

E-Filing Automation Committee Meeting

December 7th, 2023, 1:00 PM – Held via Zoom

Attendees: Justice Jim Shea, Judge Audrey Barger, Amy McGhee, Peg Allison, Phyllis Smith, Miranda Johnson, Matt Jennings, Karen Kane, Nick Aemisegger, Amy Tolzien, Craig McKillop, P. Mars Scott, Beth McLaughlin, Lisa Mader, Holley DeWitt, Ryan Davies

Not in attendance: Judge Shane Vannatta, Judge Jessica Fehr, Diane Anderson, and Maggi Everett

Approval of Meeting Notes from December 2022 Meeting

The meeting notes for the June 15th, 2023, automation committee meeting were approved.

Overview of Current System and Schedules

Installations and Schedule

Courts which installed E-Filing since the last committee meeting on June 15th, 2023:

- Daniels County District Court – 7/6/2023
- Sheridan County District Court – 7/6/2023
- Roosevelt County District Court – 7/6/2023
- Bozeman Municipal Court – 7/31/2023
- Dillon City Court – 8/15/2023
- Stillwater County District Court – 8/24/2023
- Belgrade Municipal Court – 9/5/2023
- Richland County Justice Court – 10/18/2023
- Sidney City Court – 10/18/2023
- Dawson County District Court – 10/30/2023

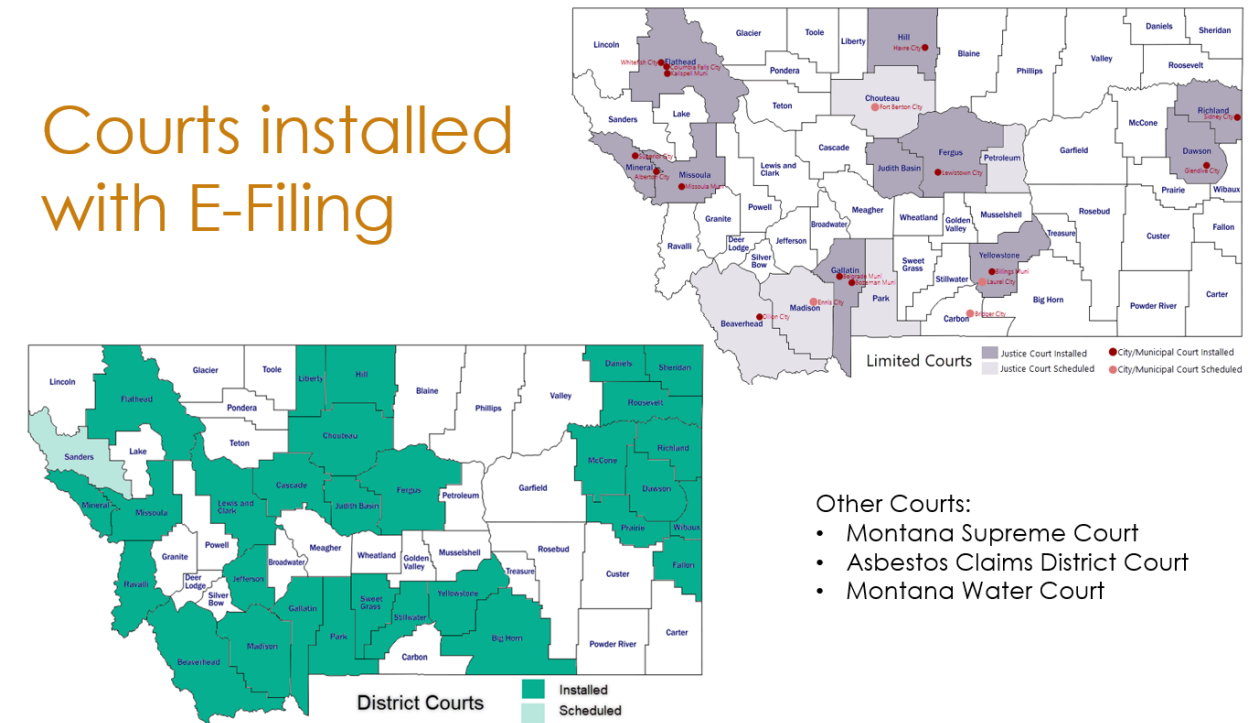
Courts scheduled for future installs of E-Filing:

- Sanders County District Court – 1/23/2024
- Petroleum County District Court – 2/27/2024 (agreed to this date after the committee meeting had taken place)
- Beaverhead County Justice Court – 3/26/2024
- Chouteau County Justice Court – 3/26/2024
- Fort Benton City Court – 3/26/2024
- Madison County Justice Court – 3/26/2024
- Ennis City Court – 3/26/2024
- Bridger City Court – 4/16/2024
- Laurel City Court – 4/16/2024
- Hamilton City Court – 4/16/2024 (agreed to start E-Filing after the committee meeting had taken place)
- Park County Justice Courts – 5/14/2024
- Petroleum County Justice Court – 5/14/2024

The E-Filing team is changing the way that we will install smaller courts (mostly COLJ). We are utilizing the idea of a sprint where we install many courts at the same time. We are setting training date options, and then allowing courts to select into the dates that work for them. Up to five courts can all attend the same sprint. We hope that this will allow us to bring more courts on to E-Filing in less time. Ryan reached out to every smaller COLJ court currently using FCE to offer them an opportunity to install E-Filing, only about half responded back with interest.

If there are courts who express interest in E-Filing, please ask them to reach out to efilingtechsupport@mt.gov.

Figure 1



- Other Courts:
- Montana Supreme Court
 - Asbestos Claims District Court
 - Montana Water Court

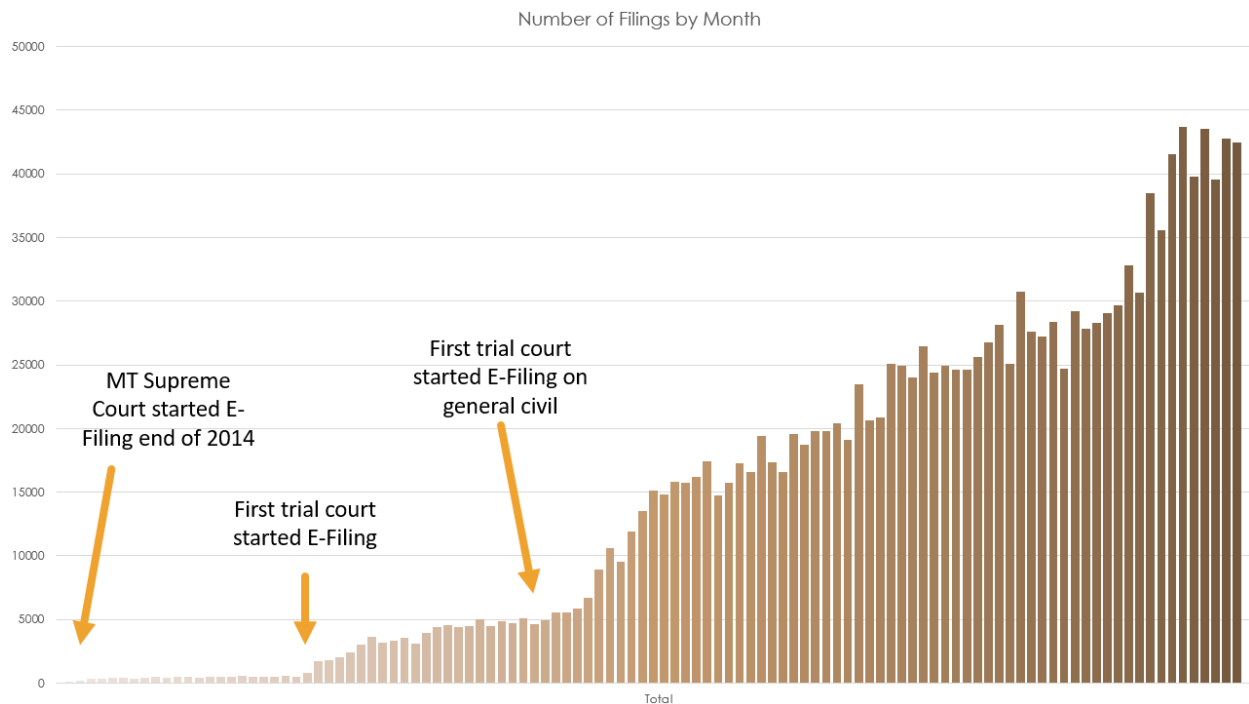
In January and February of 2024, while we do not have many installs scheduled, the E-Filing team will work to enable new case types (DA, DF, DG, DP, IS, SL, SW & SM) for E-Filing, per a vote by email made by the automation committee earlier in the year. Work has begun on enabling these new cases.

Statistics (Recorded on 11/30/2023)

- Courts using E-Filing:
 - 1 Supreme Court
 - 29 District Courts
 - 10 Justice Courts
 - 14 Municipal/City Courts
 - Plus Water Court and Asbestos Court
- Active registered e-filers:
 - 7 Supreme Court Justices
 - 1 Clerk of Supreme Court

- 67 District Court Judges
- 26 Limited Court Judges
- 25 Clerks of District Court
- 2,843 Govt Attorneys/Attorneys
- 156 Court Reporters
- 1,299 Case Participants
- 2,585 Authorized Staff
- 7,009 total users (6,360 total users on 11/30/2022)
- 2,492 support tickets opened in the last 12 months by the E-Filing support team
- Number of E-Filing submissions:
 - Last 12 months – 468,492 e-filings on 101,553 cases
 - All time – 1,612,935 e-filings on 232,802 cases

Figure 2



Updates, Fixes, and Changes

E-File Version Updates

- v7.6.2 remediated a problem that was introduced in v7.6.1 that prevented attorneys from opening cases at the Montana Supreme Court.

FCE Version Updates

- No updates

Other Updates

- Adlib

- Adlib needed to be updated because the old version of Adlib relied on software that had reached its end-of-life.
- Several key setting changes did not transfer over to the new Adlib console and ultimately caused multiple E-Filing outages.
- Adlib continues to cause documents to error after each SITSD maintenance weekend until we can restart the server following the maintenance weekend. We will need to continue to manually restart the Adlib server after each weekend until we can make a server configuration update that will enable the Adlib server to restart successfully on its own. The OCA IT department is working on making this change.
- Other
 - Based on the recommendations of committee members and other court users, hundreds of e-filing subtypes were added/removed/modified to fit the filing categories more appropriately.
 - Unofficial, duplicative documents in the E-Filing repository were deleted, saving the Judicial Branch backup expenses.
 - The rate E-Filing sends out notifications was increased from 20 emails every two minutes to 20 emails every minute to keep up with the increased volume of notifications generated.

Outstanding Items

E-Filing updates:

- v7.6.3 (not installed in the live environment)
 - Should improve the speed and performance of E-Filing.
 - Introduced a problem with the judge review queues that prevents us from installing it in the live system.
- v7.6.4 (not installed in the live environment)
 - Should fix a problem with supreme court justices seeing the wrong queue.
 - Should fix the problem introduced in v7.6.3. Since the committee meeting, we have discovered that v7.6.4 does not resolve the problem.
- Later versions
 - Department of Labor and Industry and Department of Revenue agreed to pay for a software enhancement to improve the process for opening SL cases. TR is currently working on this.

FCE

- Future updates: 8.3, 8.3 Patch 1, 8.3 Maintenance 1 are all scheduled to be installed on 12/11/2023 (these have been installed since the committee meeting)
 - Resolves a problem with dismissed parties still displaying on the case in E-Filing and receiving eService (see section for DN subcommittee).
 - Resolves a problem preventing the clerks from unsealing documents while processing e-filings.
 - Updates the pending electronic filing queue subtype filter so that it is practical for clerks to use again. Also allows clerks to set user specific default filters.

- Resolves a document sequencing problem that causes a “duplicate document sequence number” error when clerks try to process certain e-filings. Although not specifically an E-Filing problem, this issue comes up most often in relation to E-Filing.
- Phyllis asked about the problem with adding multiple prosecutors to Juvenile cases. The vendor did attempt to make an emergency fix, however after we installed it, we found that the fix created a worse problem than it prevented so we reversed the fix and are now waiting for the vendor to add a fix to a future major release.

Items shown on the presentation but not discussed:

- The state abbreviation is missing in address on COS.
- The ROA does not always accurately describe who the filer is when payment is present.
- The Judge review queue sometimes displays the wrong motion.
- There is an occasional problem auto assigning a judge.
- There is an occasional “User Not Authorized” error.
- There are occasionally 3 AM filing errors (maybe fixed with v7.6.1).
- The E-Filing performance still needs to be improved.
- The received of field does not auto populate in FCE.

Outstanding Enhancement Requests

TR

- We have received SOWs for the following items and an email will be sent out asking the committee members to rank the following three items from most desirable to least:
 - Automatically fill in the first document filing type and subtype on the upload document page – \$13,115 + 22% yearly maintenance fee.
 - Make the filing type and subtype fields searchable – \$22,145 + 22% yearly maintenance fee.
 - Add a comment box on the attorney’s filing summary page – \$12,685 + 22% yearly maintenance fee.
- Saving “Other Service Recipients” on the Service information screen has not yet been requested, because Ryan wants to first test plugins for alternate methods for saving other recipients.
- Judges’ ability to change queue sort order – tabled until we have a district court judge attending the meeting.

JSI

- JSI is working on mapping E-Filing filing types to ROA codes. Most notably we will be able to set up a filing type called “Motion – Unopposed” in E-filing, and we will be able to enable extradition cases with some of the other mapping included. We expect to receive this soon.
- JSI provided a SOW to make the ‘Route to Judge’ field a required field. We have asked them a clarifying question and attempted to follow up multiple times but have not received an answer back.
- We have asked for a SOW for an ROA to show if a filing was routed to the judge, but we have not received one yet.

- We have requested for a SOW that will allow e-filers to search by an 'other party's' name, but we have not received one yet.

New Enhancement Request

The following enhancement has been asked by multiple users over the years, but it has never been discussed by the committee before.

E-Filing sends out eService notifications to attorneys when other attorneys e-file on a case. E-Filing currently does not send out eService notifications when judges e-file on a case. The request asks for E-Filing to send out eService notifications for judge filings.

All eService notifications are sent out at the time the filing is submitted by the filer. On the other hand, orders are not typically distributed until after they have been filed. Changing the typical eService workflow to accommodate for sending orders out after they are filed would likely be incredibly expensive and require both vendors to work on. There are also industry standards called the electronic court filing (ECF) standards that create a framework for CMS and E-Filing products to integrate and exchange information. Creating a new workflow may not align with the ECF standards, and it is unlikely that either vendor will want to go outside the ECF standards.

Alternatively, orders could be eServed before they are filed, similar to documents submitted by attorneys. This would likely be much cheaper, but still likely to be very expensive. This could create a situation where an attorney is served with an order that gets rejected and never gets filed on the case.

Judge Barger explains that the clerks end up sending quite a few orders back for correction and she is not in favor of the orders going out before her clerks have a chance to review and file them.

Lisa explains that she believes going outside the ECF standards would hurt the project in the long run. If our vendor went out of business and we needed to contract with another company, having a practice outside the standards would be a hinderance in contract negotiations.

Peg explains that a law office had complained to the OCA about not getting orders out of Flathead County District Court. Peg researched the issue and found that one of the emails in the attorney's record in FCE had a typo. A minor problem like a typo in an email address can be a significant issue for an attorney and their client. With paper filing, it's easy to make sure that the filing makes it in the mail, but with E-Filing it is easier to miss the final step of distributing the order. Each office should have a system for double checking to make sure the orders are getting sent out.

Mars states that his office has not had any issues receiving orders from any courts.

Nick asked if any fix would be too cost prohibitive, or if only the fix for sending out the final, filed, order is too cost prohibitive. Both Lisa and Ryan believe that even the less extensive change would be too high a cost because it would be an update to the judge workflow.

Lisa mentioned that alternatively, there could be a solution through FCE that could work. A separate brainstorming session will be held sometime in January/February. Judge Barger, Amy McGhee, Peg, Phyllis, Miranda, and the OCA will meet to brainstorm if there is anything that can be done within the current FCE functionality.

Nick wants to underscore how important it is for attorneys to receive the orders, explaining that there are several courts who choose not to distribute the orders because they expect attorneys to log into the CMS or E-Filing to download the order. Nick also explains that the attorneys' offices do not have the resources to continually check all their cases to see if an order has been filed yet. If the process can be automated that would resolve the issue altogether.

Judge Barger says that at the next COLJ conference that she will explain to the courts how important it is that they distribute the orders to the attorneys.

Items for the Committee to Consider

The OCA is asking for guidance in steering the E-Filing project into the next phases. To help with this, we have come up with four questions that we would like to hear from the committee members on.

When should we make the E-Filing Rules Permanent?

Justice Shea says that temporary electronic filing rules are not intended to stay temporary for an indefinite amount of time but thinks with the changes that E-Filing is still undergoing, the rules should still be temporary to allow the committee the flexibility to modify the rules for the changes. The objective is to get the pieces of E-Filing in place and then make the rules permanent.

Mars agrees that we are still at a point where it makes sense to keep the rules temporary but think that we should bring up the topic on a regular basis.

Judge Barger points out that every court is different and until we get every court on E-Filing, we do not know what situations might come up.

Justice Shea and Lisa agree that it may be prudent to wait to make the rules permanent until we are further into the process of Pro Se filing.

The committee will revisit this question again in a year.

Should we ever make E-Filing mandatory for the courts?

Lisa thinks nearly every district court will eventually start E-Filing because most of their peers have, or will, enable E-Filing. She does not think the Courts of Limited Jurisdiction will do the same.

Justice Shea says that if courts are still voluntarily enabling E-Filing that it is best not to force courts to use it. At some point if there are courts who refuse to switch to E-Filing, then maybe it would be time to mandate it.

Peg thinks that after every court has switched to FCE and no more courts want to enable E-Filing then it would be a good time to discuss mandating E-Filing.

Judge Barger recognizes that many of the courts who refuse to start E-Filing may eventually get new judges or clerks who want E-Filing, and so with time, these courts usually will adopt new technology.

Should we enable E-Filing for Pro Se litigants with the current functionality?

Ryan explained, even though Pro Se litigants are not enabled in E-Filing, several try to register and e-file using the role of case participant. Neither the case participant role, nor any other currently enabled roles, are configured for this purpose. It has been our practice when a clerk alerts us of a Pro Se filer to

inactivate the Pro Se filer's account and instruct them that they need to submit their documents outside of E-Filing.

Enabling Pro Se litigants with the current functionality would raise two major challenges. First, Pro Se litigants would not have the ability to view their cases in E-Filing like attorneys can (they would have some limited case access through the FCE public portal). Second, they would not be able to make payments through E-Filing, due to the way CitePay receipts payments to FCE. The OCA asked the question of the committee, should we begin working on enabling a Pro Se litigant role despite these two challenges, or wait until a later date when we can fully work on the project?

Beth raises the point that technology is going to change significantly in the next few years due to recent advancements with artificial intelligence. She recommends waiting a little longer because enabling Pro Se filing might be significantly easier with the new technologies in AI.

Mars asked if the OCA thought they had the resources to support Pro Se litigants. Neither Lisa nor Ryan thought they had the resources to support Pro Se litigants currently. Lisa clarified that we were not suggesting that we enable E-Filing for Pro Se litigants, but that we could enable a portion of Pro Se litigants with the current technology and wanted to be transparent with the committee.

Justice Shea points out that opening Pro Se filing for some situations, but not other situations, may create more problems or confusion than it solves.

Judge Barger thinks that it will eventually be important for access to justice, but now is not the time. It will likely take a whole new set of rules that we have not thought about yet. An example might be, if you are represented by an attorney, you are not allowed to file Pro Se.

Should we charge a fee to use E-Filing?

During a Commission on Technology meeting earlier this year someone brought up the possibility of charging to use E-Filing. Other states and jurisdictions charge to use their E-Filing portals to pay for maintenance and system enhancements. In the State of Montana, the Judicial Branch does not have statutory authority to take in any kind of fees, so it would require a statutory change, which would be a large undertaking. The OCA would like to know if this is something that the committee thinks is a good idea at some point, or not.

Mars thinks it is a good thing to explore in the future. We should not charge a whole lot for it, but charging something for the use of the system would be appropriate. Attorneys charge their clients for legal research on Lexus and charging for the use of E-Filing would be similar.

Justice Shea and Beth agreed that the first order of business would be getting the statutory authority to charge fees. Beth does not think we will be ready for this by the 2025 legislative session.

Judge Barger says that she already has E-File users question the payment processing fee that is charged by CitePay, the payment processor, when making payments through E-Filing/CitePay.

Subcommittee Updates

The subcommittee members can be found at:

<https://courts.mt.gov/Courts/EFile/EFilingAutomationCommittee>.

DN Issues Subcommittee

Karen shared that the DN subcommittee was meeting monthly over the summer to discuss new statutes that were passed in the most recent legislative session. The subcommittee was preliminarily discussing potential rules changes for the committee to discuss because of the unique nature of DN cases. The subcommittee also discussed the new law passed by the state requiring an attorney for the child.

Another issue discussed was tribes or other parties listed on the case and later dismissed. A tribe might be listed on the case until the child's tribe is determined. After the child's tribe has been determined the other tribes would be dismissed from the case, but because dismissed parties were still showing up on the case in E-Filing, the other tribes would always be listed as parties in E-Filing. As discussed earlier in the committee meeting, the next version of FCE being installed on December 12th, 2023, fixes the issue so that dismissed parties will no longer show up on cases. Karen also explained that the subcommittee discussed some of the challenges with serving CASA, because the case participant role used by CASA does not receive eService, and local CASA organizations do not always have consistent email addresses that can be served.

Survey Subcommittee

The survey subcommittee has not met since the last committee meeting. In the last survey there were two main concerns that came up, the first was the performance of the E-Filing website, which has partly been addressed and is continuing to be addressed. The second concern was the lack of communication by the OCA about outages, maintenance, and updates. We have addressed this with a bulletin board and a distribution email list that we send out updates to. A third common comment was people asking for more courts to E-File, which we also continue to address. Lisa would like to go through the results from the last survey again and then ask the committee at the next automation committee meeting if they think a new survey is needed at this time.

Rules Subcommittee

The rules proposed to the last subcommittee were approved, but the amended rules have not yet been signed and posted on the website. In the last committee meeting Ryan expressed concerns with TEFR (6)(b)2 that the rules subcommittee has not yet met to discuss. In the next couple months Ryan will send out a survey for the subcommittee to meet again to discuss (6)(b)2.

Schedule the Next E-Filing Automation Committee Meeting

Ryan will send out reminders for scheduling the next committee meeting.

Judge Vannatta and Judge Fehr reached out to Ryan explaining that Thursdays do not work for either of them. However, the most popular days that members have said they are available for the next two meetings are Thursdays. We will remove Tuesdays and Thursday from the survey and resend the scheduling emails.

Meeting Adjourned.

Action Items for Committee Members

The OCA will send out an email asking the committee members to rank the following three items from most desirable to least:

- Automatically fill in the first document filing type and subtype on the upload document page.
- Make the filing type and subtype fields searchable.
- Add a comment box on the attorney's filing summary page.

Ryan will test browser plugins for alternate methods to save other service recipients.

In January or February, Judge Barger, Amy McGhee, Peg, Phyllis, Miranda, and the OCA will meet to brainstorm if FCE can send out orders automatically.

Judge Barger will explain to the COLJ conference how important it is that they distribute the orders to the attorneys.

The committee will revisit the question about making the TEFRs permanent in the Winter of 2024.

Lisa will review past survey results and provide an update at the next committee meeting.

Ryan will send out a meeting poll for the rules subcommittee to meet to discuss TEFR (6)(b)2.

Ryan will send out email reminders for scheduling the next committee meeting. Update: the next two committee meetings are set for June 3rd, 2024 at 1:00 PM and December 11th, 2024 at 9:00 AM.

Abbreviations that may be used in this document:

- Adlib – the embedded document processing engine for all documents flowing through the e-filing system
- API – application programming interface, facilitating data exchanges between separate applications
- CMS – Case Management System
- COLJ – Courts of Limited Jurisdiction
- COS – Certificate of Service
- DLI – State of Montana Department of Labor and Industry
- DN – Abuse and Neglect, a case type at the district court level
- DOR – State of Montana Department of Revenue
- ECF – Electronic Courts Filing Standards
- FCE – FullCourt Enterprise, the newest version of the court case management system in use by all courts of limited and general jurisdiction
- IT – Information Technology; may refer specifically to the Montana Judicial Branch Information Technology division
- JSI – Justice Systems, Inc. – the FCE/V5 software vendor
- OCA – Montana Supreme Court Office of the Court Administrator
- Okta – the current identity management software and database used for e-filing access
- OPD – State of Montana Office of Public Defender
- ROA – Register of Action – docket entry
- SL – Statutory Lien(s), a case type at the district court level
- SITSD – State of Montana Information Technology Services Division
- SOW – Statement of Work
- TEFR – Temporary Electronic Filing Rules
- TR – Thomson Reuters, the e-filing system software vendor
- V5 – FullCourt, the legacy court case management system, now being replaced by FCE