

E-Filing Automation Committee Meeting

December 11, 2024, 9:00 AM – Held via Zoom

Attendees: Justice Jim Shea, Judge Shane Vannatta, Judge Audrey Barger, Judge Jessica Fehr, Amy McGhee, Peg Allison, Phyllis Smith, Miranda Johnson, Nick Aemisegger, Craig McKillop, Amy Tolzien, Dave McAlpin, Lisa Mader, Maggi Everett, Holley DeWitt, and Ryan Davies

Not in attendance: Karen Kane, Mars Scott

Approval of Meeting Notes from July 2024 Meeting

Phyllis motioned and Judge Vannatta seconded to approve the July 22, 2024 meeting minutes. The motion carried.

Introductions

Ryan introduced Holley DeWitt, who is taking over the E-Filing Program Coordinator position and the new Court Administrator, Dave McAlpin.

Overview of Current System and Schedules

Installations and Schedule

Courts which installed E-Filing since the last committee meeting on July 22nd, 2024:

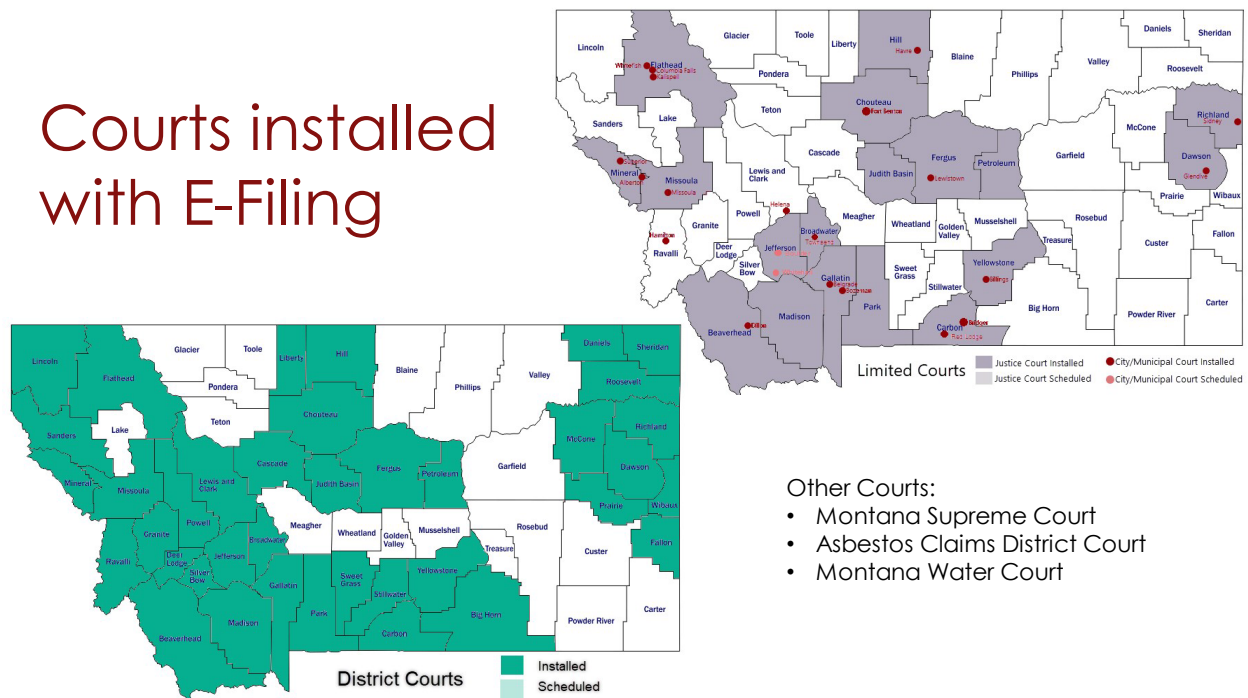
- Powell County District Court – 8/12/2024
- Butte-Silver Bow County District Court – 8/12/2024
- Jefferson County Justice Court – 8/12/2024
- Lincoln County District Court – 9/5/2024
- Anaconda Deer Lodge County District Court – 10/8/2024

Courts scheduled for future installs of E-Filing:

- Boulder City Court – 12/13/2024
- Whitehall City Court – 12/13/2024
- Lake County District Court – pending until after the first of the year

Holley mentioned that with all the staff changes the install schedule has slowed down but will start picking back up after the first of the year.

Figure 1

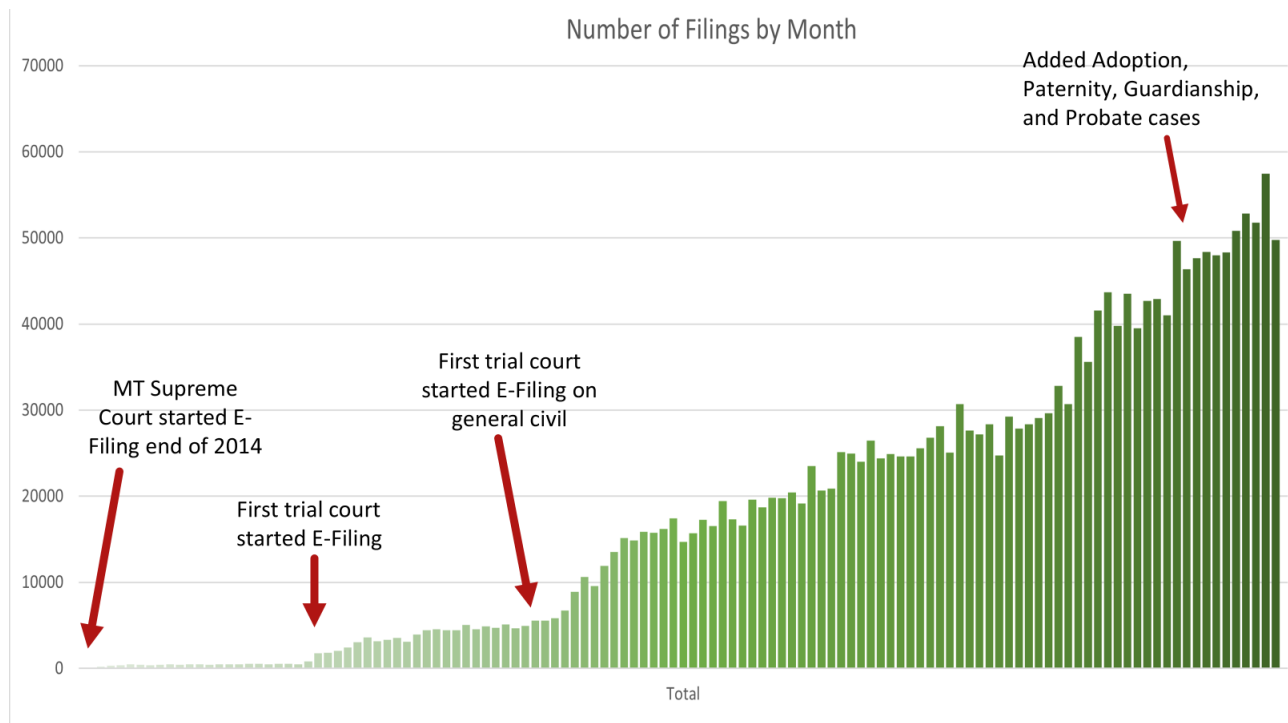


Statistics (Recorded on 12/2/2024)

The following statistics were shared with the committee.

- Courts using E-Filing:
 - 1 Supreme Court
 - 38 District Courts
 - 18 Justice Courts
 - 20 Municipal/City Courts
 - Plus, the Montana Water Court and the Montana Asbestos Court
- Active registered e-filers:
 - 7 Supreme Court Justices
 - 1 Clerk of Supreme Court
 - 75 District Court Judges
 - 39 Limited Court Judges
 - 25 Clerks of District Court
 - 3,072 Govt Attorneys/Attorneys
 - 175 Court Reporters
 - 1,725 Case Participants
 - 3,087 Authorized Staff
 - 8,207 total users (7,611 total users 7/2024)
- 3,188 support tickets opened in the last 12 months worked on by the E-Filing support team
- Number of E-Filing submissions:
 - Last 12 months – 604,078 e-filings on 131,199 cases
 - All time – 2,217,473 e-filings on 312,949 cases

Figure 2



Updates, Fixes, and Changes

E-File Version Updates

On August 21, 2024, E-File version v7.7.0 was installed into production. This version included enhancements for SL and IS case types. Both of those case types were also enabled. This also included a behind-the-scenes update to the attorney registration process.

FCE Version Updates

On February 12, 2024, FCE versions v8.4, and v9.0 were installed into production. The following changes were included in the update:

- Added validation to the Last Name field on page one of clerk review.
- Corrected issue where the refresh button in the Pending Electronic Filings queue was removing search results. Refresh now works the same as retrieve.
- Fixed issue with the state abbreviation not showing up on the Certificate of Service.
- The filer received of, last name, and first name fields will auto-populate now in clerk review.
- Fixed issue of withdrawing prosecutors on DC and DJ cases when processing e-filings.
- Corrected an issue causing the clerk review to sometimes time out when processing filings with fees.

Holley mentioned that the issue of prosecutors still being duplicated on DJ cases is still happening and will be fixed in a later release.

Future Software Version Updates

There are no E-Filing version updates from TR. They are still working on several outstanding issues.

Two versions of FCE have been provided – v9.1 and v9.2.

Version 9.1 will correct the following issues:

- Make the Route to Judge field mandatory and add a Do not route option to the dropdown.
- Correcting issue duplicating prosecutors on DJ cases

Version 9.2:

- Corrected issue removing the Date of Death from the party detail

Note: v9.1 and 9.2 have been installed in production since the committee meeting.

Other (non-software version) updates

Other E-Filing related updates made since the last committee meeting are listed below:

- Fixed a problem with the ESB crashing due to large filing submissions.
- Enabled Statutory Lien and Investigative Subpoena case types.
- Enabled civil case subtype Out of State Subpoena.
- We are working on enabling the new criminal filing types we had the vendor map, including Motion-Unopposed.
- Added approximately 2 GB of memory to the database server to help alleviate memory usage on the server and help resolve the large filing errors that have been occurring.
- We also turned off Adlib OCR functionality on November 22nd, 2024, to help alleviate some of the errors we've been experiencing.

Ryan discussed the E-Filing errors that have been occurring further. Looking into the errors that have been occurring over the last two months, we found that the e-file database was running out of memory and unable to perform certain tasks within an allotted amount of time. The OCA has increased the memory on the database to help alleviate those issues and are watching the system performance. We are still working with Thompson Reuters to see if anything else can be done.

Note: Since increasing the memory, E-Filing has not had another issue due to low memory on the database

Outstanding Problems

The following outstanding items were shown on screen but not discussed in detail, since they have been on this list previously.

- The ROA does not always accurately describe who the filer is when a payment is present.
- Clerks are unable to assign multiple prosecutors to DJ cases.
 - This will be fixed in v9.1
- The judge review queue sometimes displays the wrong motion.
- There is an occasional problem where FCE does not auto assign a judge.
- E-Filing displays an occasional "User Not Authorized" error for users when they try to log in.

- Adlib fails to function properly after maintenance weekends, unless we restart the server manually.
- Processing an e-filing on a case removes the “Date of Death” value from a deceased person’s party record in FCE.
 - This will be fixed in v9.2 patch 1
- E-File staff is unable to switch E-File users’ roles – some users are unable to register as a result.
 - This does not affect the end user daily, but it does affect the E-Filing staff members’ ability to switch users’ roles.
 - A role change usually takes about 2 minutes, but it currently takes about 2-4 days to change someone’s role in E-Filing, because it now must be done through a database script.
- The e-file system eServed the wrong document in an eService notification.
 - There has been one report on this issue. The filer submitted multiple documents and marked one of the documents so that it would be excluded from eService but chose to eServe the other documents. E-Filing excluded a document that should have been served and served the one it should have excluded.
 - E-Filing is not serving the wrong documents on a large scale. Only this one known instance.

The following items are new open issues.

- Error message displayed when a clerk processes a filing is generic and does not describe the issue.
- The Pending Electronic Filings sort function is displaying some case types that it shouldn’t be.
- E-Filing has had days with a large number of filing errors.
 - This has been discussed; hopefully the increased memory will alleviate the issues.

Product Enhancement Requests

All enhancement requests have been tabled until our E-Filing vendor plans have been solidified.

Vendor Status Update

Ryan updated the committee about future changes with the E-Filing vendor. TR has provided a proposal to continue supporting the Montana E-Filing system for 1.5 million, significantly less than switching vendors to FSX. This would include a major update to the E-Filing infrastructure. The front end will look pretty much the same as it currently does, but the back end will undergo a major update. This will improve things like cyber security, improve logging, and hopefully performance.

The benefits of staying with TR besides the cost savings include not having to retrain OCA staff and users, we can keep all our current customizations, reduce the time needed to test a new system, and we can continue with the implementation schedule and not start over.

There are still some concerns with staying with the same vendor, because it is a system that has had errors and has been slow at times. Weighing the pros and cons of staying with TR is the best solution we have going forward.

Dave will be going to the Legislature asking for the increased funding for Thompson Reuters. If approved, this would begin the next fiscal year-July 2025.

Dave mentioned that the OCA may be asking the committee members for help to explain the need for the 1.5 million increase to the legislators, and why it is valuable to fund that increase. Judge Fehr asked for a cheat sheet with the top 5 reasons that our local legislators should support this increase. Ryan and Lisa will work on putting something together for the committee. Dave commented that the Judicial Branch budget is less than 1% of the entire state budget. The branch is not being unfair in asking for these funds and increases when you look at the broad perspective of state funding.

Discussion Topics

Ryan read through the 5 discussion topics.

- **How to address courts who have reached the maximum number of days that a filing is active before they process it?**

Ryan explained that the E-Filing system has a threshold limit set that a filing is active, we currently have that set to 120 days. If a court has filings in their queue that reach 120 days those filings will disappear from E-Filing. Does the OCA have a responsibility to either keep increasing this threshold or should they prompt the clerks to process those filings before they get to the threshold? The threshold has continued to increase, it was originally set to 60 days, then 90 and now 120 days. Every time we add more days it keeps more information in the database which slows the system down.

Judge Vannatta asked if there is some sort of way to download and transfer the information after a specified period. It seems unfair to any e-filer that all a sudden their submission just disappears. That should never happen.

Miranda stated it would be nice if we could look at being able to categorize the queue in a way where you can sort the filings by priority when they come in. We need another category below sorting by case type that the clerks can manage and prioritize their own work.

Ryan clarified that the filings don't disappear in FCE, they stay in the clerk queue, they disappear on the E-Filing side. We have to get rid of filings at some point or it would slow the system down so much it would be unworkable for everybody. Ryan added to answer Judge Vannatta's question, I can't picture how that could work or a way to make something like that work. There are always notifications where you can see information about what was submitted, you might not be able to see the actual submission itself, but you can always see the notification of what was submitted.

Peg commented that the queue already sorts by date. Judge Barger echoed Peg's comments, and added I wonder how much of this is a training issue. If a court is that short staffed that they are not processing filings in a timely manner they need to go to their governing body and ask for help. Peg agrees with Judge Barger that this is a training issue more than anything else.

Justice Shea stated it sounds like increasing the time is not the best solution, that it is a training issue. He added we need to figure out how to approach those courts that are consistently an issue and have conversations with the folks in those jurisdictions. Justice Shea and Ryan can meet and discuss with the other members of the court and figure out exactly how the committee should approach these courts. Judge Barger added that there is an advocacy committee for the court of limited jurisdiction that can step in, and help Judges address staffing shortages. There are also training Judges who can go out and help meet with these Judges. Lisa thanked Justice Shea and Judge Barger for offering to help. As

indicated, it is not necessarily a technical issue or an E-Filing issue, but it falls to us. To have that committee backing of yes, we need to address it but how. Thanks for offering Ryan your assistance.

Ryan added to address Miranda's point about adding some sort of prioritization setting in FCE, right now we do have all our enhancement requests tabled. Once that opens back up, it can be brought to the committee. Lisa mentioned we do want to be extra careful about adding many more customizations to the system. It is part of the reason we are in the boat having to ask for this 1.5-million-dollar upgrade, because the Montana system is so highly customized that the vendor could not keep up with all those system components to keep up with cyber security. Just be careful adding any more customizations.

- **E-Filing COS does not display email address when service method is email.**

Ryan explained currently if a user is registered with the system they will be an eService recipient by default. But, if they are not registered they are considered a conventional service recipient and you must designate how you plan to serve them, this could be hand delivery, first class mail, email, etc. If you select email the Certificate of Service that is generated does not list the email address for that user. There is no indication of what email that filing was served to. If E-Filing displays an email address, where and how would that email be entered? How much of a concern is it that the email address is not listed?

Judge Fehr and Judge Vannatta agree that the COS must reflect where the document was served. Ryan asked where that email address should come from. Judge Vannatta stated that it would be best if it auto populated from FCE like the mailing address but was then configurable by the e-filer. Judge Barger asked how big of a deal it is to pull the email address from FCE. Ryan stated that it would probably be an easier change because it doesn't require a user interface change on the filers side. Something like that would be a bigger change.

Ryan mentioned a third option of simply removing email as a service method. The e-filer could still email them, but they must choose one of the other service methods as well. Craig commented that as an e-filer I would always want to have the option of email service. What is the issue with not showing the email address: as the e-filer I have that email that proves I served them. Judge Barger answered that it's more convenient during court to be able to look at the COS and see where the email was sent.

Nick added that the person who's sending the service needs to be listing the email they are using. That should not be pulled from someplace else.

Nick and Judge Vannatta discussed a possible workaround if it's not realistic or too expensive for the e-filer to enter an email address then perhaps we amend the rules and the e-filer can do an extra COS with the accurate information listed.

Justice Shea commented that he believes we should circle back to this at our next meeting. Everyone can process all the points made.

- **Should Optical Character Recognition (OCR) be removed from E-Filing/Adlib?**

Ryan explained E-Filing has had several system wide outages over the last 2 months. Adlib is often at the center of those outages, we do not always know what is causing the problem but it is somewhere between E-Filing and Adlib. Adlib converts Word documents to PDF, it adds on the COS, it also OCR's the document.

Judge Vannatta shared that if OCR is affecting the performance he has no problem discontinuing it. There is a significant benefit for the user having it, but the performance of the E-Filing system takes priority. He would advocate that in the future if we find the additional memory satisfies the problem and we can return the OCR function we should do so. Justice Shea agrees with Judge Vannatta.

Judge Barger made a motion to turn off OCR, Miranda seconded. The motion carried.

- **Should sealed documents be available through E-Filing?**

Ryan stated that there have been a few examples lately of ex-parte filings submitted through the E-Filing system and then those documents are added to an ROA on the case in FCE. They now become available on the case view through E-Filing to any attorney on the case, whether they are sealed or not. This has caused a couple of issues recently. We are just looking for some guidance from the committee; should they continue to be made available through E-Filing? If they are not going to be made available that would be a change we would have to ask our vendor for. If sealed documents were not made available through E-Filing many attorneys like Karen Kane who deal exclusively with DN cases, would now basically lose access to all of her cases through E-Filing. But it would protect against ex-parte communication that was saved to an ROA on the case. The TEFR do address ex-parte filings and say to give consideration to filing outside of the E-Filing system.

Miranda mentioned that she wasn't aware that attorneys could see sealed ROA's. She also mentioned that there is a checkbox in the e-filing setup that says, "allowed sealed case to portal." Would that still be a vendor change, could we just uncheck that box. Ryan clarified that unchecking that box would prevent sealed cases from showing but not sealed ROA's/documents. Miranda would like to address both issues of sealed documents and sealed cases being available in E-Filing.

A discussion was had on what documents shouldn't be available to attorneys and what documents had been causing an issue. Judge Vannatta stated that he cannot imagine not allowing an attorney to see a sealed document if they are authorized on the case. Attorneys are governed by very specific professional rules and if they abuse those in any way they have consequences. Judge Vannatta added that we have a duty to be transparent, and our documents by default are open to the public, unless the rights of privacy for juveniles or as otherwise ordered by the court outweigh the public's right to know.

Ryan added that it might then be a training issue that we've not addressed as well as we should with the clerks. If they do not want something displayed, they can attach it to the document management but not the ROA. Justice Shea stated he doesn't know if it is a training issue, documents should be visible to opposing counsel. Amy and Peg stated that the MANS forms and Montana Statistics Reporting Form are submitted to the clerk of court but is not part of the court record and would be put into document management as opposed to the ROAs. Peg added it could be that some clerks are not following proper protocol with those kinds of documents but majority of them are, this could be a training issue.

Justice Shea added that if an issue comes up with a MANS form or other kind of discrete issue that we address with training, I do not think it is a technological fix.

Miranda asked to discuss sealed cases being viewable by counsel in E-Filing and mentioned a deferred case as an example. Public defenders still have access to those and the criminal justice information. Amy and Peg agreed that they do not routinely go in and remove attorneys from a deferred case. Attorneys are bound by certain ethics and there is a penalty for disclosing confidential information. It is the

attorney's responsibility to file something to be removed from a case. Judge Barger does not see a problem with leaving defense counsel on the case, they are bound by the rules of professional conduct to not disclose the information and can file to be removed from the case. Justice Shea agrees; the only way information can be divulged after the case was dismissed is by court order.

- **Replace retiring members**

Ryan mentioned that Beth and Lisa are retiring from the OCA. Peg and Phyllis are retiring, and Mars is stepping down from his role on the Commission on Technology as well as the E-Filing automation Committee. We'll need to replace Peg, Phyllis, Mars on the committee. Dave will replace Beth.

Peg will ask Paige Allen Trautwein if she would be willing to serve on the Automation Committee. She is taking over for Peg on the Commission on Technology. Justice Shea will ask Sean Goicoechea about replacing Mars on the E-Filing Automation Committee. Phyllis recommends her incoming clerk Brenda Snapp to be her replacement on the Automation Committee. Brenda has agreed to join the committee.

An email vote will be sent, and Justice Shea will prepare an order to have the court sign.

Subcommittee Updates

DN Issues Subcommittee

Nothing to report.

Survey Subcommittee

Nothing to report

Rules Subcommittee

Nothing to report

The meeting was adjourned at 11:52am

Action Items for Committee Members

- The OCA will enable the filing type Motion – Unopposed.
- Vote on the new committee members and prepare an order to be signed.
- Justice Shea and Ryan will meet to discuss the best way to approach courts that are falling behind on processing e-filings before the set threshold.
- The OCA will monitor if the increased number of Pro Se litigants attempting to use E-Filing interferes with court business.
 - The Rules Subcommittee may need to meet to address this concern.
- The OCA is going to ask legislature to approve the funding to continue working with TR to update our current E-Filing system.
- The E-Filing Automation Committee will table any new enhancements until our future with an E-Filing vendor is known.

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
- ESB – Electronic Service Bus – a server used to broker data
- FCE – FullCourt Enterprise, the newest version of the court case management system in use by all courts of limited and general jurisdiction
- FSX – File & ServeXpress – an e-filing vendor
- 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
- OCR – Optical Character Recognition
- Okta – the current identity management software and database used for e-filing access
- OPD – State of Montana Office of Public Defender
- RFP – Request for Proposal
- 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