

E-Filing Automation Committee

Fourth meeting on July 21st, 2021, 11:00 AM – Held via Zoom

Attendees: Justice Jim Shea, Judge Shane Vannatta, Judge Jessica Fehr, Judge Audrey Barger, Peg Allison, Nick Aemisegger, Amy Tolzien, P. Mars Scott, Shirley Faust, Matt Jennings, Miranda Johnson, Phyllis Smith, Beth McLaughlin, Lisa Mader, Maggi Everett, Lois Schlyer

Not in attendance: Karen Kane, Craig McKillop, Ryan Davies

Introductions

[Overview of Current System and Schedules](#) – slide show presentation by Lois Schlyer, reporting on activities that have been completed since the previous meeting.

Infrastructure and Systems

- E-Filing upgrade 7.2.0/7.2.1 – numerous updates including Default Court Setting; ability of judge to sign specific page; display clerks’ comments on judge review queue; add notes to judge queue without creating draft; attorneys able to change their name; eService notification now displays all documents.
- E-Filing upgrade 7.2.2 – Proposed Documents workflow removes the certificate of service on proposed documents; allows addition of proposed documents; Adlib is stripping out all metadata. Not yet in production.
- FCE 8.1 – fixed “duplicating” address in party records; fixed MANS number issue; fixed withdrawn prosecutor issue; now displays receipt on processing page; added a case judge filter to the clerk review queue.
- Okta migration underway – ePass contract was not renewed, requiring migration to Okta. Ongoing headaches and timing problems. Lisa Mader addressed the ongoing activity.
- Upgrade to RedHat Linux on the e-filing ESBs – December 2020
- Upgrade of FullCourt v5 Tomcat e-filing services – for most of the v5 sites to maintain highest security levels

Other Activities:

- Hired Maggi Everett
- Went live with e-filing at:

Gallatin Justice
McCone District
Dawson Justice
Ravalli District

Park District
Prairie District
Wibaux District
Beaverhead District

- Updated e-filing at:

Hill District
Chouteau District
Liberty District
Havre City

- Worked with Peg and District Court Automation Committee to establish a Best Practices guide for Judgment Fees (for both clerks and e-filers)
- Completed a 3-series Clerk training video for FCE sites
- Completed the first of a 2-part series Judge/JA training video
- Completed Bar IDs at all but the smallest of the district courts
- District Court Clerk “Start-up Booklet” completed and in use

Scheduled Activities for Second Half 2021 and beyond

- August 2021: Montana Water Court will be live with e-filing (Note: this has been postponed due to software constraints.)
- September 2021: Yellowstone County District Court migration to FCE e-filing for Phase 1 case types (DC, DJ, DN, DI, DD)
- October/November 2021: Yellowstone County District Court live with civil e-filing (DV and DR)
- February 2022 and beyond is unknown. Possible courts have not yet been contacted so we are not listing them here.

Maps of FCE and of e-filing installations were presented showing statewide coverage of both programs.

Statistics of the system were presented showing the number of active users as well as the filings that have been submitted at each of the installed courts since project inception. Numbers were shown from the time of the last meeting for comparison and determination of the volume of filings over time.

- As of 7/14/21 there have been 691,926 total filings submitted affecting 107,846 cases.
- As of 7/14/21 there are 4,666 total active users.

Questions/Discussion regarding the material presented above: none

Status of Open Items slide show presentation provided by Lois Schlyer.

Open Items with the E-Filing Vendor

- Problem with opening documents from some eService notifications (continuing issue)
- Duplicate payments for the same filing (extra logging to help find the problem will be in 7.3.0)
- Delivery of an Okta-migrated user file and Okta-modified application
- Unable to test some of the deliverables because of preliminary Okta inclusions
- Some documents cause Adlib to fail
- Adlib 2-node cluster (to be completed before Yellowstone County District Court conversion)

Open Items with the FC/FCE Vendor:

- Judge Review is occasionally displaying wrong document or throwing error – only three separate instances in 1,000s of filing (possibly fixed)
- Dismiss parties should not appear in e-filing (8.1 M3 = August 30th)
- Need failure message for too-large filings (8.1 M3)

- Information on 2nd page of clerk processing is lost if partially complete
- Clerk Review occasionally does not have document attached to ROA
- Time to process e-filings is lengthened after 8.1 M1 P1 update
- Unable to create a wallet in CitePay on the dev system

Internal Work:

- Because of an inability to apply updates to FCE and e-filing simultaneously, there will likely be an integration mismatch regarding mapping of criminal ROA codes for a short time. This will affect Clerks of District Court using FCE.
- New Identity Management software: Okta will replace ePass
 - Working with the E-Filing vendor and SITSD
 - Basic information and requirements have changed several times
- Instructional videos – we are creating Part 2 for the judge/staff training video series.
- Work with Peg and Shirley to perfect how Writs are to be e-filed (this has been on the list for a long time now; updates to e-filing will give more options)
- SL (statutory lien) cases were investigated but the Department of Revenue is not interested
- Water Court connection to e-filing, configuration work and workflow analysis is underway. (Although now postponed.)

Open Committee Items from the Last Meeting:

- Central location in which to find all courts' standing orders regarding e-filing.
 - Peg to gather the standing orders from around the state
 - Mars to share the listing that his staff created regarding filing at various courts
- Lois is to contact the e-filing vendor for ideas/quotes regarding a notice to judges that there are things in their queues.

Questions/Discussion regarding the material presented above:

- Central location for all courts' standing orders
 - Mars will send his information to Peg, and Peg will pull the information together.
 - OCA will find a place to post these.
 - *Post-meeting update: Peg has transmitted the information to the OCA, and it is out to the E-Filing Mandatory Use and Uniformity subcommittee.*
- Peg asked if the Statutory Lien (SL) cases could be made available for e-filing by the other agencies even if the Department of Revenue (DOR) would likely not be using it at this time. Lois agreed to do so.
- Lisa talked about a recent request for a data exchange that came from DOR that would allow the electronic transfer of SL information to the courts, and return information about the case to DOR. While the benefits of such an exchange are clear, there are quite a few hinderances.
 - Thomson Reuters (TR), the e-filing vendor, has not produced an API that would allow the e-filing system to consume an electronic data file from any outside source.
 - Amy Tolzien confirmed that TR had quoted over \$300,000 for an API when OPD and a few prosecutors' offices requested an API two years ago.

- The FCE vendor also does not have an API that would be able to consume data directly from a data file.
- Lisa has explored internally if there is a possibility of creating our own API in house, but our current IT resources are not experienced with APIs.
- This request for a data exchange is at the end of a list of other agency requests over the years that have not yet been explored due to resource and budget constraints.
- Phyllis asked about the ability of DOR to create a document that would then be submitted. Lois explained that they are not interested in submitting those documents via the e-filing system because they would have to retype the names of the parties and the large volume of submissions makes that inefficient for their operations.
- Peg reiterated that her request was not to force DOR to e-file their documents, but to allow Department of Labor and Industry (DLI) the ability to e-file their documents.
- Judge Vannatta commented that the net benefit would be to the agencies, and they would be the ones who should bear the cost. Lisa pointed out that OCA involvement would still be required because of the data contracts with the e-filing and case management systems and all the testing that would be involved.
- Lois provided statistics that in 2020, there were 9,964 Warrants for Distraint filed by DOL and 459 liens filed by DLI.
- Lois said that she would enable the SL case types for e-filing or report a different outcome by the next meeting of this Automation Committee.
- Justice Shea asks about the increase in clerk processing time since the 8.1 M1 P1 FCE update.
 - Peg answers that most of her slowdown was caused by a county firewall change, but there is still a problem with courtroom processing (not e-filing related).
 - Shirley answers that the slowdown is remarkable when manually creating a new case and adding a party (such as DOR) that has many cases attached to it. 1.75 – 2.5 minutes per case is typical.
 - Lisa adds that this was introduced in May 2021 with the party detail screen. It has been reported to the FCE vendor as a performance issue.
 - Phyllis observes a slowdown in e-filing each time there is a new court brought online.

Report from Subcommittees

- **Rules for Withdrawal of Attorney Subcommittee** composed of Karen Kane (Chair), Phyllis Smith, Nick Aemisegger, Judge Fehr, Ryan Davies. The purpose is to consider whether a Rule needs to be developed for an attorney to withdraw any support staff who previously worked for them.
 - Nick offered that the subcommittee has not met since prior to the previous Automation Committee meeting. The main conclusion is that attorneys have an ethical responsibility to withdraw from cases if they are no longer attorney of record.
 - Beth stated that the subcommittee had talked about some system-generated way that would assure that the attorney withdrawal takes place. This is beyond the capability of the system, requiring a level of artificial intelligence that is not available. Beth remembers that a Rule was drafted.
 - Lois reviewed the meeting notes on this topic with the Committee members.

- Justice Shea asked about a draft rule and Nick responded that the rule was to have an automatic reminder every 90 days.
- Justice Shea asked if the proposed rule would be circulated and commented upon among all Committee members. About 15 – 30 days for internal comments.
- Nick stated that the current proposed rule is probably not ready for consideration as it relies on technology that does not exist.
- Lois volunteered Ryan to be a part of the subcommittee to offer information regarding what the technical abilities and constraints are of the existing technology.
- Lois is to reach out to Karen to ask the subcommittee to convene once again.
- **DN Issues** – Karen Kane (Chair), Nick Aemisegger, Peg Allison, CASA representative, Amy Tolzien or Linea Forseth; Ryan Davies.
 - Amy reported that the subcommittee met on December 10th. One of the biggest issues is that there are agencies (such as CASA) on DN cases, but they are just identified as “other parties.”
 - Peg pointed out that in FCE, there is a litigant type as well as the sub-litigant type, which would be most helpful. This is not being displayed in e-filing.
 - Lisa indicated this would be a change request. We could ask for a cost estimate for this from the e-filing vendor.
 - Amy reported that Karen would like case participants and guardians to be able to e-file: they need to file annual reports, but they are unable to do so.
 - The ability exists, but it’s possible the individuals do not know how to do so. They do not have the ability to view the case, but they can file on them.
 - Amy believes this may be a local issue to be solved with the Yellowstone County District Clerk of Court: they have difficulty getting parties removed from a case.
 - Peg reported that the ability to dismiss a party and have that not displayed in e-filing will be fixed with the next FCE update.
- **Best Practices Subcommittee** composed of Lois Schlyer (Chair), Judge Vannatta, Craig McKillop, Mars Scott. A Best Practices guide is published on the courts.mt.gov website. There were no other additional activities taken by the subcommittee since October 2020.
- **Survey Subcommittee** composed of Lisa Mader (Chair), Judge Barger, Shirley Faust. There are no updates from the subcommittee since October 2020.
- **Rules re Mandatory Use and Uniformity** – Justice Shea (Chair), Judge Vannatta, Judge Barger, Mars Scott, Peg Allison, Lois Schlyer
 - Justice Shea suggests that the compiled local rules be shared among the subcommittee members and then meet via Zoom for about an hour.
 - Is it practical to have one uniform rule?
 - What are the similarities and disparities between the current local rules?
 - Shirley brought up the situation in which an attorney tried to email filings to the court because they were prohibited from e-filing due to being marked inactive by the Montana Bar. She asked if there should be an e-filing rule that would specify the basic rule of not e-filing if they are inactivated by the bar.
 - Justice Shea mentioned that it is the attorney’s responsibility and that it borders on being a disciplinary issue if attorneys are filing while inactive.

- Peg asked about the possibility of automating the update of attorney records in the FCE attorney file.
 - Lois explained that the e-filing attorney accounts were inactivated automatically when the bar lists them as inactive status.
 - Lisa explained that there is no data exchange process in place and that it may be wholly undesirable because it would overwrite locally maintained data values (multiple email addresses, for example).

COVID-19 Lessons Learned – Justice Shea/Staff/Committee Discussion

Justice Shea asked to hear about committee members’ boots-on-the-ground experiences over the past few months regarding technology, employees working remotely, what we’ve learned and how we’re adapting.

- Mars offered that technology advances, including Zoom meetings have been extremely beneficial for doing many things remotely, including depositions and technology will continue to be important in the future. It also saves money for his clients.
- Peg reported that the judges in the Flathead County District Court are still allowing may remote appearances, particularly for DN cases. Jury trials still pose the biggest challenge.
- Judge Vannatta also mentioned Zoom as a big benefit and pointed out how they have facilitated parent appearances in DN cases, but there is some training needed. He observed that the pandemic has pushed everyone in the courts to use more technology, and that it saves a lot of resources for both the clerks and judges.
- Judge Fehr has seen a significant benefit for the law and motion calendar and from not having to have two-three rounds of transport from the jail for criminal cases. Judges in the Yellowstone County District Court are using Zoom for the entire civil docket. She mentioned a brief time when the clerk’s office was down to a skeleton crew when there was a three- to four-day delay (or longer over the weekend) and wondered if there was a way for a judge to sign an order and have it immediately docketed.
- Justice Shea recounted that the oral arguments worked almost seamlessly.

New items from committee members and others

- HB503 may require OPD to initiate a new DN case.
 - Currently, DN cases are initiated via e-filing solely by a “prosecutor.”
 - Phyllis has discussed with her county attorney (Kent Sipe) that OPD could file prior to the county attorney, as some parents would want a hearing before the case is officially filed. She heard that other clerks were also approached by OPD as to how to file a request for a hearing on a not-yet-opened DN case.
 - Judge Fehr was part of a team who work with the legislature to promote this new law and they never contemplated that it would require defense attorneys to initiate a DN case.
 - The project has been piloted for 18 months at Flathead County District Court and they see no situation in which the case would not be initiated by the prosecutor.

- Yellowstone County District Court is currently receiving the Petition and Affidavit within 48 hours of a child's removal; as emergency protective services are granted they honor a request for a hearing. Judge Fehr offered to call Kent Sipe (the Fergus County Attorney) to discuss it with him.
- It was reported that Karen Kane had preemptively sent out Packets to all judges and county attorneys.
- Lois Schlyer asked for a possible Temporary Electronic Filing Rules change regarding Rule (3) (a) 3. The current Rule states: "The following individuals may register to use the electronic filing system: 3. Self-represented parties to an action." There is currently no mechanism for self-represented parties to register, and the Rule seems to insist that they will be allowed to do so.
 - The eventual inclusion of self-represented litigants is going to require a method of verifying a person's identity and then attaching that person to only the specific cases that person would be allowed to access. Security of court records is the utmost concern.
 - Peg reported that she has complaints from pro se users who are interested in e-filing and find it discriminatory that they are excluded.
 - Justice Shea asks if it is appropriate to strike subsection 3 of Rule (3) (a).
 - Lois suggested that perhaps it could be replaced with a statement indicating future involvement. Beth and Judge Barger preferred it to be stricken rather than having a statement about future use.
 - Judge Barger motioned for the removal of subsection 3 of Rule (3) (a). Shirley seconded the motion and it passed unanimously by voice vote.
 - Justice Shea will prepare something to bring to the Supreme Court and determine whether this change requires public comment.
- Request for an "alert" for items in the Judge Review Queue. This issue was on last meeting's agenda and has received additional requests since then. This is very desirable for district court judges who have cases in multiple counties. Lois asked for any additional comments or suggestions before she takes the request to the vendor.
 - Judge Vannatta suggested that all he would need would be something like a red exclamation point at the top of the judge review queue to alert him to check the queue for a different county.
 - There may be more elaborate requests from judges who have cases at many different courts; they may want to be directed to the court rather than having to search for it.
 - Lois will request a statement of work and cost estimate from the e-filing vendor.
- The clerk of a smaller court requested a widget in FCE to indicate there is something in the clerk review queue.
 - Judge Barger agreed that this would be very helpful.
 - There was some discussion from Shirley and Peg about what would be most helpful, such as a work queue or something other than a widget.
 - Peg has requested a hot key to open the Pending Electronic Filings queue.
 - Lisa offered to put in a request for a widget and a hotkey and see what the response is from the FCE vendor.

Amy Tolzien requests

- Authorized Users – the amount of time for staff to switch between authorized users to file a document or retrieve a served document can be over a minute and is rarely under 40 seconds.
 - This was at least temporarily solved by removing the widgets; the speed of switching between attorneys is now acceptable.
- Website Timeout – The overall speed of e-filing has decreased. Further, the frequency in which users are timed-out (requiring a login) has increased.
 - Identity management for e-filing is currently done by ePass and because the contract with ePass was not renewed, the state moved all of the ePass applications to be hosted in the state’s IT environment. The state has more stringent security protocols in place which is creating the more frequent timeouts.
- Bulletin Board Notification vs. ListServ Notification – Amy prefers the ListServ notification
 - Lois explains that we try not to put out a ListServ to “panic” everyone if it appears that it is a short-lived outage.
 - We expect that the second Adlib instance will greatly reduce the outages.
- Additional Document Type of Issued Order or Signed Order – Amy’s office sometimes has a judge wet-sign a document that is then e-filed into the court; the clerk’s office sometimes misses them
 - Shirley and Peg suggest that this is a training issue or the Clerk’s office.
 - The District Court Automation Committee will take this up in their next meeting. *Post-meeting note: the District Court Automation Committee has agreed this is to be added as an action type in FCE and an e-filing subtype.*

Additional items

Peg requested that this Committee and the OCA rescind the Committee’s decision to not pursue the remaining “paper” case types in favor of rolling out the e-filing system to the rest of the courts. She states there is a tremendous amount of confusion created for all parties of what is and what is not an electronic case.

- Lisa answered that she understands the difficulties that Peg described, but that we are getting tremendous pressure to have the e-filing system current cases implemented and changing project priorities would essentially be halting new implementation for some time. There are possible costs involved for various workflows of the different case types. We would need to then go back through to all the existing e-filing courts which would put new sites off for a long time.
- Beth asked for the question to be put on hold until we are through the Yellowstone County District Court implementation in November.
- Shirley reminded us of her first request that the e-filing system should be completed prior to rolling out the system to the rest of the state.
- Lisa suggested that she would talk with the e-filing team and then put this topic on the agenda for the next Committee meeting.

To-do list

- Lois will contact the e-filing vendor to ask for a quote that would give the judges an indication that something is in a queue other than their default queue and ask for a range of options.

- OCA to post courts' standing orders related to e-filing on the e-filing informational website. (Lois/Lisa)
- Lois to enable SL case types for e-filing or report on a different outcome. *Post-meeting note: there are technical configuration problems that are preventing this action.*
- Circulate the proposed rule for Withdrawal of Attorneys, via email, for comments and proposed changes prior to the next Automation Committee meeting. (Lois will do so.)
- Get a statement of work and cost estimate from the e-filing vendor for the display of "sub-litigant type" that is available in FCE. (Lisa)
- Strike subsection 3 of Rule (3) (a) from the Temporarily Electronic Filing Rules: "3. Self-represented parties to an action." (Justice Shea)
- Request widget and hot key for the Pending Electronic Filing queue. (Lisa)

[Next Meeting](#) – Lois will survey for a meeting date in the last week of February or early March 2022.

Meeting adjourned at 2:25 PM.

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
- 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
- ePass – the current identity management software and database used for e-filing access
- 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
- OPD – State of Montana Office of Public Defender
- Okta – the incoming identity management software and database use for e-filing access
- SL – Statutory Lien(s), a case type at the district court level
- SITSD – State of Montana Information Technology Services Division.
- TR – Thomson Reuters, the e-filing system software vendor
- V5 – FullCourt, the legacy court case management system, now being replaced by FCE