

# E-Filing Automation Committee

First meeting on October 17<sup>th</sup>, 2019

## Major discussion topics:

### **Purpose and logistics of this Committee's operation and how it will get things accomplished.**

This Committee will discuss and decide on best practices, both technically, for the system itself, as well as how filers, clerks and judges will interact with the system, with the goal of then incorporating those into the E-Filing Rules.

Long-standing Automation Committees for the Limited Court and the District Court provide a framework for this group: providing a structure to decisions regarding the technology as well as the process and the form and how things can work well outside of the technology.

Authority to change E-Filing Rules will come from the E-Filing Automation Committee. The recommendation is that a set of "Best Practices" be developed, posted online and disseminated through the Montana Lawyer and other meetings/conferences, referencing resources that are available for information and instruction. When it is determined that a specific best practice will become a Rule, the date of the upcoming Rule change will be announced and advertised.

Note: since the October 17<sup>th</sup> meeting, a double-sided page of information was sent to the State Bar of Montana, to be published in the 2020 Lawyer's Deskbook.

### **Best Practices document/page**

It was agreed that a Best Practices document will be developed by the e-filing staff, vetted by this Committee and posted on the website. Staff welcomes comments and improvements as the document evolves.

### **Statewide rollout scheduling**

In general, and when possible, this office will strive to precede FullCourt Enterprise implementation with e-filing.

This approach consists of a two-phase e-filing deployment:

- Phase 1 for limited courts: Criminal (new and existing) and Ticket (existing only)
- Phase 1 for district courts: Criminal, Juvenile, Abuse and Neglect, Involuntary Commitment, Developmental Disability (new and existing for all)
- Phase 2 for limited and district courts: general civil and domestic relations cases, including statutory filing fees. These case types can only be enabled when FullCourt Enterprise (FCE) is deployed.
- In those cases where a court is running FCE prior to e-filing, all case types are enabled for e-filing at the same time.

**Decision:** Approval for this approach.

## **Attorney/Prosecutor mismatch**

The mismatch situation arises due to attorneys who work for the State of Montana who should be registering in e-filing in the role of “Prosecutor” so that clerks of court can add them to the cases in a matching role. The role in e-filing must match the role in the court case management system (CMS) for counsel of record to have access to the case.

Proposal: instead of the word “prosecutor,” this label could be changed to “Gov Attorney.”

**\*Action Item:** request a quote from e-filing vendor (TR) to have them change the display label of “Prosecutor” to “Gov Attorney” and have the internal messaging map the new label back to “prosecutor” to preserve the integration. This may also require messaging changes on the part of the CMS vendor.

**Decision:** continue to ask all government attorneys to register with e-filing in the role of “Prosecutor.” Add this to the FAQs and Best Practices documents.

## **Public Defenders (OPD) withdrawing as counsel of record when Abuse and Neglect (DN) cases are closed**

The question was asked by a former OPD attorney who is now in private practice and does not want her current authorized staff to be able to access closed DN cases. The only way to remove access entirely is for the attorney to motion for withdrawal from those cases. The discussion included possible programmatic changes that OPD or others could make to eliminate any possibility of unwarranted access to sealed cases.

Suggested Best Practice activity:

For parents who are terminated or who are found to have non-paternity status, counsel for the state can submit a document to have the parent, as well as the attorney representing the parent, removed from the case. (Problem with this is that cases can be appealed.)

Possible action to be taken by OPD: It may be possible to address OPD contract counsel in a similar way to what is done now for OPD FTE personnel who leave the agency: a batch reassignment that removes current counsel from the case, creating the proper documents to withdraw and reassign the case to new counsel. This does not currently address closed cases, but the suggestion is that it could perhaps be made to address closed DN cases. This could potentially turn into an Action Item for Nick.

**\*Action Item:** Beth will propose to the District Court Council in January 2020 a potential change to the Uniform Case Filing Rules such that when a closed DN case needs to be reopened, a new case would be opened instead of the existing case being reopened.

**Decision:** It is inherently each attorney’s obligation to file a notice of withdrawal so that these sealed cases are no longer available to her/himself, as well as to any future staff. All members of the Committee agree with this. We will include it in Best Practices and may in the future add a corresponding E-Filing Rule. \*\*

## Expansion of existing case types vs. expansion to more courts with current e-filing case types

**Unanimous decision:** We will move forward with state-wide implementation of current case type and sub-types.

## Variation in Practices between courts creates confusion for e-filers

**Decision:** implement the Best Practices guide to inform users of statewide decisions. Individual court offices will have local customs and e-filers will deal with those just as they do when filing on paper.

## Notifications for System Outages

The question asked Committee members their perspective on informing users of various system outages, particularly when all facts are not yet known.

Suggestion by Judge Vannatta is to have a “bulletin board” that would contain current system information and be accessible to everyone, transparently listing system status. In addition to an email alert that would go out to all ‘listserv’ recipients, there would be status updates regarding current issues with a warning to check submissions made during the affected times.

**\*Action Item:** We will move forward with putting this type of web page in place.

## Items on which to expend current maintenance hours

We requested that the Committee provide feedback regarding 2018/2019 items for which we will allocate our contracted enhancement/maintenance hours. Those items are:

- Ability to submit a proposed order with no Certificate of Service.
- Ability for limited court judges to sign summonses.
- Ability to apply “proposed order” workflows to other filing types/subtypes.

**Unanimous Decision:** We will have these items undertaken for the 2018/2019 maintenance hours. This vote occurred after discussion of other “Wish List” items. **\*Action Item**

## Items that were discussed and that do not have cost quotes

- Ability to store some of the routinely used names/addresses of additional service recipients. (Low priority currently. Keep on list for future consideration.)
- *Ability to add multiple attorneys at case initiation. **Scratched:** this is an FCE-only request that we will take up with the FCE vendor.*
- *Ability for an e-filer to add multiple “secondary” email addresses to receive eService. **Scratched.***

**Wish List and ideas for system enhancements** – Lisa requested that we eliminate issues from the list and assist in prioritizing the remaining issues.

- Ability of a judge to select a specific page on which to electronically sign.
- Multi-case filings of the same document (DN cases specifically; although Judge Barger sees a need beyond DN cases).
  - Very low priority (bottom of the list). Will be expensive and a fix is required from both vendors. No quote to be requested immediately, keep on the list for future evaluation.
- Method for judges to not have to save and replace a modified Word document.

**\*Action Item:** get a quote from the e-filing vendor including costs and potential problems.

- Potential to automatically strip metadata from all judge-signed documents.

**\* Action Item:** get a quote from the e-filing vendor including costs and potential problems.

**Decision:** It is the filer's responsibility (even if they do not know what metadata is) to submit documents without metadata. We will include this (and instructions) in the Best Practices document and will consider adding a corresponding E-Filing Rule change. \*\*

- *In the clerk review queue: ability to sort by various criteria, including by judge; this requires addition of judge field to review queue listing. **Scratched:** this is an FCE-only request that we will take up with the FCE vendor.*
- *Ability to not have a payment made until a filing is accepted by the clerk, rather than when it is submitted by the filer. **Scratched.***
- *Ability to add multiple money transactions to the same cart and then have the payment distributed to the multiple cases and courts. Currently limited to one money transaction per submission. **Scratched.***
- *"Real" or authenticated judge signatures. **Scratched.***
- *Ability to upload hearing recordings. **Scratched.***

#### **Requests from Committee Participants (responses in parentheses)**

- Amy Tolzien - assignment of judge to be made before Clerk routes to judge. (Will be done in FCE.)
- Judge Wilson - add ability for judge to make a note on item in the queue without having to go into the Respond with Order function. (Will stay on the list for future consideration.)
- Phyllis Smith - Rule 5(b) 2(E) allows electronic service if parties consent. Do the Temporary E-Filing Rules override this? (Requires follow-up discussion and potential E-Filing Rule amendment)
- Amy Tolzien – would like to receive only rejected email notifications without having to also receive submitted or approved emails. (Will stay on the list for future consideration.) Post-meeting suggestion: is it possible for Amy and her staff to set up email rules that would drop the unwanted emails into a separate email folder?
- Amy McGhee - clerks would like to not have to rename a document twice: first time in images, second time when it comes in from the judge. (Peg commented that her office is not doing this, and she sees no reason to rename proposed orders. This may be ameliorated to a high degree when on FCE.)

- Karen Kane - would like the main lead document to auto-populate the filing type and subtype fields on the document upload page instead of having to re-enter them. (Unfortunately, this is a far more complicated item than it seems; we previously asked the vendor to correct this and they will require quote for services for this enhancement. Will stay on the list for future consideration.)
- Amy Tolzien, Nick Aemisegger - Ability to default to the court you generally file in, or not have a default. (Idea is for a field on the user's "My Account" page. Will stay on the list for future consideration.)
- Craig McKillop – Asked if there are costs to changing pleading types? Specifically, he would like to file a proposed subpoena. (This will be addressed via the 2018/2019 enhancements.)

### **Big concept items – no current source of funding available**

- Self-represented litigants' ability to e-file.
  - This is a future project that is well beyond our current ability to tackle. As it starts up, it may start with Orders of Protection. We would look to other states who have done it well. Future.
- Ability of "Case Participants" such as CASA and parole officers to view cases.
  - This is also a topic for the future, as the same technical case security issues apply: there needs to be some mechanism of assuring that cases are not improperly exposed.
- Mention of ability of e-filing system to interface with legal service providers.
  - Something for the future. Not a great deal of enthusiasm expressed.
- Method whereby clerks of court could "serve" parties with court orders via the e-filing system.
  - This is an important topic for which we would need to develop the concept and look at the costs and figure out a legislative proposal.
  - Peg Allison wants to expand the concept so that the clerks can e-file. This would need to be specified as to function and design. This might start within the District Court Automation Committee.
- Four Judicial Districts which do not have the ability to open collegiate judges' cases in the "other" counties from the e-filing judge review queue.
  - Possible far-in-the-future consideration.

### **System-wide suggestions/comments that were discussed**

- E-Filing Rule change regarding the format and submission of all proposed orders.
  - All proposed orders to be submitted in a file format that can be opened by Word. Most modern word processing programs, including WordPerfect (and Google Docs, Dropbox Paper, etc.) provide the ability to save documents in .docx format. This would avoid the state mandating a specific product that an attorney would have to purchase in order to practice law in the state.
  - Eliminate all line numbers and vertical lines on the side margins. Remove all headers and footers, except those printed on the left side of the page.
  - Eliminate blank date and signature lines. Replace with the phrase "Electronically signed and dated below."

- Remove all metadata.
- Proposed Order must be a separate document, not included with the motion/petition.
- Standard case caption continues to be required.
- Submitted solely using the “Lead Document” option in the e-filing upload function (in FCE courts) as opposed to “Supporting Document.”

**Decision:** We will start with listing these items and advertising them in our Best Practices guide. We may look at adding this to the Temporary E-Filing Rules. \*\*

- To the extent possible, use any pop-up or context sensitive help features on each of the e-filing pages so that users have information right where they need it. Examples are:
  - Submit the order with a .docx extension.
  - Possibility of displaying the Court Number with the court name

**\*Action Item:** We will attempt to add as much help as we can within the current program limitations.

- Survey Monkey can be used to gather information from a wide spectrum of filers of various types.

**\*Action Item:** We will begin to prepare a survey to gather information from our e-filers.

- Suggestions for adding filing types and subtypes can be submitted to Lois ([lschlyer@mt.gov](mailto:lschlyer@mt.gov)) who will make sure they get on the agenda for the proper level FCE Automation Committee.

## Next Meeting

- Focus will be to look at the Temporary E-Filing Rules, particularly in relation to withdrawal of attorneys upon their change of employment and the metadata issue.
- Expect a twice-a-year in-person Helena meeting.
- April 2020 is timeframe for the next meeting.
- Between meetings we can review action items and other information via email.
- Justice Shea suggested that some work may involve subcommittees.

## List of Action Items:

- We will submit a request for a quote from the e-filing vendor (TR) to have them change the display label of “Prosecutor” to “Gov Attorney” and have the internal messaging map the new label back to “prosecutor” to preserve the integration. This may also require messaging changes on the part of the CMS vendors; if so, we will request a quote from them as well.
- Beth will propose to the District Court Council in January 2020 a potential change to the Uniform Case Filing Rules such that when a closed DN case needs to be reopened, a new case would be opened instead of the existing case being reopened.

- Possible Action Item: It may be possible to address OPD contract counsel in a similar way to what is done now for OPD FTE personnel who leave the agency: a batch reassignment that removes current counsel from the case, creating the proper documents to withdraw and reassign the case to new counsel. This does not currently address closed cases, but the suggestion is that it could perhaps be made to address closed DN cases. This could potentially turn into an Action Item for Nick.
- From TR, get a quote and consequences for having a method of the judges being able to modify a document without having to save it and replace it.
- From TR, get a quote and consequences for having metadata automatically stripped from all documents via Adlib.
- We will move forward with putting a notification “bulletin board” type of web page in place.
- We will have these items undertaken for the 2018/2019 maintenance hours. **Note: this Action was finalized on 10/23/19.**
- Draft a new Rule to indicate that an attorney must withdraw from all sealed cases upon the change of employment.
- Judges need the ability to file at the Supreme Court. (Lois will investigate status.)
- Additional work on the concept of District Court Clerks ability to eServe and/or e-file.
- Add context-sensitive help as able. Add to the “upload document” page an explanation of supporting document versus a lead document.
- Develop and publish a Best Practices Guide.
- Develop a Survey Monkey to send to e-filers.

### Rule changes to be considered:

- Attorneys on any sealed case shall withdraw from the case when the attorney’s status changes in any way.
- It is the filer’s responsibility (even if they do not know what metadata is) to submit documents without metadata.
- Rule 5(b) 2(E) – further discussion is needed.

### To be included in the Best Practices Guide:

- Requirements for submitting Proposed Orders, as detailed above.
- It is each attorney’s obligation to file a notice of withdrawal so that sealed cases are no longer available to her/himself, as well as to any future staff, when an attorney’s status changes.
- For parents who are terminated or who are found to have non-paternity status, counsel for the state will submit a document to have the parent, as well as the attorney representing the parent, removed from the case.
- Government attorneys will register with the role “Prosecutor.”