



Launching Lex Machina's Expanded Real Property Litigation Module

Join Ellen Chen (Lex Machina's Legal Data Expert in Real Property Litigation), Andrew Judson (Lex Machina's Product Manager), hosted by Aria Nejad (Lex Machina's in-house counsel, as they showcase highlights from the analytics and data included in Lex Machina's newly expanded and enhanced real property module. The webcast will include a demonstration of how the real property module can provide insights regarding judges, courts, law firms, attorneys, and parties involved in real property litigation. The speakers will showcase how the real property module can reveal trends in case timing, resolutions, damages, remedies, and findings.

Speakers:



Ellen Chen
Legal Data Expert – Real Property
Lex Machina



Andrew Judson
Product Manager
Lex Machina



Aria Nejad
In-house Counsel
Lex Machina

Aria Nejad ([00:00](#)):

All right, and welcome everyone to today's webcast where we will be introducing Lex Machina's newly expanded and enhanced Real Property Module. My name is Aria Nejad, I'm In-house Counsel here at Lex Machina and I'll be moderating today's webinar. I'll introduce our guests here shortly who will showcase highlights from the analytics and data included in the Real Property Module, and they're going to provide insights on judges, courts, law firms, attorneys and parties involved in real property litigation. A couple of quick housekeeping notes before we get started. This will be a 25-minute presentation followed by answers to any questions submitted by attendees for up to 30 minutes total. So please share your questions at any time and we'll review them together at the end. At the end of the presentation we'll have an interactive poll for the audience to get your feedback on today's webcast. It takes just a few seconds and it'll help us improve our future webcast so please take the time to share your thoughts with us. A little bit about Lex Machina, just right off the top. Lex Machina is legal analytics, it's our focus.

([00:56](#)):

Lex Machina provides legal analytics to companies and law firms enabling them to craft successful strategies, win cases, and close business. We currently count over three quarters of the AM Law 100 as clients, in addition to companies of all sizes from Fortune 50 companies to small businesses. I'm joined today by my colleague Ellen Chen, Lex Machina's Legal Data Expert in the areas of false claims and tax. Prior to joining Lex Machina, Ellen worked as a specialty tax consultant. Welcome Ellen. We also have our colleague Andy Judson with us today. Andy is our Lead Product Manager and is responsible for the development and delivery of new practice area modules for Lex Machina. Andy uses his legal expertise to design new practice areas, then he trains and manages our team of legal analysts to deliver high quality legal analytics. Welcome Andy.

Andy Judson ([01:44](#)):

Hey everybody.

Aria Nejad ([01:45](#)):

So at this point I'm going to turn the presentation over to Ellen. Ellen, go ahead and begin the presentation when you're ready.

Ellen Chen ([01:52](#)):

Thank you, Aria. So I wanted to go over the real property definition, for this new module it's any case involving a dispute concerning real property. So it includes litigation over real estate and the rights and interest in real estate, excluded from these cases of course are claims pertaining to personal property and chattels. These claims and these cases generally arise under state law and the Fifth Amendments Takings Clause. These cases have been removed to state court, to federal court or the United States of America is a party.

Andy Judson ([02:28](#)):

I want to talk a little bit about how we designed this Real Property Module. So first thing whenever we're building a new module for federal court is we talk to practitioners, we talk to attorneys who are in the field. Attorneys who work with real property, torts to land, foreclosures and see kind of what trends they see in litigation. What important findings and rulings there are from judges and then after that we

go and we look at the cases themselves. We start with real property NoS codes in PACER, and then we drill down and look specifically at trials, at summary judgements, at default judgements and we kind of look and see. Okay, how do we split these cases up and what kind of findings, what kind of remedies, what kind of damages are important and happen often enough for us to track? Then from that we take a really big step because we can't just rely on those NoS codes.

[\(03:20\)](#):

We essentially use these tags that we've built and Ellen's going to talk about our main case tags in a minute, and we pull cases out of the NoS code that shouldn't be there because NoS Codes are not very accurate. Then we expand it over all of federal court to find all the real property cases that were filed elsewhere to build this one practice area module. So Ellen, why don't we talk about those five types of real property cases? Oh, sorry, I forgot to mention. Sorry, let's go back a second. Sorry. What we came up to though after we did all this is we ended up with 105,000 new cases in our Real Property Module for federal court, five new case tags, 30 new findings payers and almost \$14 billion in damages. Now, let's talk about those case tags.

Ellen Chen [\(04:07\)](#):

Thank you, Andy. So here we have the real property case tags and let me just briefly go over them with you. So for the first one we have foreclosure. As you may have guessed this is cases where the mortgager, mortgagee and interested parties are litigating rights to mortgage real property including whether the property is subject to foreclosure. Next, we have land condemnation. These are cases with eminent domain and adverse condemnation or unconstitutional taking claims. After that we have rent, lease, ejectment, these are cases in which a lessor or lessee or interested party is litigating rights to real property subject to a lease easement or ejectment. The torts land cases, those concerned cases in which a claimant is litigating nuisance, trespass to land and slander of title claims. This last one, Real Estate Settlement Procedures Act* otherwise known as RESPA. As you can see we have a asterisks next to it, this is because this is actually part of the consumer protection module.

[\(05:09\)](#):

So this is a federal statute which requires lenders, mortgage brokers or servicers of home loans to provide borrowers with pertinent and timely disclosures regarding the nature and cost of the real estate purchase process. So based on that definition you can perhaps appreciate this is a statute that is relevant in a considerable amount of foreclosure cases. This we felt it was very crucial to add RESPA case tag and findings to the consumer protection module so that we could provide a more complete picture with regards to real property cases.

Andy Judson [\(05:41\)](#):

Great. So now that we've kind of talked about what's in here, let's take a look at the product and kind of look at analytics for real property at a bird's eye view. We'll do some use cases in a minute, but I think there's some really interesting trends and things that you can see just from the basic analytics for real property. First, as you noticed this is the filing chart for real property cases. Real property, at least we go back to 2009. 2009, 2010 filings peaked, which is not surprising after the 2008 financial crisis there were lots of foreclosures, lots of evictions and then it trended slightly downwards up until 2020 where it dropped in half. Obviously that's important because that's when covid happened and there were a lot of moratoriums on evictions, a lot of foreclosures got delayed and that has continued to stay low. But we are seeing a trend recently where it has started to rise again now that those sort of delays have been put behind us and covid is considered to be over. Something else really interesting here if you look at courts where most real property filings happen.

[\(06:48\)](#):

The Central District of California, which is Los Angeles accounts for 13% of all cases filed in federal court. Northern district of Georgia, which is Atlanta is 8% and the Southern District of Texas which is Houston is another 5%. What's especially interesting about these courts is that if you... So, while Central District California is 13% overall, if you filter to rent, lease and ejection it is 35% of all cases filed in federal court. There are a lot of rent and lease cases and a lot of ejections and evictions happening in and around Los Angeles. Not necessarily surprising because everything is so expensive there when it comes to real property, but 35% is a very large number for all of federal court. Some other things that are really interesting here if we go and look at parties, obviously the biggest parties in real property are mostly banks. You have Bank of America, Wells Fargo, JP Morgan Chase and these are mostly because they're the ones on the loans for all of these mortgages and are involved in the foreclosure proceedings or defending against wrongful foreclosure claims.

[\(07:59\)](#):

The United States is also a top plaintiff and top defendant, mostly because one most of the eminent domain cases and land condemnation come through the United States. But also due to FHA loans the United States government is one of the largest loan providers in the US and so they are also involved in a lot of foreclosure proceedings. If we look at case resolutions, there's some more interesting trends. First of all, there are far more dismissals in real property than there are in any other practice area. 29% of all cases get essentially procedurally dismissed and a lot of this is due to the fact that people are typically trying to delay their evictions when it comes to foreclosures or to lease agreements and one way to do that is to appeal your state court case to federal court. A lot of the time it gets remanded back and dismissed, but that extra time it spends in federal court gives you room to breathe and keeps that eviction pushed down the road.

[\(08:57\)](#):

The second thing that's really interesting here is that 10% of all cases go to default judgment, which is also again very high. I would say it's like 2% of all federal court cases go to default, but 10% of real property and again most of this is because when people don't pay their mortgages or they aren't paying their lease agreements they tend to just disappear and not show up. So you get a lot of default judgements entered against defendants and one more thing we can look at is damages. So you can see we have almost \$14 billion in real property damages. Almost all of this is contractually related, mortgage agreements, lease agreements are all contracts. But behind that, the second-biggest thing is just compensation and just compensation is having to do with eminent domain land condemnation. When the government or a company takes your land for public use, they have to pay you the just compensation or the just price. So basically in the last 12 years, we've had almost \$700 million in property value taken by either the government or for public use by a private corporation.

[\(10:03\)](#):

Then the third most common thing we have here, we have compensatory and settled claim damages and that mostly deals with torts to land and a lot of that is oil and gas. So you have a lot of damages from fracking, from drilling, from oil spills. All of that damage mostly goes in here on compensation for the damage to your land. So I'm actually going to pass it to Ellen here to talk about another new thing that we just released recently, which is our party industry codes. Ellen.

Ellen Chen [\(10:31\)](#):

Thanks Andy. So if you wanted, so for this new party industry filter let's go filter it down. You can see the number of cases that these industry parties are of. So if you look for the finance, we have 49,000 cases.

Again, that's surprising based on what Andy just showed for the parties. There are a lot of banks, financial institutions under the Real Property Module because of the foreclosures involved and also the rent, lease, ejectment also. So there would also be under there's some real estate which is not surprising. Legal has a pretty high number around 4,000. So we saw that for a lot of the consumer protection overlap cases, there are law firms being sued by homeowners and borrowers. Because when they're faced with losing their house they usually will try to see as many parties as possible. Including the law firms that were involved in preparing the mortgage agreement, any sort of contracts and then for oil and energy it's 4,000 in here as well.

[\(11:45\)](#):

So this is to be expected when you think about all of the ways that an oil, an energy company may be involved in a real property dispute. Such as the dispute over the terms of the mineral lease and potential torts or land claims resulting from oil and gas exploration.

Andy Judson [\(12:03\)](#):

Yeah. If we want to click on oil and energy and filter to that and go look at parties, you'll see obviously the top defendants here BP America, Halliburton, ConocoPhillips. So big players in the oil and gas industry are involved in a lot of these lawsuits under this industry code. So with that, let's take a look at some use cases. Ellen, do you want to pull up the first one?

Ellen Chen [\(12:29\)](#):

Sure. So for this case, we have H&S equipment and Mark Holloway as co-plaintiffs, H&S is the owner of the working well, Mark Holloway is the operator and they are suing Devon Energy Production Company. So what happened here was that Devon was authorized by the Oklahoma Corporation Commission to drill off pattern horizontal well from a common source. However Devon's nearby fracking ruined the plaintiff's well, rendered it incapable of producing oil and gas, essentially destroyed it. So the plaintiffs filed this lawsuit to try to recover compensatory damages as they can no longer use their well. So if you scroll down here and take a look at the findings. There was a no negligence, a motion for summary judgment for Devon Energy. The court found that the plaintiffs were not able to prove the negligence. However, the trespass to land and nuisance claims did go to jury trial and the jury found that Devon Energy was liable for the subsurface trespass and nuisance and they awarded H&S \$220,000. Also wanted to point out that there was a directed verdict against the operator here, Holloway.

[\(13:53\)](#):

So the court said, I understand that you wanted to also recover damages but you were merely the operator of these wells you weren't the owner. So you're not entitled to a judgment on these two claims. So that's why you see there's attorney's fees and costs going both ways here that were awarded.

Andy Judson [\(14:12\)](#):

This gives me a really good opportunity to talk about technology assisted attorney review and this is something that Lex Machina does that none of our competitors do. So you see at the top we have these case tags for real property, for trial, jury trial, summary judgment, torts to land, that is the technology assist. We work with our engineers and our natural language processing team to essentially automate these tags on these cases. This essentially can tell you the generality of what's in a case, but to get the specifics this is a very complicated case. It's got cross claims, it's got a directed verdict, it's got a jury verdict, it's got lots of damages, it's got attorney's fees going both ways. There is no way to do that or get that information without an attorney looking at the case. So we use these tags that are automated to help us find where something interesting happens. But we still need someone with legal expertise to

go in and read those judge opinions. Read that jury trial entry, read those attorney's fees and costs motions in order to annotate this information.

[\(15:21\)](#):

We cannot teach a computer to do that yet and this is something that Lex Machina offers that no one else does is all of this detailed judgment and damage information on each individual case, which is how we get these overall trends and the overall damages for the entire module.

Ellen Chen [\(15:40\)](#):

Okay, thank you Andy. Now let's move to another use case. So let's say that I'm a financial institution that provides mortgage loans to borrowers and now that foreclosure moratoriums have ended. I'm seeking to retain a prestigious law firm to handle my foreclosure matters and to also defend against borrowers filing suit against me. As you can imagine many homeowners they're not really readily eager to relinquish their homes without a fight. So I am particularly interested in a law firm with robust defense representation. So what I did here is I went to Quick Tools and I used Law Firm Comparator to pull up a comparison between these three law firms, Akerman, Locke Lord and McGlinchey Stafford. So here you can see that we have the amount of open cases for each of the three law firms and also the terminated cases. Also, we have percentages that provide the percentage of the portfolio working on these cases.

[\(16:39\)](#):

If I look down at the party roles, I can see that all these law firms have pretty robust, pretty decent defense representation. It seems that Akerman does have a lot of plaintiff representation for plaintiffs though, so that's a good edge they might have. Scrolling down on the case filings, you can see the case filing trends for the three law firms. It kind of mirrors the filing trends for all of real property and then scrolling down, we have timing analytics. Just looking through these really quickly we can see maybe Akerman takes a little bit longer on some of these events, but that might be impacted by the large amount of cases they are handling. So we have all this great information and then we can also check out the case resolution and compare between the three law firms. Akerman seems a little bit more balanced with claimant wins and claim defendant wins and then these two Locke Lord and McGlinchey Stafford, they have more claim defendant wins.

[\(17:39\)](#):

But of course they're representing the defendant on more cases compared to their plaintiffs and then if we also wanted to look at damages comparison, we have this down here. Most of the damage types are obviously going to be a little bit higher from Akerman because of the amount of cases. But wanted to take note of the nearly \$9 million in attorney fees for their 179 cases, which it's a pretty impressive number not to shabby. Then lastly, we can scroll down to the findings and we can compare the findings. Any judgment for specific findings just to get a better look at what they are receiving. So this might be instrumental for me to help determine which law firm might be best suited for the type of litigation I'm seeking for my financial institution.

Andy Judson [\(18:41\)](#):

Sorry. These are really great analytics to show if you have a specific claim that you are filing, like say you're filing wrongful foreclosure. You know that Akerman has seen that much more than the other firms and so are likely to understand the claim, understand the ins and outs and how to prosecute it. Same thing if you really are interested in getting attorney's fees and costs like paid for. Akerman seems to be much more aggressive about filing those types of motions and that they have had it granted many

more times than the other firms on this list. So again, this all comes from that technology assisted attorney review and that by adding this information to each individual case. It all kind of builds up together to give us these long-term analytics for each of these firms.

Ellen Chen ([19:32](#)):

Thank you Andy, and then so let's take this opportunity to move into our last use case scenario. So for this one, let's say I am a oil and gas company. I'm working on a federally authorized natural gas pipeline pursuant to the Natural Gas Act, my pipeline will pass through the northern district of Georgia. So I'm looking to condemn land in favor of a permanent easement, I see that Judge Eleanor Louise Ross was assigned to hear my case. So I don't want to blindly go into this case, I want to go ahead and log into Lex Machina to look at legal analytics associated with Judge Ross to see if she has any familiarity with those types of cases and how she's ruled in the past. So going in under the judge page, I can see she has had 515 real property cases in front of her. So that seems like it could be potentially promising. I'm going to click on these cases and like with all of the previous examples we can go ahead and see the analytics on timing.

([20:36](#)):

Law firm attorneys, parties, and just taking a quick glance at parties the number one top plaintiff is Transcontinental Gas Pipeline Company. So that again gives me pause to think that this could be potentially promising for me. So I want to take a look at the findings and see if she's made any rulings on land condemnation and sure enough she has. She has granted land condemnation in 11 cases. So I can go ahead and click on that and take a look and scroll down to the cases. I can select any of these cases to look at additional details. But sure enough, these are the transcontinental gas pipeline cases, which is exactly what I am about to go in front of her for. So I can be rest assured that she has familiarity in the exact type of case I'm about to bring in front of her.

Andy Judson ([21:37](#)):

This is really great information because we know here like one, she has seen a significant number of these cases. But two, she's never denied a request for land condemnation, they were all granted and on top of that she granted a lot of them consecutively. So if you're building a pipeline across lots of pieces of property, you need all of them to be granted in order to build straight through and the fact that she granted all of them within a short amount of time is a great sign when you're going in front of this judge. That's the kind of information that you can get from these judge analytics through the judge page.

Ellen Chen ([22:16](#)):

Thank you Andy. So with that, this is the end of our presentation. Andy, thank you so much for joining us. As I mentioned, what you see on this webcast is really just some of the content that is the entire Real Property Module. I wanted to thank our listeners as well and Aria, I'll turn it over to you for some Q&A.

Aria Nejad ([22:36](#)):

Yeah, thank you so much Ellen and Andy. That was very interesting, very interesting conversation. So we have some great questions that have come in. One of the questions that we have and this is really for either of you or maybe both. The question is, do you have any predictions for the next few years in real property analytics?

Andy Judson ([22:56](#)):

Sure, I can take this. So I think the major trend that we had was in 2019, 2020, 2021, the number of filings really dropped and a lot of that had to do with covid and the moratoriums. But I would predict that in the next few years especially with interest rates having gone up and inflation that we'll see a lot more foreclosures, we'll see a lot more evictions and those numbers will continue to rise and go back up. Hopefully not as high as they went in 2008, 2009, but I would expect there to be more filings in real property over the next couple of years.

Aria Nejad ([23:27](#)):

Interesting. Yeah. Anything to add to that, Ellen? Or do you just want to echo those sentiments?

Ellen Chen ([23:32](#)):

I echo those sentiments, I think that is reasonable to expect that the filings for foreclosures and for rent, lease, ejection are going to go up. It seems that a lot of these cases their lenders have been waiting to be paid on them. So I expect that since there is no longer moratorium holding them back, they will be running to court and some of these cases will likely end up in federal court.

Aria Nejad ([23:57](#)):

That makes sense. Yeah, thank you for that. We have time for maybe one or two more questions here. Next question here that's come through. Which part of the Real Property Module was the most complicated to create?

Ellen Chen ([24:09](#)):

I can take this one. So for the Real Property Module one of the more challenging case tags was the land condemnation. So when we were developing the case tag and also the findings and the damages, we realize that for these cases technically the landowner is the one to receive damages. Usually in all our other practice areas damages are being awarded to the party that has prevailed. So for these land condemnation cases we had to find a way to discuss with engineer and to determine a way to capture findings without attributing it as a win for the landowners.

Andy Judson ([24:53](#)):

Yeah. This was actually a technical hurdle that we kind of had to go around and just to talk about data accuracy. One of the things we really pride ourselves on is the accuracy of our data and we have a lot of checks to make sure that we're doing things correctly, and one of those checks is making sure that there is a finding with the damage. So you need to have a positive finding in your favor to be granted a damage and so since here it was the winner got the condemnation, but the loser got paid. We had to create essentially a separate finding so that the loser could get paid in order to get around that. But that's really to make sure that we're doing everything correctly and all of our damages and findings line up.

Aria Nejad ([25:32](#)):

Interesting. Yeah, I did not know that. Okay, makes sense. Here's one last question for us. So the question is where do you get your data for the module? That is interesting, maybe you guys can dive into that a little bit.

Andy Judson ([25:46](#)):

So everything that we get here comes we download it all from PACER, we crawl PACER every single day to get newly terminated cases, all new information on cases, newly filed cases and then all of that goes into our database and then we add all the value adds to that. We do all of the tagging, national language processing, we add clean up the judges and parties to make sure that they're accurate. Then we add all of the... For real properties, specifically all of the new real property annotations on cases that need annotating.

Aria Nejad ([26:20](#)):

Very cool, good stuff. Yeah, thank you. Anything to add to that Ellen? I think Andy kind of summed it up, but just wanted to be an opportunity in case you wanted to add anything.

Ellen Chen ([26:28](#)):

No, nothing to add. He explained it perfectly.

Aria Nejad ([26:30](#)):

Okay, perfect. Yeah, I thought so too. Okay [inaudible 00:26:33]. I want to thank everyone for joining us today, I really want to thank Ellen and Andy for all your expertise. Thank you so much and to all the attendees, thank you for joining us. Just to finish up a lot of people are wondering I'm sure, okay, now we have this great new enhanced and expanded Real Property Module. How do we have access to it? Well, if you're Lex Machina customer and if you're subscribed already to the Real Property Module you have access right now. So you can just dive into the product and everything's in there for you already. If you're not current Lex Machina customer just reach out to us directly via the Lex Machina website. You should if you registered for this webcast, will also receive a follow-up email. You can sign up for a demo there, we just ask that you sit down with one of our legal data experts for about 15 minutes. They can walk through the module with you and show you how it works and get you subscribed.

([27:17](#)):

That's really that simple. So to all the attendees, thank you so much for joining us. If you have any questions, you can reach out to us directly via the Lex Machina website and otherwise enjoy the rest of your day everyone. Thank you.