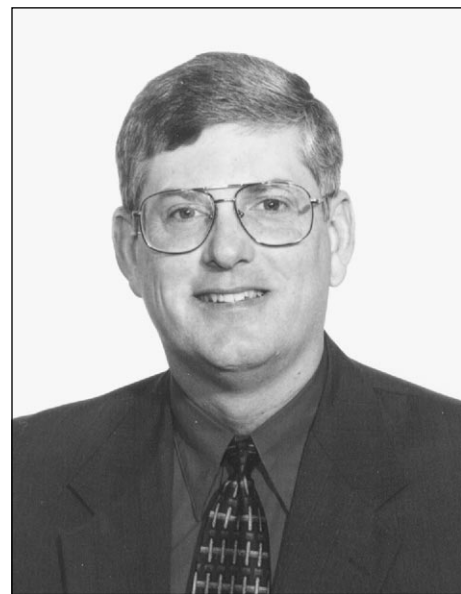


# eFiling Update

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by **Kevin M. Oeffner**  
**Circuit Court Administrator**

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**W**e at Circuit Court feel a little as if we're on a roller coaster in the dark of night – not knowing which way the eFiling train is going to turn or how big the next bump in the track will be. However, recent action taken by the bench will help smooth the ride a little and set us on a straight course.

In February's edition of *Laches* I reported that the Circuit Court had launched an eFiling pilot program involving a limited number of civil cases assigned to Judge Michael Warren. The attorneys handling these cases were able to eFile pleadings, briefs, motions, orders and judgments using an eFiling application developed by IBM and made available through the State Court Administrative Office (SCAO).

Our plan was to continue in a pilot program mode for several months and then assess whether continuation and expansion of the program was warranted. We encountered an unexpected curve when the SCAO announced in March that the IBM eFiling application would no longer be available after September 30, 2006. The news came after a press conference was held and an article published in *Laches* that lauded the introduction of eFiling in Oakland County.

In all fairness to SCAO, only a few trial courts in Michigan had ventured into the eFiling arena and the paltry number of documents filed in the state could not justify continuation of an expensive proposition. It was a simple business decision. Needless to say, we had to regroup.

With the bad news in hand, two options appeared to exist – abandon eFiling altogether or find a vendor who could provide an eFiling application. Our options were expanded to three when we later learned that Oakland County's Department of Information Technology would be

willing and able to build an eFiling application so long as the necessary funding could be found.

While pondering our options we looked at the pilot program and lessons learned. We also thought back to input received over the preceding months from members of the bar. Three themes emerged: for eFiling to be successful it must be mandated as it is in the federal court system, it must be economically advantageous for users, and it must produce efficiencies for eFilers and the court.

On April 27, at an off-site meeting of the circuit judges, Judge Warren presented the bench with an overview of the eFiling pilot program. We learned that eFiling works; that it reduced the volume of paper shuffled between the Clerk's Office, the court and the parties; and it increased the productivity of attorneys, judges and staff.

In accord with our review of the eFiling pilot program and the lessons learned, Judge Warren presented a recommendation to his colleagues that won unanimous approval. The recommendation contains four primary provisions that will serve as the cornerstone for the eFiling effort.

First, we will take Oakland County up on its offer to build a local eFiling application. This approach offers several advantages – most notably that we will preserve ownership of court records and retain control of the system. Preserving ownership of court records is not an option with a vendor-based system as they typically want to sell the records for profit.

This approach will also permit the integration of the eFiling application with the imaging system in place at the County Clerk's office. For the past 10 years or so, an electronic image of every document filed with the Clerk is

preserved. It is important to the court that every eFiled document integrates with the imaging system so that no bottlenecks result in the flow of electronic documents.

Perhaps most important to the litigants, no eFiling user fees will be instituted. A person wanting to eFile will log onto the eFiling application and submit his or her documents for free. A distinction is in order here – case filing fees and other applicable fees authorized by statute or court rule would remain in effect, just as they would for traditional paper filings, but eFilers will bear no cost to use the eFiling system.

Second, at least four circuit judges will take part in Phase One of the eFiling program, expected to be launched on January 1, 2008. Judge Warren's experience in the pilot demonstrated that eFiling works and efficiencies are gained, and so we believe the time is right to expand participation in the program. The case types for inclusion are yet to be determined. Judge Warren accepted type C and N civil cases in the pilot program. The specifics regarding which

cases to include will be determined in the months ahead.

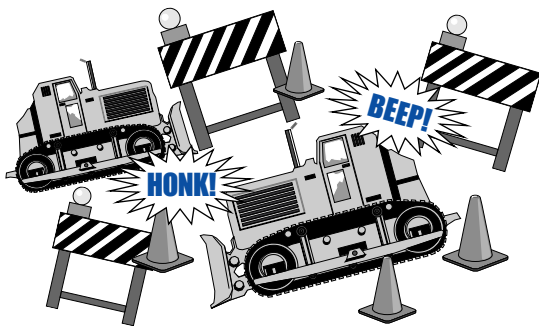
Third, for those case types selected, eFiling will be mandatory. Experience shows that voluntary eFiling, as was the case in the pilot program, does not lead to widespread use. We've come to the conclusion that eFiling can only be successful if mandated – just as it is in the federal court system.

Fourth, following the federal model, the court will make various public documents available online, for a small user fee. We expect this to be of immense value to practitioners and the public.

What you have just read is a description of how the court intends to move forward with eFiling given the recent news that the state will discontinue eFiling come September 30. We have much work to do and certainly many details to iron out. I will keep you updated as to our progress and the information you will need to know.

Until next time...

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(DRIVING TO THE COURTHOUSE)



(KNOCKING OFF WORK EARLY)

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