



BILL SCHUETTE
ATTORNEY GENERAL
STATE OF MICHIGAN

August 29, 2013

Larry S. Royster
Michigan Supreme Court Clerk
P.O. Box 30052
Lansing, MI 48909

Re: ADM File No. 2013-18

Dear Mr. Royster,

Earlier this year, the Michigan Supreme Court invited public comment on ADM File No. 2013-18, involving proposed rules on efiling. As Attorney General for the State of Michigan, I support the implementation of technological advances that allow for more efficient access to our state court system. The process of electronic filing of documents with the court, or efiling, holds the promise of both time and cost reductions for litigants. However, a disparate patchwork of systems and rules may work against the very goals of the efiling migration.

I am aware that under existing rules, the Supreme Court has authorized a number of efiling pilot projects in various courts around the state. According to our records, efiling systems have been implemented in Macomb, Wayne, Oakland, and the Thirteenth Circuit that covers Antrim, Grand Traverse, Ottawa and Leelanau counties. As my Department is perhaps the largest law firm in Michigan with a tremendously diverse practice area, we are keenly aware of localized changes in how we perform our work. The roll-out of these local pilot projects have created some issues that I wish to bring to the Court's attention. Among them:

- Local courts are engaging different vendors that use different technology. This requires practitioners in multiple jurisdictions to spend significant time to learn how to use multiple new systems.
- Each independent system typically requires a unique login and password.
- Responsibilities of an administrative user vary from county to county.
- Fees vary between systems—requiring independent tracking of what must be paid depending upon the court.

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- Methods and mechanisms of delivering payment are different between programs. In addition, it is unclear if and when other fees, like motion and filing fees, will be rolled in to the efile payment solutions.
- There is no consistency between counties regarding what cases must be efiled. For example, Wayne County only covers CK cases while the 13th Judicial Circuit mandates efile for C or N case codes. These differ from Macomb, which mandates efile C or N cases, but only for those assigned to certain Judges.
- Backup email addresses are handled differently by each system leading to difficulties in ensuring complete coverage of efiled cases.

I believe Michigan's efile initiative could benefit greatly by emulating the well-established efile system in the federal courts known as PACER. Impressively, PACER has been able to meet the Congressional mandate of self-funding by assessing fees strictly based upon viewing of efiled documents. I believe that such a funding model would be viable within this State and warrants consideration. PACER has also managed to impose some uniformity upon a system of 94 separate federal district courts.

I understand that there are many significant factors that should be considered. For that reason, I have tried to highlight some of the issues that our office has faced when dealing with the different pilot programs. I also offer to make my staff available to meet with you to further discuss these issues and more.

The Court should be commended for efforts to expand the growth of efile in Michigan. I hope that some of our observations and other input will assist the Court in implementing the best state-based efile system possible.

Thank you for the opportunity to comment on this issue.

Sincerely,



Bill Schuette
Attorney General

WDS/det