



Michigan Coalition for
OpenGovernment

August 30, 2013

Mr. Larry Royster
Clerk of the Michigan Supreme Court
P.O. Box 30052
Lansing, MI 48909

RE: ADM File # 2013-18

Dear Mr. Royster:

The Michigan Coalition for Open Government applauds the Court for taking the initiative in beginning the process of establishing a statewide, e-filing and digital docket management system. The Rules as proposed under ADM File #: 2013-18, however, raise some concerns that we comment on below. Chief among them is the glaring omission on the matter of public access to court filings and records under this system and any costs that would be charged. In our opinion, access should, generally, be free and open for remote inspection by the public.

MiCOG notes this omission in the proposed Rules in regard to the general public's access to remote, e-filed court documents and orders. Electronic, remote access to all court documents, except those under seal of confidentiality, must be available for online viewing without charge to members of the public. The filing fees and other costs associated with court filings, just as in the days of solely paper documents, was paid for by litigants with the public having free access to view these records upon request at the court clerk's office. This practice should be continued into the digital realm where electronic access costs no staff time or resources to those merely seeking to view the records.

MiCOG supports a uniform, standardized e-filing and digital docket management system in the court system statewide. It opposes, as proposed under Rule 2E.003, what appears to allow a fragmented, diversified system where various circuits implement their own, unique systems. Other states have adopted unified systems. Despite the potential objections of circuits that are currently operating under pilot systems and want to keep "their own," it is better for the citizens of the state of Michigan to have a single, unified system. We are a mobile society and the reach of the web is worldwide, so navigation

of a standardized system throughout the state's 83 counties would be better for court administration, for attorneys, litigants and the citizens of the state.

Seven distinct pilot programs are currently operating in the state. The strengths and weaknesses of those systems and those of the federal system (including at all levels the costs for creation, training, implementation and fees) should be collected, analyzed and used to frame the decision making to adopt or build a digital system and set the fees ultimately adopted by the courts and legislature. The Court should not implement any e-filing, docket management system without a thorough study and analysis of its effectiveness, costs of implementation and ease of use by court personnel, attorneys, litigants and the public. MiCOG specifically endorses and agrees with the fifth point in the Michigan Creditors Bar Association letter requiring the SCAO to establish a study committee to recommend to the SCAO and the legislature a unified, standardized e-filing and digital docket management system in the court system statewide with implementation and operational costs and filing fees part of the study and final proposal.

Filing fees should be set by the legislature and designed to, over a defined period of time, pay for all costs of the state wide digital docket management system. Regular annual public reports should be filed and be readily accessible to the public detailing the revenues raised, expenditures, cases handled, etc. Transparency is critically important yet is absent from the proposed Rules. After that time, the legislature shall review and reset filling fees. Filing fees must be standardized statewide.

MiCOG specifically endorses and supports the comments of the State Bar of Michigan and the State Appellate Defender Office re: Rule 2E.101 and 202 that the filing deadline should be 11:59 p.m., in line with the deadline for federal courts, rather than 5:00 p.m., and Filings received between 12:00 a.m. and 11:59 p.m. on a Saturday, Sunday, or Court holiday will be docketed for the next business day.

MiCOG also supports the State Bar of Michigan's comment that Litigants should have a right to remotely access their own cases for free.

Again, the Coalition applauds this effort to transform the state court system into a 21st Century model. But we hope the concerns we have raised are addressed. Please include our letter among the comments on this proposed Rule. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Jane Briggs-Bunting". The signature is fluid and cursive, with a large loop at the beginning and a long horizontal stroke at the end.

Jane Briggs-Bunting
President
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