

# **Chapter 1: Introduction**

Welcome to the national dialogue on the role of electronic filing in court automation. You are about to embark on a process of planning and implementation that promises dramatic savings and improvements in the work of the courts and the practice of law. This guidebook can help you answer questions, frame the issues and prioritize your next steps as you lead your courts into the 21<sup>st</sup> Century.

## **What Does this Guidebook Cover?**

Electronic filing is far more than a single new technology, and for this reason, the amount of work required for implementation is far greater than most court leaders imagine. Eventually, every clerical and judicial task that relates to information about cases, and many that do not, will require reengineering.

This guidebook has been created to assist courts leaders with this huge yet exciting challenge, specifically to:

- Explain electronic filing.
- Create a strategic vision and enthusiasm for electronic filing.
- Describe the technical requirements and policy issues.
- Document the implementation process leading to success.
- Create realistic expectations about the journey ahead.

## **Who Should Study this Guidebook?**

This guidebook is written primarily for policy makers in the court, government and law firms who must decide if, when and how to begin electronic filing. It is written for the lawyers, administrators, technologists, judges, and others charged with making it happen.

This document is a publication of West Group, Inc., and was prepared primarily by staff of the National Center for State Courts. It is divided into seven main sections, with supplementary materials added. The main sections describe:

- How to sell the electronic filing concept.
- How court rules have been developed in various parts of the country to support this work.
- How electronic filing affects document workflow.
- The technology infrastructure needed to make it succeed.
- How to budget for an electronic filing project.
- Steps in the implementation process.

Appendices have been added to provide further information about the laws, court rules and regulations that have been developed to move courts in the direction of conducting business electronically, and to show the data often needed with documents arriving at the court.

### **Starting the Journey**

This guidebook takes a step-by-step approach to electronic court filing. As a first step, we should define in general terms “*What is electronic filing?*”

**Definition.** Electronic filing is the process of transmitting documents and other court information to the court through an electronic medium, rather than on paper. Electronic filing lets people get more of their work done with their PCs, to send and receive documents, pay filing fees, notify other parties, receive court notices, and retrieve court information.

Today, most attorneys prepare documents with word processing software, print them out and have someone carry them to the courthouse with the appropriate court fees and instructions. Once at the court, staff reviews the paper pleadings, processes payment, makes entries into the case management system database, and places them in the file jacket for the case. The case files are routed to the appropriate judge or staff for processing. Eventually the documents may be routed to appellate courts or to archives.

With electronic filing, the document is prepared in the same way by filers, but *sent* electronically. The attorney then transmits the word processing and other computer files to the court through a dial-up modem, leased line or the Internet using electronic mail, or uploaded with file transfer protocol (FTP) or a World Wide Web browser. Information is exchanged with the computer case management system programmatically. The information is retained, organized by case and routed to court staff, but all of the work is done directly on computer screens, rather than by referring to paper documents. Electronic filing eliminates the time and cost of paper handling.

### **What Generally Are the New Requirements for Courts?**

An important component of electronic filing is the document management system. This is the place where electronic pleadings are stored. It doesn't make sense for a court to accept documents electronically if it is not prepared to use them in their electronic form. If the court were to establish electronic filing without a document management system, it would simply transfer the expense of printing from the law firms to the judiciary.

In theory, it would be possible to operate a document management system without electronic filing in place, but this would entail a tremendous expense in scanning each page submitted to the court. Electronic filing and a document management system go hand in hand; one cannot exist without the other.

In the same manner, a modern case management system also is required. Case management systems currently are responsible for tracking all cases, documents, filing fees, judge and jury assignments, just to name a few of the features available with modern case management. These systems generate statistical and financial reports that

assist with court administration. Unfortunately, all of the data must be typed into these systems by hand. Not only is the work redundant, but it can introduce inaccuracies from input errors.

In an electronic filing environment, the case management and document management systems must be integrated. Data can be shared between these systems without re-keying.

The benefits of this integration include significantly faster and more accurate access to case information. For example, while it will be possible to perform text searches in the document management system to find papers, using this approach exclusively could prove inefficient because the same data formatted for document retrieval may exist in many other pleadings. In other words, every attempt to find a specific paper would produce multiple documents. The user would be required to sort through them to find the correct one. The case management system addresses this concern and provides a retrieval mechanism that serves as an index to the documents.

Case management systems are therefore another cornerstone component of the new information management and retrieval mechanisms, which must be in place lest electronic documents have no value.

Other systems and technical components necessary for electronic filing are described in this guidebook. Just as important as the cables and boxes, however, are the people required to manage, provide customer training and support, and keep the system operational. This guidebook gives equal importance to the staff, policy and technical aspects of electronic court filing.

## **Where Is Electronic Filing Today?**

If electronic filing is so great, why aren't we all using it? The answer is that many small projects have been initiated in the United States. Unfortunately, most have either failed, been terminated or are defined as "requirements definition" projects for future systems. None have delivered a sufficient bottom-line gain to court efficiency to command support for funding the necessary infrastructure.

The primary problems relate to the technology. While many of the components of electronic filing have been available for some time, the lack of standards, difficulty of integration, insufficient training and customer support, and equipment and software costs have been limiting factors. In the last few years, the power and cost of personal computer technology have improved significantly. Data storage costs have dropped from more than \$1,000 per megabyte on early PCs, to less than five cents per megabyte today. This price is dropping about 50 percent each year. Only a few years ago there was no universal communications network, with standard protocols and interfaces, available to link our systems together. Even today, security and scalability issues on the Internet have not been completely resolved.

Display technology limitations, another significant barrier to successful, large-scale implementation of electronic filing, still exist in the nation's courts, but hopefully will be solved soon. The resolution of today's PC monitors is not high enough to display a printed page in readable form. The size and weight of the monitor restricts it to a fixed location, making the viewing of lengthy documents on the screen almost impossible. While liquid crystal display panels are an attractive alternative that will solve many of these problems, they lack the high resolution needed and still are far too expensive to be

practical. Planners should therefore expect that a significant amount of printing may be done for judges and members of the public.

At the forefront of all the technology will be the people that manage and facilitate these systems. Encouraging progress has been made in understanding that electronic filing is not solely about technology. Like any other service, it involves marketing, training, customer support, value-added benefits, and good working relations with the providers of court technology.

### **Share the “Vision” of Electronic Court Filing**

Electronic filing is not just a new technology; it is a revolutionary approach to conducting court business that will change the way courts work in the future. For example, when all the papers in a case are available as searchable text, it will be possible to integrate these documents with databases of legal precedent, courtroom testimony and evidence in its electronic form. This will allow the creation of sophisticated decision support systems.

The nature of documents also will change. With paper as a medium, documents are designed to be read from beginning to end. In the future, electronic documents might be prepared in layers accessible through hypertext links. Readers can *drill down* to view further detail if they don't understand something or if they disagree with something they read. Conversely, if a judge is familiar with aspects of a case, he or she can skip over this detail and evaluate the arguments at a higher level. Footnotes will be links to other documents that are immediately accessible, even though they may be stored in other parts of the world. Concepts such as these reflect the rightful optimism of those who have championed electronic filing for the past decade.

Moreover, even before the strategic implications of electronic filing are fully realized, there are many near-term tactical advantages to be gained by adopting the technology. Most costs associated with paper handling and storage are eliminated. Case materials are instantly accessible and protected from loss or destruction. Court employees who work with the records will find that more time can be directed to other tasks once paper handling is eliminated. Attorneys will save time and the costs of transporting materials to the courthouse. In addition, they will have greater access to court materials stored in electronic format. Finally, document processing will be easier to manage, resulting in greater productivity and effectiveness in doing the court's work.

Just as the advent of court automation created opportunities for the development of sophisticated caseflow management techniques, electronic filing will make similar feats possible with document processing. These new techniques, called workflow in their present form, have shown themselves to be far superior and less costly in courts that are already using them. With appropriate staffing and training, courts can transition quickly to this new model of delivering service internally and to the public.

In all, the benefits of electronic court filing appear dramatically large for the leaders ready to take the necessary steps.

