH NEEDS, DIFFERENT STRATEGIES

1. STRATEGIES FOR RESEARCHING A SPECIFIC, PRE-DETERMINED ISSUE IN SOCIAL SECURITY LAW:

If you are already familiar with Social Security Law and have one or more narrow issues to research, you will in most cases want to begin with the Table of Contents to volume 2. For example, if your client's eligibility for benefits as a surviving spouse rests on an issue of marital status you would enter the Table of Contents and either page down through the table or transmit the "p*" command which will bring you directly to the "Spouse Benefits" topics in the table (p*6). There you are offered a list of volume 2 section headings that relate to various aspects of the marital status issue. For each section the table furnishes the executable references combining the LEXSEE command with the section citation in LEXSEE search format (e.g., "=> lxe 2 SOCSEC H 110". Transmitting that executable reference (Windows users: block and transmit) takes you directly to the section. Each volume 2 section contains references to sections of the Act, to rulings in the PMSSRL file, to cases in the PMSSCA file, to other treatise sections in the SOCSEC file, and to other sources in LEXIS, plus important print sources including the POMS. All references to material in LEXIS are set up with executable references allowing you to retrieve them by transmitting the references exactly as displayed on the screen (Windows Users: by blocking and transmitting).

IMPORTANT: Before you execute a reference taking you away from a section to which you may wish to return make a note of the LEXSEE citation of the section you are leaving. (See section G, below, on returning)

2. STRATEGIES FOR OBTAINING A BROAD OVERVIEW OF SOCIAL SECURITY LAW

If you want to familiarize yourself with Social Security law generally, the treatise is also the place to begin. Volume 1 of the treatise contains an overview of Social Security law, with extensive executable references that allow you to move throughout the collection of materials directly from introductory treatment to more detailed coverage of any issue. Volume 2 of the treatise allows you to review narrower issues, including the type of issues most likely to be the focus of Social Security appeals. Either volume can be explored from its Table of Contents or by the search and browse technique. (See section C above)

3. STRATEGIES FOR INITIAL EXPLORATION OF ISSUES OF ENTITLEMENT, BENEFIT AMOUNT OR PROCEDURE

Volume 1 is organized around different benefit types and general features of the program. Its organization reflects the initial questions an individual may have about benefits under Social Security and how they are pursued. Volume 2, by contrast, is organized around issues or categories that are important in appeals or litigation. This makes volume 1, entered through its Table of Contents, the recommended starting point for a researcher who has a specific situation or problem in mind but wants more introduction to Social Security Law or wants to locate any potential Social Security issues within the broader framework of the program.

IMPORTANT: Before you execute a reference taking you away from a section in either volume of the treatise to which you may wish to return make a note of the LEXSEE citation of the section you are leaving. (See section G, below, on returning)

E. WORKING WITH AND VIEWING RETRIEVED REFERENCES

As noted above the executable references in the treatise take you to relevant documents through a variety of means. Each provides a different set of options upon arrival.

References to other treatise sections, to individual cases or rulings, to journal articles and ALR Annotations all utilize the LEXSEE feature. Upon reaching the referenced document you can move around within it using the standard LEXIS commands including any "" pages implemented in the document. (The treatise sections are all structured to allow easy movement to all categories of references using the "p*" command.)

*The references to the Act make use of the LEXSTAT® function and in the common case where the reference moves you directly to a particular subsection of the Act the FOCUS™ function as well. You can move around the referenced section by paging up or down. By shifting into the BROWSE mode you can move to preceding or following sections in the Act. (If you are at a subsection in the FOCUS feature, you will have to EXIT FOCUS (.ef) before entering BROWSE.)

*Most references to the regulations also make use of the LEXSTAT function and permit the same options as a reference to the ACT. A few references to multiple paragraphs employ a search of the CFR file, using a segment restricted search that retrieves the relevant paragraphs. The retrieved documents can be viewed in any of the LEXIS formats. If the number is small you may wish to browse them in FULL. With a larger number of paragraphs, the CITE display mode allows you to review the paragraph

headings to select those that seem most directly relevant to your research for viewing in FULL.

*References to both cases and rulings utilize the topic codes discussed in section C above. Like any LEXIS search the initial search can be modified or be used as the basis for a subsequent FOCUS search. Some topics yield very few cases or rulings, others in areas of disability and administrative procedure or judicial review yield large numbers. In the latter case, you will probably want to modify your search with a date restriction using the DATE segment (e.g., "and DATE(>1988)") or with a court restriction using the COURT segment (e.g., "and COURT(supreme or 2nd)"). In many disability situations a COURT segment restriction limiting your search to decisions of the Supreme Court and the Circuit Court of Appeals for your area will be a reasonable way to deal with a large number of decisions. Since the topic searches of cases include words associated with the issue, viewing them in the KWIC format allows you to find the most relevant portion of each case more easily. But with any decision, of course, you can switch to a FULL display.

F. MAKING USE OF ALTERNATIVE LEXIS SEARCH TECHNIQUES

1. RETRIEVING RELEVANT CASES OR RULINGS USING THE FULL FILE OR BROAD CATEGORY SEARCHES: There may be situations where you want to search the cases in PMSSCA or the rulings in PMSSRL without using the topic codes associated with the volume 2 sections. Documents in both files have also been coded with broader category codes. These are:

Category	Topic Code	Search
Disability	SSDIS	TOPIC(SSDIS)
Family Benefit	SSFAM	TOPIC(SSFAM)

General	SSGEN	TOPIC(SSGEN)
Attorneys Fees	SSATT	TOPIC(SSATT)

Retrieving cases involving a specific medical condition not covered in one of the treatise sections or involving particular medication or family benefit cases from your state may be best accomplished by a standard LEXIS search of the PMSSCA file, using the relevant general category code or one of the more general of the topic codes like the code that applies to all claims involving an issue of disability (N600).

2. RETRIEVING RELEVANT CASES OR RULINGS USING MORE THAN ONE TOPIC CODE:

Each decision in PMSSCA is coded against all relevant sections in volume 2 of the treatise. The searches set up with each section retrieve those coded to that section, but you can modify such a search to include another topic code which results in a retrieval of only those cases that bear on both topics. For example you can retrieve cases involving disability claimants focusing on when the person became disabled with the search TOPIC(N700) and cases involving mental impairments with the search TOPIC(P710). Combining the two in a single search retrieves cases with both aspects -- e.g., TOPIC(N700 and P710). Unless you also combine associated search terms from the respective topic searches, you will need to page through your retrieved documents in FULL or do a subsequent FOCUS search on particular terms. The topic codes alone will not highlight any of the relevant portions of the text.

G. RETURNING TO YOUR STARTING POINT IN THE TREATISE

Before you execute a reference taking you away from a section to which you may wish to return make a note of the LEXSEE citation of the section you are leaving. (The treatise

sections include reminders of this return citation in "TO RETURN =>" messages in the reference segments.)

Except when you have moved to the Act or regulations with the LEXSTAT command, RESUME will not return you to your starting point in the treatise. Most movements to and around the treatise involve use of the LEXSEE function, and each new LEXSEE move shifts the LEXIS starting point. The new document replaces the prior one in the LEXIS software as the point to which RESUME will return you.

Retrieving all cases or rulings on a topic involves exiting the LEXSEE function altogether so the starting point is lost in those instances as well. Since the LEXIS software does not remember your starting point you must.

Only with a LEXSTAT reference to the Act or regulations will RESUME bring you back to the treatise section from which you began (because that move involves a separate LEXIS feature). If the original executable reference took you directly to a subsection of the Act rather than an entire section, that involved use of the FOCUS feature. To return from a section or subsection of the Act or from a regulations reference to the citing treatise section you need only RESUME ("res").

WINDOWS USERS: The Notepad gives you an easy way to keep track of your current base section in the treatise. Before leaving a section to which you may want to return, copy its "TO RETURN" command to the Notepad. To do that you need only block the command on the Session Manager screen, select copy from the "Edit" pull down menu, shift to Notepad (Alt-Tab if you have it open and are moving back and forth between it and the Session Manager), and paste the return command into the Notepad before returning to the Session Manager and your

reference move.

H. SAVING YOUR RESEARCH RESULTS

You can save any documents you retrieve by recording your session to a file or by printing documents either to disk or printer using the standard LEXIS commands.

WINDOWS USERS: You have two additional means of saving your work. In addition to the "Recording" file option, you can copy parts of the documents you retrieve to a "Diary" file. This allows more selective saving along with some automatic notation as to source, creating a file that you can subsequently annotate or combine with other research notes. These other research notes can be begun during a research session using the "Notepad" option.

The Notepad can also be used to save locations in the treatise or topic based searches for future use. Material can be copied from the Notepad back to the Windows Session Manager.

I. WHAT TO DO IF YOU GET LOST

If you find yourself in the middle of a regulation or decision or section of the Act uncertain about how to return to your starting point in the treatise, the best way to recover your bearings is to use the LEXSEE feature to move to the Table of Contents of the treatise volume from which you were working. The LEXSEE request for the Table of Contents to volume 1 is "lxe 1 SOCSEC 1" and that for the Table of Contents of volume 2 is "lxe 1 SOCSEC 2". If you have kept a print copy of the Tables of Contents you can instead use it to determine what treatise section you want to return to.

J. RESEARCH SHORTCUTS

1. KEYING IN LEXSEE REFERENCES: You need not type in "lxe" every time you transmit a LEXSEE request once you are in the LEXSEE feature. All you need do is transmit the LEXSEE citation following the "lxe" prefix. Moves back to the treatise from any other file or any LEXSEE request while browsing through the treatise having retrieved all or part of it through a search will require including "lxe" with the reference.

2. SKIPPING THE SEARCH WORDS IN A TOPIC SEARCH: Since the search words added to the topic code in the case references of volume 2 sections and the Table of Searchable Topics are useful only to allow the KWIC display of the most relevant parts of the retrieved documents you can omit them from a search and use your own FOCUS terms or some other means for exploring the documents you retrieve. Leaving the additional search words off the original topic search will speed it up.

3. GOING DIRECTLY TO SPECIFIC SECTIONS OF THE TREATISE: If you are resuming research and would like to continue work on a specific section of the treatise, you can use the LEXSEE feature to move directly to that section from the PUBHW library. If you have a printed copy of the Tables of Contents of the treatise you can use this same technique in beginning a new research session by locating your starting point from them.

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Feb. 6, 1992

Atlanta phone numbers:
521-0515 (Meadnet)
688-1212 (Sprintnet)
451-1546 (Tymnet)

Georgia Bar Social Security Seminar

At a young and impressionable age, I encountered a one-man band, in a bar in Columbia Missouri. One man playing at least three or four instruments; I recall the banjo, harmonica, drum and cymbals.

Later in life I learned how to perform similar feats as the dean of a law school. And for the last four years, I've been putting that experience to work as I have simultaneously filled the roles of author, database designer, and programmer -- building the first electronic treatise and related library. This new kind of treatise and reference service covers the field that has been a focus of my teaching and writing for 20 years -- Social Security law.

It is a privilege and opportunity to introduce this on-line treatise and collection to you. Because the work is unorthodox this introduction is as well. I hope to be showing as much as telling.

I say that knowing full well that electricity, phone lines and lunch often do not mix. If all goes well this will be a real LEXIS session which means it can be interactive, live not canned. I urge you as we go into the session to view me as part of the computer and tell me what you would like to see (or what you don't understand about what you see).

As we get started let me do a bit of stage setting -- explaining why I've chosen this novel form and what advantages it should offer a Social Security practitioner or ALJ. Second I should explain briefly what this unusual book covers, how it is organized and what special capabilities flow from its being an electronic (rather than a print) book.

The main part of my presentation will be a demonstration of how this resource can be used -- involving a few illustrative problems.

I.

In 1979, having written several articles on important Social Security law topics I had sketched out a treatise on the field -- a book intended for lawyers, administrators, and judges who had to contend with the complex and changing details of Social Security law. A funny thing happened to me on my way to completing that book -- I was appointed dean. During the eight years that followed -- an information revolution exploded upon law -- as it was exploding upon other information intensive fields.

Since leaving the dean's office, I have been working on a project that I have most often described to law people as an electronic treatise on Social Security Law, a phrase that at the same time offered

a comforting explanatory link to the familiar but also resonated with a puzzling and, to many, quite mysterious science fiction sound.

This June my treatise was published on LEXIS, making it possible for me to show it to you.

The conviction that has propelled my work on this project is that the era of the law book has arrived. This belief rests on several interconnecting elements that I shall call the technology predicate:

* The first element has to do with the completeness and wide distribution of digitized law information. A full set of primary materials in most fields of law now exists in digital form, distributed online by Mead Data Central and West.

* A second element has to do with the maturity, the sophistication of the software environment through which users access that information. Both WESTLAW and LEXIS offer a fairly rich hypertext environment, user options, navigation moves, command concatenation, flexible display modes, download and print capabilities.

* A third element of the technology predicate has to do with the software and data storage capability at the user's end -- the rapidly spreading operating environments that allow operation

through a point and click, graphic interface and the fluid connection of legal information retrieval software to writing and local data storage applications. Add the availability of cheap and reliable local data storage and the result is an explosion of options for authors of electronic works, a dramatic reduction of the expertise required of users, and a quantum increase in the possibilities for integrating legal research with other computer-based user work and work product.

* A final element concerns the hardware delivering information to the user/reader -- monitors, computers, modems, printers. Dramatic improvements in these components of a computer information delivery system make print on demand and even reading from the screen competitive with print-based systems.

Because these developments have resulted in a rapid system for retrieval by conventional citation, with review online and rapid print on demand or download, they have in a sense converted most print materials to mixed media reference works. Print references can be followed precisely as written into the electronic library. At least one print publisher, West, has gone further and incorporated related database searches as references in print works. The media cross over creates an awkward interface but hardly an impossible or even severely intimidating one. And when the print versions of the referenced documents are distant, the cross over can seem

downright smooth.

These considerations led me to the conviction that my book should be placed in and accessed by a computer. These considerations have led courts to begin electronic distribution of their opinions. These considerations have led the Social Security Administration to construct an experimental version of its multi-volume manual system the POMS for distribution on CD-ROM.

II.

This treatise covers the full range of Social Security (Title II), SSI disability, and related attorneys fees issues. But unlike a print book this treatise carries a full companion library -- an up-to-date set of statutes, regulations, decisions, rulings, journal articles, and ALR annotations. Its footnotes are not lists of items you must track down (if possible) but commands that can instantly retrieve the relevant document in full text. In short this book does not stand alone. Its footnotes to all (not a few) but thousands of cases, regulations, statute sections allow direct and immediate access to the document or its pertinent part in full text -- text which can be printed or downloaded on demand. It is a library that is available where and when you need it so long as you have a computer and modem.

Freed of covers and the tyranny of the page (page 1, page 2 ...)

this is a book that researchers can trace their own path through -- a path suited to their experience and needs.

Being a book and library that reside in LEXIS, rather than between covers, this is a dynamic reference. Published last June, it has already gone through a full cycle of revision. As new developments occur, I am able to rewrite the affected portions of the treatise. The relevant decision, regulation, or enactment are swiftly incorporated into the collection. I'll show you how that allows retrieval of the most recent cases on a point and precisely those cases that count in your jurisdiction. Since the updates are handled on line there are no separate pocket parts or supplements or troublesome replacement pages to manage or wade through.

Finally this book harnesses the database power of LEXIS so the user is not stuck with a static and dated set of author references.

This book is set up so that the lawyer in Georgia can retrieve a different set of key cases on a Social Security issue than his or her counterpart in Chicago or Missouri.

Despite its unusual features, this book is set up with all the standard organizing and finding tools. Being a law treatise, not a novel, few save its author will ever read it from beginning to end. Being a law treatise it is a work to which people bring questions on issues or topics and with that focus they find the convention

book points of entry -- a table of contents and index of important words and phrases.

As we get started let me explain what you are seeing. What is coming from DAYTON and what is a fancy front end, on this computer right here in Atlanta -- for even those of you familiar with LEXIS may not have seen it look and function like this. My treatise and related materials can be accessed from any computer or terminal that can connect to LEXIS. This new software distributed by MDC which runs under Microsoft windows facilitates page turning and footnote following since it allows you (or me) to point and click or block and transmit the search or command I want to execute without having to type it in from the keyboard. Since this treatise provides the full commands for each move a researcher may want to make it makes full and dramatic use of this new software.

Enough talk let me show you what I mean.

Sign on

PUBHW/TABLE

1 SOCSEC 2

SPOUSE BENEFITS; Deemed Spouse

2 SOCSEC H 200

lxt to statute

lxt to regulation

lxe to ruling

1 SOCSEC 10 ; focus alcohol!

2 SOCSEC P 750

CASES; search; m; and court(11th)

GEORGIA MATERIAL:

sections with acquiescence rulings

A 710 -- 7 years proof of death

E 920 -- appeals council and reopening

P 630 -- age under the grid

Good topic with relatively recent 11th circuit decisions --
refusual to reopen

E 910

followed up with administrative res judicata

E 800

Refusal to reopen

In closing I have a modest request to make. I have not written this treatise as a high tech experiment -- a Rube Goldberg contraption to astound and entertain. I have written and sustained it to meet the needs of folks like you. If you want more information or assistance in getting started with it, I'm eager to furnish it and if, having used this treatise, you have ideas on how it might do a better job of meeting your needs give me a call or write me a note. My address is (last page of table document 1).