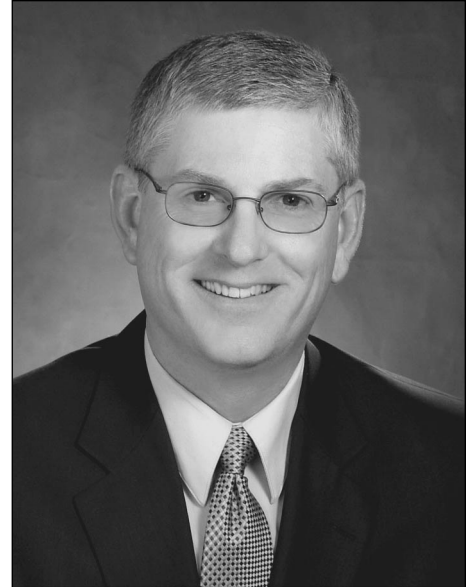


eFiling Program to be Implemented

by *Kevin M. Oeffner*
Circuit Court Administrator



Our on-again, off-again eFiling program is on-again. For those civil law practitioners who have followed efforts to deliver eFiling in this court (and didn't feel a resulting need to check in for psychological testing), you will be glad to know that we are less than a month away from launching a pilot eFiling project.

On August 1, Type "C" and "N" civil cases assigned to Judge Michael Warren's docket will be included in a mandatory eFiling program. Judge Warren is no stranger to eFiling, as he served for nine months as our eFiling pilot program judge in 2006. In that program, the State Court Administrative Office (SCAO) had partnered with IBM to provide trial courts with an eFiling application. This circuit was one of a handful of courts that utilized the IBM application. The program was short-lived, however, as there was little interest on the part of courts statewide to pursue eFiling, and the SCAO made a reasonable business decision to redirect resources toward development of a uniform statewide case management system. That effectively ended our foray into the eFiling arena, at least for the time being.

In April 2006, the judges affirmed a strategy to use technology to enhance the administration of justice in Oakland County. In support of that strategy, the court embarked upon implementation of an Electronic Data Management System (EDMS) that incorporates three technical components: "Electronic Workspace," which enables judges and court employees to access, route, manage and utilize electronic court records in lieu of paper; Internet access to public civil, criminal and domestic court records through the online tool known as Court Explorer; and eFiling to promote the electronic routing of briefs, pleadings, motions, orders and judgments. The first two components have been implemented, which brings us to eFiling – the third and last component of EDMS.

Perhaps an explanation of how we got here is in order after the SCAO-IBM eFiling program was terminated last September 30. A committee was established consisting of representatives of the OCBA, Circuit Court, Clerk's Office,

Oakland County Corporation Counsel, and Department of Information Technology. The committee determined that a third-party eFiling application would be the superior approach. Vendors who work in the eFiling arena would offer current advancements in technology, provide a more cost-effective approach to eFiling, include training and support for users, provide for secure and fail-safe storage, offer generous revenue-sharing plans, and deliver vendor expertise and a proven track record of eFiling success.

A "request for proposal" document was developed with input from the organizations referenced in the preceding paragraph. Bids were received, vendors were invited to demonstrate their products, references were checked, and a careful and thoughtful evaluation process initiated. A contract was ultimately awarded, by unanimous consent of all involved in the review process, to a nationally renowned firm in the eFiling business that has been providing e-Commerce solutions to courts and law offices throughout the United States since 1995.

Here are the particulars that will be important to attorneys who have cases assigned to the new eFiling pilot program. As mentioned earlier, we will pilot this program with Type "C" and "N" civil cases assigned to Judge Warren. Participation will be mandatory and will be assigned following the filing and service of the initial complaint or other initiating document.

Since participation will be mandatory, it is presumed that all documents after the initial pleading will be filed electronically. To ensure that all parties retain access to the court, those who demonstrate good cause will be permitted to file their documents in the Clerk's Office, which will then file the documents electronically. Factors that the court will consider in determining whether good cause exists include one's access to the Internet and indigency.

A local administrative order with accompanying eFiling rules is currently being reviewed by SCAO. The rules we will follow for our program are consistent with the proposed eFiling court rules promulgated by the Supreme

Court that were published for review and comment. The proposed court rules can be viewed on the Supreme Court's Web site at <http://courts.michigan.gov/supremecourt/Resources/Administrative/2002-37.pdf>.

Each eFiling is subject to a \$5 fee. Attorneys and parties will have the option of using the e-service component. A fee of \$8 will apply for documents filed and served electronically, irrespective of the number of parties to be served. Payments will be required via credit card. A three-percent user fee will apply for credit card use. One note is in order regarding fees. Several months ago in LACHES an article was published providing readers with an eFiling update given the decision by SCAO to terminate its eFiling program. In that article it was reported that no eFiling user fees would be instituted should we move forward with eFiling on our own initiative. That statement contemplated an eFiling application built in-house by Oakland County's Information Technology Department. Given that the unanimous decision was reached to move forward with a vendor-supplied eFiling solution, nominal user fees (as shown above) will be required as a means of paying for use of the vendor's application.

Space here is too limited to review the rules and explain how eFiling will be conducted in our pilot program. Please visit the Circuit Court's Web site to view our rules. There you will learn about eFiling submission and acceptance,

time of service, judges' copies, hearings on motions, fees, electronic signatures, format and form of eFiling and service, what constitutes the official court record and certified copies, what happens if technical malfunctions occur and privacy considerations.

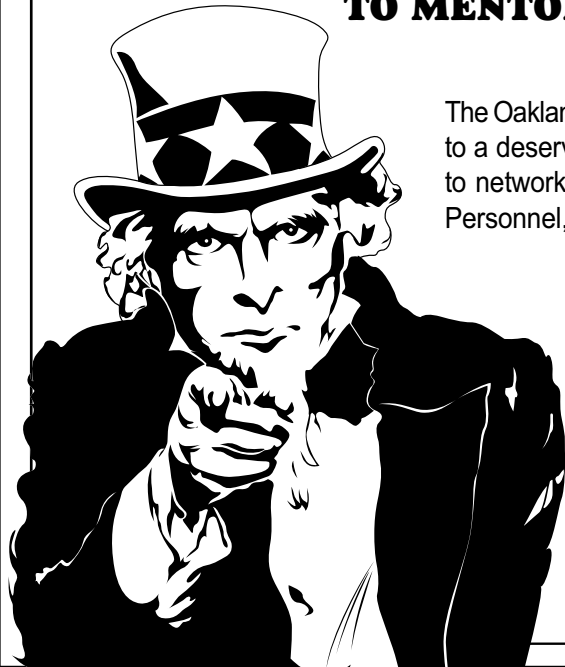
Attorneys and parties who participate in the eFiling program will receive free training on use of the vendor application, which is a Web-based application. I have seen the system demonstrated and to say that it is user-friendly is an understatement. Training will be offered in any of several forums: Web-based tutorial instruction, telephone assistance, and 30-minute walk-in training sessions being held every Wednesday from 10:00 a.m. to 1:00 p.m. in the Conference Center located on the second floor of the Courthouse West Wing Extension.

Somehow I have the feeling this won't be the last article you read about eFiling. As mentioned at the outset, our foray into the eFiling arena has been met with a surprise or two. Yet, despite budgetary challenges and various other "hurdles," we believe that eFiling is here to stay. Its potential and the benefits it offers to attorneys and litigants are too great to ignore. So, plan on the absence of paper court records when visiting Judge Warren's courtroom in August during his civil term. Somewhere out there are a couple of trees that will live to see another day!

Until next time...

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