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<p><u>Odyssey is now LIVE!</u> <u>BEWARE: Major Issues with Search Functions!</u> <u>Updated NCLTA Affidavit and Indemnity Now Available</u> NC ADMINISTRATIVE OFFICE OF THE COURTS (AOC) ODYSSEY TRANSITION FROM VCAP: Are You Watching? (Part III) (Track 1 – Wake, Johnston, Harnett & Lee)</p>	<p>ODYSSEY ROLLOUT PLAN</p> <p>February 13, 2023 May 2023 The timing and scheduling of future tracks will be determined. The groupings of districts denote future tracks.</p>
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On **February 13, 2023**, the Odyssey Portal went live in the four pilot counties (**Wake, Johnston, Lee, and Harnett**). There have been numerous reports of **major** issues with the new Portal, mostly surrounding the search function.

ISSUES DISCOVERED SO FAR . . .

? **Search Functions:** There are two search functions, **Smart Search** and **NC Judgment Search**. One key difference is that Smart Search has a wildcard feature where the asterisk (*) can be used as a placeholder. The wildcard feature provides broader search results. NC Judgment Search currently does not allow a wildcard.

1. **NC Judgment Search Issues:**

- a. When using the NC Judgment Search, the name exactly as indexed by the clerk must be used as the search term. This requirement can negatively impact the search results if the full name is unknown or the full name is not entered. For example, if the clerk entered “Smith, Phil” but “Smith, Phillip” is searched, the judgment filed under “Smith, Phil” will not populate. A similar issue arises when a name contains initials, hyphens, periods, spaces, “the”, and/or ampersands. For example, if the clerk enters the name of the defendant as “A & A Company”, then searching A&A Comp, A and A Co, the A & A Comp, or any other variation will not populate the judgment filed under “A & A Company”. Therefore, all possible permutations must be searched to attempt to capture all possible judgments filed against a party.
- b. Another issue can arise when the searcher is looking for a lis pendens. If the searcher intends to find all lis pendens filed against a party, the searcher must check the checkbox next to “Include Inactive and Satisfied Judgments”. If the checkbox is not checked, then the search will not yield any lis pendens in the results.

In summary, when using the search function, the user must enter the name in as many configurations as possible to attempt to yield all the judgments filed against that party. And if the user needs to search for lis pendens, then the checkbox near the search field must be checked.

? **Smart Search Issues:** When searching by Last Name only, no results will populate. The user must enter a First Name with at least four characters (if the first four letters of the First Name are not used, then the wildcard (*) must be utilized as the fourth character). The need to search the name exactly as the clerk entered it is alleviated in Smart Search because the user can incorporate the wildcard (*) into the search

string to expand the search results. For example, if the clerk entered “Smith, Phillip” but Smith, Phil* is searched, then the filings under “Smith, Phillip” *should* populate. However, issues can arise when searching business names that contain initials, hyphens, periods, spaces, “the”, and ampersands because the wildcard might not be used in place of all the initials, hyphens, periods, spaces, “the”, and ampersands that the clerk entered. For example, if the clerk entered the name “A & A Company”, then the wildcard could be placed throughout the name such as “A * A Co*”. Similar to a search in NC Judgment Search, multiple permutations must be searched in Smart Search to attempt to capture all filings. In summary, the searcher must enter a Last Name and a First Name with at least four characters and multiple permutations must be entered to attempt to capture all the filings.

- ? **“Filed”**: Determining when a judgment, claim of lien, lis pendens, etc. is “filed” and thus attaches to the real property is an issue for two reasons.
- First, there is a lag from the time the attorney submits the document to when the official timestamped document is available to the public. Once the attorney electronically submits the filing in Odyssey, the public can see that a document has been filed against the plaintiff/defendant (if able to find the filing despite the search function issues discussed above); however, the type of file will not be known until the clerk approves the submission, affixes the timestamp, and publishes it to the portal. This raises the question as to whether knowing something has been filed against a party will be deemed notice of the filing and thus affect the priority of the filing. The judgment will be officially “indexed” pursuant to G.S. § 1-233, § 1-234 *et al* once the timestamp is affixed by the clerk and submitted for publishing.
 - Second, there is a gap in time from when the clerk submits the document with the timestamp for publishing and when the document is available for the public to view in Odyssey. This gap could be seconds to minutes depending on the network infrastructure of the county and the current volume of filings. Therefore, it is possible the official timestamp shown on the filed document might not reflect the actual hour and minute the document is available for viewing by the public.
- ? **Transcribed Files**. It’s been asserted that transcribed files are not appearing in Odyssey. This issue has not been confirmed by AOC but attorneys should be aware of this possibility. Also, it is important that searchers familiarize themselves with how transcribed files are indexed depending on whether it is transcribed from an Odyssey county to an Odyssey county, from a VCAP county to an Odyssey county, or from an Odyssey county to a VCAP county. A training video on ‘Portal Transcript Search’ and the related Transcript Key can be found in the right-hand column on the following webpage:
<https://www.nccourts.gov/ecourts#portal-10445>.
- ? **Using Law Firm Trust Account to Pay Fees**: The State Bar has been asked to issue an ethics opinion on whether an attorney can use their trust account to pay their client’s obligations through Odyssey (e.g., court costs, fines, & filing fees). At least one private letter has been issued providing guidelines to how this can be accomplished without an ethical violation. A public statement should be forthcoming.
- ? **Payment to Print Copies**: If the searcher wishes to print a file, both a User Account and payment method is required. However, it was announced by Superior Court Judge Andrew T. Heath that payment will no longer be required to print documents from Odyssey but the system has not been updated accordingly. A

date has not been announced for when the requirement for payment to print will be removed from Odyssey.

? **Judgment Payoffs:** The current payoff for a judgment is not available in Odyssey because the system cannot make the calculation. The Clerk's office must be contacted to obtain a current payoff.

INDEMNITY FORM REQUIRED. . .

Given the multitude of issues with the Odyssey migration, the NCLTA drafting committee has updated the Affidavit and Indemnity related to the VCAP to Odyssey transition. The new form dated 3/7/2023 has been posted on the NCLTA website (<https://www.nclta.org/>). This new form **should be required** for all closings occurring in the affected counties until the indexing and search issues have been fully resolved.

To report a problem using a search function or to share a comment regarding Odyssey, please send an email to AOC at [eCourts@nccourts.org](mailto:ECourts@nccourts.org).

For more information, see our Chicago Bull "NC Administrative Office of the Courts (AOC) – Odyssey Transition from VCAP – Are You Watching? (Part I & Part II)" (12-28-2022 & 1-31-2023), on-line at: <https://www.northcarolina.ctic.com/legal-articles> under Title Search & Opinions

Information is available on the North Carolina Judicial Branch eCourts website, including updated Press Releases, anticipated launch dates for particular groups of counties, <https://www.nccourts.gov/ecourts>, FAQ's for attorneys (the "living document") <https://www.nccourts.gov/documents/publications/ecourts-faqs-for-attorneys-bar-qa> and a Portal User Guide <https://indd.adobe.com/view/832dae5f-0376-4df0-a8a6-65c3cdf9717>

As always, please feel free to contact our North Carolina Chicago Title Counsel to discuss at any time! This is a developing situation and we are working diligently to keep you abreast of the latest information available!

View this and more articles on our website at <https://www.northcarolina.ctic.com>