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May 13, 2002

The Honorable Justice Major B. Harding
The Florida Supreme Court
500 South Duvall St.
Tallahassee, FL 32399-1925

5002-659

FILED
THOMAS D. HALL
MAY 15 2002

CLERK, SUPREME COURT
BY _____

**Re: Comments of LexisNexis Concerning the Report and Recommendations of
the Judicial Management Council on Electronic Access to Court Records**

Dear Justice Harding:

On behalf of LexisNexis, I appreciate the opportunity to provide you with our comments regarding the Judicial Management Council's recommendations on the issue of electronic access to court records. LexisNexis, a division of Reed Elsevier Inc., is the country's largest provider of online legal, business and public record information. LexisNexis clients include lawyers, accountants, researchers, law enforcement officials and information specialists that rely on our database service to perform critical functions of their jobs. LexisNexis' extensive collection of court records is among the most valued by our subscribers.

We appreciate the Council's recognition that emerging technologies, including electronic access, hold great promise for advances in the efficiency, effectiveness and openness of the courts. LexisNexis welcomes a continued discussion of the issues associated with electronic access and supports the creation of a new committee to develop policy recommendations. It is our hope that any new committee formed to examine this issue will commence its work with a presumption in favor of the current open system of court records.

Today most attorneys use online information services, like LexisNexis, to access court records from their desktops rather than obtaining records directly from the courts. The electronic delivery of court records has provided unmatched research capabilities and contributed to added efficiencies in the practice of law. Further, online services assist the courts in performing their vital role in the administration of justice by facilitating critical legal research through the utilization of comprehensive, 50-state databases. Also, through the utilization of online delivery systems, commercial information providers, like LexisNexis, are greatly reducing the burden on court clerks by filling many requests for records that would otherwise consume court resources.

In addition, court records provided by commercial providers are relied upon by a broad cross-section of industries. Lenders, retailers, employers, professional associations, childcare facilities and others all utilize court records to perform vital business functions.

LexisNexis is pleased that the Judicial Management Council report includes a short discussion of the ongoing national efforts to address the issue of access to court records, particularly as it relates to electronic access. One such effort deserves special mention. The recent Draft prepared by the Justice Management Institute and the National Center for State Courts on electronic access to court records is designed to be a model policy for state courts. This model policy strongly favors broad, open access to court records. The model policy recognizes that open access must remain a controlling principle and that there should be no distinctions between paper and electronic access. It is our hope that any policy recommendations on this issue will, at a minimum, be guided by these important principles.

As it relates to the Council's recommendation of a moratorium on electronic access to court records, LexisNexis is concerned that the presumption of open access is being usurped before any significant study of the issue has been concluded. Although we understand that the proposed moratorium would not extend to electronic access to court decisions, docket information and recorded instruments (e.g., liens and judgments), we are concerned with the negative public policy implications this move would have. Open access to court records is a long-standing principle grounded in tradition and law. This principle should be preserved and any decision to restrict electronic access in the future should not be reached before a thorough study of the issue has been conducted.

In conclusion, LexisNexis appreciates the opportunity to provide comments and looks forward to participating further in the dialogue as the Supreme Court examines the issue of electronic access. Should you have any questions, please do not hesitate to contact me at 202-857-4643 or daniel.nestel@lexisnexis.com.

Sincerely,



Daniel Nestel

Director, State Government Affairs