

Civil e-Filing Q & A from August 17, 2010

Technical Questions:

1. **If a word document is uploaded, will it lose any associated metadata?** E-file documents do not retain document metadata.
2. **Should the law firm administrator be an IT person?** No, that should not be necessary.
3. **Is there cross-browser support?** The File and Serve attorney portal is supported by IE8. Other browsers have been used but have not been fully certified.
4. **When a PDF or image file is submitted, does the system perform any OCR (optical character recognition) during the conversion?** No.
5. **Are non e-Filed documents going to be available in smart-PDF format?** This is not available in the current version but is being considered for future development.
6. **Should law firms only have one administrator, or have backups?** An alternate administrator would seem to make sense if the primary administrator is away from work.
7. **Will active links in documents retain their functionality when e-Filed?** This is not available in the current version.
8. **Do you have safety catches for problems? What if something crashes and we lose thousands of documents?** Minnesota will soon be setting RDS as well as CENTERA redundant servers to ensure image backup and recovery.
9. **Will proposed orders be in an alterable form? Other types of document submissions?** No. All documents submitted to File and Serve are rendered into a non-alterable TIFF format, and the TIFF is embedded in a PDF for distribution to parties on a case. Any proposed order in editable format would need to be e-mailed directly to the judge.
10. **Is there a size limit on the uploaded files?** A size limit has not been established. This will more likely be restricted by firm bandwidth.
11. **How much help is available to the user?** Tyler Technologies will assist law firms with technical application questions. Court staff will assist law firms with business questions.
12. **Will there be a number to talk to a live court clerk for assistance?** Yes, an IVR phone line, 612-543-4000, will be operational. That phone line will direct you to the appropriate resource to answer questions during court and Tyler business hours.

Process Questions:

- 1. When does the court file number attach to all documents that parties can see?** The court file number is added to the first page of each document when the case is initiated in MNCS by the court clerk. Once the clerk has finished processing the case, the document will be available for viewing by the filing party and any parties electronically served with both the file stamp and the case number. At this time, if multiple documents are filed as one event, the court file number is only stamped on the first page of the first document.
- 2. Will only the court see the file number?** No.
- 3. Will we still have paper court files?** Not for e-Filed cases. We will only maintain the court record in one format. Eventually, we plan to convert all of our paper files to electronic court records. The paper files will be destroyed.
- 4. Will Pro se parties be e-Filing?** Not during the initial pilot. Once we have successfully completed the pilot, we intend to expand e-Filing for Pro se parties. Until then, Pro se parties on e-Filed cases will have their documents scanned into the court record by Court Administration.
- 5. Can judges mandate e-Filing for non-voluntary parties?** After the first few weeks of the pilot, judges will be allowed to order select files to be transferred from paper to e-Filed cases.
- 6. How can the court modify submissions/proposed orders?** The court can request that proposed documents be emailed to the court as word documents.
- 7. Is the intention that this will replace trips down to C-3 to get mail about new/changed cases?** Yes. Clerks will be able to run reports of new e-Filed cases and documents received on e-Filed cases that are assigned to their judge as often as they choose.
- 8. Is the courtesy copy feature how judges are going to get a copy?** This will be considered a “Best Practice” to gain the most benefit of the e-Filing system for both the court and attorneys. However, individual civil judges will still have the discretion to require paper courtesy copies. This is a practice that we will look at again during the pilot.
- 9. Does every lawyer see “firm users” and “firm accounts” on the tab on the left?** Yes. The Tabs will be visible, but the actions will not be supported.
- 10. Will the system show only our cases?** There are several tabs to display cases. See the user guide for more detailed information about what you see in each list. However, if you have a case number, you can show the case file number and case title for any case on MNCIS. In the future, this feature will allow you to e-File on cases where you are a party but the case was not originally initiated as an e-Filed case.

- 11. Is there a reason why the first two filing codes are the same (for Affidavit) when one is for In Forma Pauperis Affidavit?** This was probably because the demos showed test data and code configuration. In the live production environment, each code and description for a document will be unique.
- 12. Are filing comments visible to both sides of the case?** Yes. The filing comments carry forward into MNCIS. However, the clerk has the ability to modify the comments before completing the case or document acceptance.
- 13. Are the names of the filing queue going to be the ones that get entered in the docket?** We're not sure what this is referring to. The names of the parties and the names of the documents that are entered by the filing party should carry forward through the clerk's review queue to MNCIS as part of the docket, unless the clerk needs to correct an error.
- 14. What safeguards are in place to ensure documents are not filed with incorrect MNCIS case numbers?** Attorneys and their staff are being trained to double check to make sure they are filing documents on the correct MNCIS case. If the case number and names do not match, the court clerk will reject the document filing and indicate in the reason for rejection that the document was filed on the incorrect case.
- 15. Will we have to start ordering attorneys to comply with e-Filing in scheduling orders?** During the pilot, attorneys may suggest and a judge may choose to make a particular case electronic rather than a paper file. This will likely require a separate order. Cases that are initiated with e-Filing will only be kept in an electronic format and the timing for requiring respondent attorneys to e-File will depend more on how quickly we're able to add additional filers and cases than on making all filings mandatory e-Filing. We don't envision using scheduling orders as the method to require e-Filing. If and when we make a decision to require e-Filing in all civil cases, it will more likely be done by Supreme Court order or other authority that applies to the division rather than specific cases.
- 16. If filing is rejected, does anyone else see it?** No, only the filing party sees a rejected filing.
- 17. Is there some sort of notification that we received if our filing is rejected?** Yes. The status of the filing will display as rejected in the firm's filing queue and the reason for the rejection will be shown.
- 18. Do we have an estimate as to how long it will take for our filings to be approved?** We expect to process all new cases requiring a judge assignment within 1 business day of filing and all subsequent documents on judge-assigned cases within 4 business hours of filing. Processing of filings and documents on non-judge assigned cases (e.g. Default Judgments) will take longer. We will strive to balance the timing of both paper and e-Filed cases but expect to process all filings in considerably less time once we convert to all electronic case records.

- 19. Can you e-File and Serve and expect the service to go out on the same day?** That depends. When you File and Serve, the service isn't triggered until the case is accepted for filing by the court. If you have the correct filing fees and file a document on the correct case number, you can expect that it will be accepted for filing and then served if it is filed by 12:30 p.m. on a court business day (within 4 business hours of submission with business hours of 8:00-4:30 Monday through Friday). If you submit your filing later, it may not be processed until the next business day. If you must ensure service by a specific date and time, we recommend that you file your document separately from the electronic service. When you select "serve only", the service is effective at the time and date you submit your filing through the e-Filing system.
- 20. What will happen if I file at 7:00 at night?** The filing will be processed by the court during the next business day. If there is no reason to reject the filing, the file stamp will be 7:00 p.m. the day you submitted it. If you serve only, it will be served at 7:00 p.m. the day you submitted the document for service. See applicable Rules of Practice for allowed service days and exceptions. They are the same for paper as e-Filed service.
- 21. Is there a charge for viewing documents if you are not a party to the case?** Documents will only be viewable to non-parties through "Courthouse View" of MNCIS at the courthouses and during regular court business hours. There is no charge to view either an electronic or a paper record. The same statutory charges apply to e-Filed documents when a person requests a copy of a court record.
- 22. Does Civil include housing, probate and conciliation for the e-Filing pilot?** No. The pilot only includes cases that are filed in Civil Filing and are heard by District Court (e.g. not Tax Court or Torrens cases).
- 23. How does it work if one firm is participating in the pilot, but the opposing firm is not?** During the first couple of weeks, only the pilot firms will be allowed to e-File. Filings by opposing firms will be accepted in paper format and scanned in to the court record by court administration staff. Once we open e-Filing to respondent firms, they will be able to e-File and all parties and the court will be able to e-Serve documents and orders.
- 24. Will the court extend filing deadlines to accommodate 24 hour filing?** Filings can be submitted for filing 24 hours/7 days a week and if accepted, will retain the file stamp date and time of the submission. However, court staff will generally only be processing e-Filings during regular court business hours.
- 25. How will business partners (i.e. County Attorneys and Public Defenders) file?** As each division of the court implements e-Filing, the business partners who practice in that division will be allowed to e-File using the same File and Serve attorney portal.
- 26. Why are Federal Court and State Court systems different?** Federal and state governments have always been separate and different from each other. The funding, law and jurisdiction of each are clearly different as spelled out in the United States Constitution. The Federal Government has provided and paid for the creation of a Federal Court e-Filing system and case management system that is used across the United States. Each of the 50 States is required to provide and pay for court systems that meet the needs of each particular state.

Pro se Questions:

- 1. How will Pro se parties receive documents, and how will we get documents to them?** During the pilot, Pro se parties will receive documents from the court and other parties using the current applicable paper process, whether it is by personal service or mail. If a Pro se party requests a copy of a court record, they would again use current methods—both request and pay for a paper copy of the document by mail or by coming to the Records Center for a copy.
- 2. What will happen in the case of a Pro se party? Will they be required to file electronically? Would we serve via mail, and then file electronically?** Pro se parties will not be included in the pilot. Once we move into the next phase, we expect to start to allow optional e-Filing by Pro se parties who register through the Odyssey File and Serve system. A decision about if and when filing would become mandatory for Pro se parties has not been made. Until a party has registered to use the system and agreed to electronic service, all service would continue to be by mail or other means as required by statute or rule.
- 3. Will the receipt from the system be good enough to count as proof of service, or do law firms still need to file an additional affidavit of service?** Yes. The system tracks service and the information provided will be accepted as proof of service. No additional affidavit of service will be required when service is done through electronic service.
- 4. We deal with housing evictions. We type up the document for frequent fliers to serve. Will they be able to do that at their office?** When we implement e-Filing in Housing Court, we do plan to allow filers to be able to submit their documents electronically. We haven't mapped out the process yet, but do expect that we will be able to return the required documents electronically to the petitioner to then be able to serve on the respondent via personal service. Once service has been effected, the petitioner will be able to file the case documents automatically.
- 5. We have individuals who are not attorneys filing. Will they have the same opportunity?** If you are referring to staff in a law firm who are filing on behalf of an attorney, the answer is yes. They can use e-Filing during our Civil pilot. If you are referring to Pro se parties, they will be able to e-File after our initial pilot.

Service Questions:

- 1. For e-service, does the email have to be opened to be served?** No. Per the order and rules that apply to our e-Filing pilot, service will be effective when the submission is made. This is similar to the mail service rules—that service is effective upon the sending of a document using E-Service just as service is effective upon mailing rather than receipt of a paper document. However, just as effective service can become a legal issue if letter is returned as undeliverable; the same issues could happen if the person serving receives a notice that the email address was invalid or undeliverable due to issues beyond the control of the party being served. These exceptions would become a matter for the court to decide.

- 2. What are the rules about shared email addresses? Suppose a husband and wife share an email address and one opens an e-service email intended for the other, and doesn't want them to know about it. Is there anything in place to prevent this from happening?** We expect this would be handled the same as a mail address. The same circumstances could arise if another family member opened mail containing legal documents today and did not tell the intended recipient. While we don't have anything that can prevent this, we can get better information about the time and location of the computer that a document was opened on. Today, we have no idea when a letter was received or who might have access to a home's mail box. If a person is in such a situation where they are concerned about having private access to an email account, there are many free websites where accounts can be set up. This can be compared to paying for a P.O. Box through the U.S. Postal Service where access is often limited to less than 24 hours, seven days a week.
- 3. When someone elects to be served electronically, is that election only good for that case, or does it apply to them for other subsequent cases as well?** The system agreement and the order covering the use of the e-Filing system directs users to add their name and email information to the service list on any case that they are notified is an e-Filed case. It is the responsibility of each attorney (or designee) to add them to each individual case service list.
- 4. Does all initial correspondence in a case happen via standard service methods? It seems like someone would need to know that they should expect e-service before they can be held accountable for it.** The requirement for personal service of the initial summons and complaint in a civil case is not impacted by e-Filing. We will be asking for the initiating party to include the information that the case is e-Filed when they serve the papers on the other party. The court will also include information in their initial notice of judicial assignment that the case is in an electronic rather than paper record format.
- 5. If service is done by e-service, can parties access reports indicating service, the document served, etc. to verify receipt or what's current?** Yes. All of that information is contained in a report available on the e-Filing system.
- 6. What if the court is not on the service list? Can they see the service report if so?** Yes the court can see the service list and status for any e-Filing, even if the court staff are not on the service list for the case.
- 7. What happens if a secretary opens e-service instead of the lawyer?** Per the order allowing e-Filing, service would be complete when submitted for service. Who opens the email or when is not important.
- 8. Will the courtesy copy function be an acceptable way to send courtesy copies to the judge?** In the beginning, judges will be encouraged to accept electronic courtesy copies. However, just as it is in Federal Court, it will be up to the individual judge to determine what they will require and accept. Information should be included in the scheduling order, just as it is today.