

# AGENDA ITEM

**SEPTEMBER III.A - Casemaker**  
and *FastCase* – Review of Bids

**DATE:** August 25, 2010

**TO:** Members, Member Involvement, Relations and Services Committee

**FROM:** Robert McPhail, Sr Administrative Supervisor, Member Services

**SUBJECT:** *Casemaker* and *FastCase* – Review of Bids

**ATTACHMENTS:** The following will be provided at the meeting:  
Attachment 1- Comparison of *FastCase*/*Casemaker* offerings  
Attachment 2- *Casemaker* Proposal  
Attachment 3- *FastCase* Proposal

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## **EXECUTIVE SUMMARY**

State Bar staff conducted a review of bids for a free online legal research tool. The product evaluation resulted in the selection of two finalists: *Casemaker* and *FastCase*. Members of MIRS assessed evaluation versions of both products. MIRS is being asked to determine whether or not an online legal research tool should be recommended as a membership benefit, and if so, which of the two vendors is the best choice. Please address any questions to Robert McPhail at [robert.mcphail@calbar.ca.gov](mailto:robert.mcphail@calbar.ca.gov) or (415) 538-2237.

## **BACKGROUND**

In June 2008, The State Bar issued a Request For Proposal (RFP) for online legal research tools. In spite of a complex and lengthy RFP process, no vendor was selected, though two companies, *FastCase* and *Casemaker*, emerged as strong contenders. In 2009, the RFP process was assigned to Augeo Affinity (“Augeo”), the State Bar’s affinity administrator, so that Augeo could evaluate and recommend which online legal research tool would be the best option for State Bar members. Augeo narrowly recommended *FastCase*. Subsequently, a MIRS sub-committee was created to evaluate both products and determine whether or not a bid should be awarded to one of the two: *Casemaker* or *FastCase*. The recommendation of the subcommittee was split between awarding the bid to *Casemaker*, and opting to not provide any online legal research tool to the membership at this time.

## **ISSUE**

Should MIRS instruct State Bar staff to: (1) enter into negotiations with *Casemaker* to provide an online legal research tool; or (2) enter into negotiations with *FastCase* to provide an online legal research tool; or (3) end the RFP process without awarding a bid?

## **CONCLUSION**

The Board Committee on Member Involvement Relations and Services should determine whether or not an online legal research tool should be offered as a member benefit. If MIRS determines that an online legal research tool is a member benefit worth pursuing, the committee should select one of the two finalists, *Casemaker* or *FastCase*.

## **DISCUSSION**

### Value of an online legal research tool to Bar Members

Combined, *FastCase* and *Casemaker* represent 42 other state bar associations. Both vendors cite usage rates based on Google Analytics indicating that the use of their online tools in other states is significant and regular. Clearly, attorneys in other states are taking advantage of these online legal research tools. The fact that 42 state bars have chosen these tools as a member benefit underscores their value. Based on *Casemaker's* analytics, State Bar Staff conservatively estimates that 8-16,000 members might use a research tool each year.

### Value of an online legal research to the State Bar

Providing a free online legal research tool to all Bar members is a way for the State Bar to add value to membership. Both *FastCase* and *Casemaker* will offer a free basic package to members with the option to upgrade to a premium package (other states/more courts), as well as to purchase books, forms, citation checking services, and MCLE. Purchase of these additional services would result in royalty payments to the State Bar. If the Bar provided premium content to the search engine, revenue would also be generated. While this revenue stream may take some time to develop, both vendors believe that it would be substantial enough to justify providing a significant portion of their services at no cost. The Bar would receive 15-20% of this revenue.

## Casemaker versus FastCase

The initial RFP process very narrowly recommended *Casemaker* over *FastCase*. Augeo's review recommended *FastCase* by slim margin. If MIRS decides to provide an online legal research tool, the following points should be considered:

*Casemaker* has significantly more case law and types of resources available, both in the free and premium packages.

The key difference between both *FastCase* and *Casemaker* and the premium tools like West Law is citation checking. *Casemaker* provides a proprietary citatory tool at \$4.95 per day. *FastCase* links to Shepards at \$14.95 per day. This cost would be borne by the members and could be significant.

*FastCase* appears to have the superior interface and search functionality. A focus group comprised of several members of the CYLA unanimously preferred *FastCase* and most published reviews prefer the *FastCase* interface.

*Casemaker* is the market leader with 26 state bars, but *FastCase* is growing at the expense of *Casemaker*. *FastCase* has 18 state bars and is the more successful product on the west coast. However, as the more established player, *Casemaker* may have more resources available to help market the service to bar members.

*Casemaker* seems better situated to create revenue stream for the Bar, because they offer more products and their interface is better suited for marketing Bar publications, MCLE etc. This could significantly benefit the State Bar Sections.

## **FISCAL / PERSONNEL IMPACT:**

Implementation and administration of the program will require some staff time that can be absorbed by member benefits programs staff. Both vendors offer the opportunity for revenue sharing on premium services, which could be a significant source of revenue for the State Bar. (Though, the amount of revenue the State Bar could realize from this program cannot be accurately forecast at this time.) Further details of the bids will be provided at the meeting.

## **RULE AMENDMENTS:**

None

## **BOARD BOOK/ ADMINISTRATIVE MANUAL IMPACT:**

None

## **RECOMMENDATION**

MIRS should instruct State Bar Staff to: (1) enter into negotiations with *Casemaker* to provide an online legal research tool; or (2) enter into negotiations with *FastCase* to provide an online legal research tool; or (3) end the RFP process without awarding a bid. Entering into negotiations does not commit the Bar to a contract. The proposed contract will be subject to approval by the full board.

## **PROPOSED BOARD COMMITTEE RESOLUTION:**

1. Should the board committee agree with the above recommendation to enter into negotiations with *Casemaker*, adoption of the following resolution would be appropriate:

**RESOLVED**, that the Board Committee on Member Involvement Relations and Services recommends staff be directed to negotiate a contract for an Online Legal Research tool with *Casemaker*, said contract to be submitted for approval by MIRS and the Board of Governors at the next regularly scheduled meeting of the Board.

or

2. Should the board committee agree with the above recommendation to enter into negotiations with *FastCase*, adoption of the following resolution would be appropriate:

**RESOLVED**, that the Board Committee on Member Involvement Relations and Services recommends staff be directed to negotiate a contract for an Online Legal Research tool with *FastCase*, said contract to be submitted for approval by MIRS and the Board of Governors at the next regularly scheduled meeting of the Board.

or

Should the board committee decide not to provide an online legal research tool to the membership at this time, adoption of the following resolution would be appropriate:

3. **RESOLVED**, that the Board Committee on Member Involvement Relations and Services recommends that the State Bar not award a contract to provide an online legal research tool to the membership at this time; and it is

**FURTHER RESOLVED** that the 2008 Request for Proposal (RFP) for online legal research is withdrawn.