

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT,
IN AND FOR BROWARD COUNTY,
FLORIDA

Administrative Order No.: IV-07-B-3

In Re:

Pilot Program for Electronic Filing
of Court Documents

WHEREAS the Judiciary and the Clerk of Court have agreed to a pilot program to develop and accept electronic filings in the 17th Judicial Circuit's Civil and Probate Divisions, it is

Ordered as follows:

PART 1. GENERAL PROVISIONS

This Administrative Order governs the pilot program for electronic filing and service of court documents in the Seventeenth Judicial Circuit. This Administrative Order is in addition to current Administrative Order I-97-P-1.

PART 2. DEFINITIONS

2.1 Specific Terms

The following definitions apply to this Administrative Order:

(a) "Clerk of Court" or "Clerk" means the Broward County Clerk of the Circuit and County Courts for the Seventeenth Judicial Circuit.

(b) "Document" means a pleading or paper, or other instrument in paper form or electronic form to be filed with the Clerk of Court

(c) "Electronic Filing" and "electronically file" is a process by which a filer files a document with the Clerk of Court's office by means of an online computer transmission of the document in electronic form. For purposes of this Order, the process does not include the filing of faxed documents which is authorized in Administrative Order I-97-P-1. This does not preclude the filing of a pleading, paper, or other document by fax for subsequent inclusion in a physical or electronic file.

(d) "Credit Card Transaction Fee" is a fee charged by a credit card company for services associated with its credit card. The standard allowable charge is 2.25% of the total amount of the transaction. If the industry standard should change, the Clerk and the EFM will review and may mutually agree to modify the allowable charge rate assessed up to the maximum rate then charged by the issuing credit card company.

(e) "Electronic Filing Manager (EFM)" is a business entity that provides electronic filing services and support to the Clerk of Court for the receipt of pleadings and papers from filers. For purposes of the pilot, the Broward County Clerk of Court has entered into an agreement with BearingPoint to provide said services acting as an agent of the Clerk of Court.

(f) "Electronic Filing Service Provider (EFSP)" is a business entity that provides electronic filing services and support to its customers (filers) after meeting all requirements of the EFM and the Seventeenth Judicial Circuit for the filing of pleadings and/or papers electronically.

(g) "Trace Number" is a unique transaction identification number which is generated by the EFM upon receipt of a document and transmitted back to the EFSP for purposes of identifying and accessing a document and associated metadata with a filing. The trace number remains within the document metadata for the life of the document.

(h) "Electronic Service" and "electronically serve" is a method of serving a document upon a party in a case by electronically transmitting the document to that party's e-mail address.

(i) "Filer" means a person who files a document, including an attorney.

(j) "Pilot" and "Pilot Program" means the program designed to validate the operational efficacy of electronic filing and to evaluate and refine the process of electronically filing documents with the Clerk of the Court during a trial period. For purposes of this administrative order, the pilot may be distinguished as Phase 1 of the e-filing plan submitted to the Supreme Court. The Judiciary, in consultation with the Clerk and other involved parties, will assess the results of the Pilot at its conclusion in order to determine expansion to Phase 2 as described in the e-filing plan and amendment of this Administrative Order. The Judiciary and Clerk will mutually determine if the e-filing project will expand to Phase 2 as described in the e-filing plan and will mutually establish the associated schedule for said Phase 2 as well as the subsequent inclusion of the other divisions of the Circuit.

(k) "Regular Filing Fees" are the statutorily authorized filing fees.

(l) "Traditional Filing" is a process by which a filer files a paper document with the Clerk or in open court.

PART 3. APPLICABILITY

3.1 Scope

For the purposes of the pilot, filers participating in the pilot program may electronically file documents in the Probate Division including Incapacity or Developmentally Disabled Adult cases but not Civil Involuntary Commitment proceedings (Baker Act, Marchman Act, Tuberculosis, Sexually Transmissible Diseases).

3.2 Documents filed with the Clerk of Court

This Administrative Order applies only to the pilot program for electronic filing of court documents with the Clerk of Court. This Administrative Order does not apply to the filing of documents directly with a judge.

3.3 Documents That May Be Electronically Filed

(a) For the purposes of the pilot, Phase 1, a document that can be filed in a traditional manner with the Clerk of Court may be electronically filed with the exception of the following documents:

- i) new complaints, petitions, or documents requiring the assignment of a case number, or
- ii) summonses, writs or other documents requiring issuance by the Clerk and bearing the seal of the Clerk of Court.

(b) The Clerk is authorized to accept for electronic filing any and all original documents scanned and submitted to the Clerk for filing. Documents which may be scanned and filed include, but are not limited to:

- i) returns of service;
- ii) documents that statutorily require an original attachment;
- iii) original, executed documents statutorily required to be filed; and
- iv) Last Will and Testament, Codicil, and Death Certificate.

A filer who scans and electronically submits any document in the above 4 categories shall also file the original document(s) with the Clerk. Any original documents required to be submitted to the Clerk subsequent to electronic filing of the scanned version shall be accompanied by a cover sheet indicating the document has been electronically filed.

PART 4. FILING MECHANICS

4.1 Filings

(a) The Clerk has entered into an agreement with a company to act as its Electronic Filing Manager (EFM) and establish a common electronic infrastructure through which Electronic Filing Service Providers (EFSPs) may electronically send and receive documents and required payments. The Clerk, EFM, and/or EFSP shall not charge any state court entity for electronically filing pleadings or papers or the service of same.

(b) To become registered to electronically file documents, filers shall follow registration procedures agreed to and outlined by the EFM and the Clerk. The procedure can be accessed from the Clerk website at "www.browardclerk.org".

(c) A filer filing or serving a document must have a valid account with a participating EFSP and with the Clerk's EFM.

(d) Consistent with standards promulgated by the Florida Supreme Court and Seventeenth Judicial Circuit, the EFM shall specify to all participating EFSPs the permissible formats for documents that will be electronically filed and electronically served.

(e) Unless statutorily exempt, filers who electronically file documents shall pay regular filing fees to the clerk through the EFM by a method agreed upon by the Clerk and the EFM.

(f) The EFM and/or EFSP shall not charge filers an additional fee to electronically file documents. With the exception of any applicable credit card transaction fees, no electronic filing fee will be charged to a filer during the pilot phase or any subsequent phase of the e-filing pilot program.

(h) The Clerk shall not charge filers an additional fee to electronically file documents. With the exception of any applicable credit card transaction fees, no electronic filing fee will be charged to a filer during the pilot phase or any subsequent phase of the e-filing pilot program.

4.2 Signatures

(a) Upon completion of the initial registration procedures, each filer will be issued a confidential and unique electronic identifier. Each filer shall use his or her identifier in order to electronically file documents. Use of the filer's identifier to electronically file documents constitutes a filer's "digital signature" on the particular document.

(b) The attachment of a digital signature on an electronically-filed document is deemed to constitute a signature on the document for purposes of signature requirements imposed by Rule 2.515(c) of the Florida Rules of Judicial Administration or any other law.

(c) If the filer is an attorney, the person whose name appears first in the signature block of an initial pleading is deemed to be the attorney of record unless otherwise designated. The digital signature on any document filed is deemed to be the signature of the attorney whose name appears first in the signature block of the document for the purpose Rule 2.515(a) of Florida Rules of Judicial Administration.

(d) A digital signature on an electronically-filed document is deemed to constitute a signature by the filer for the purpose of authorizing the payment of document filing fees.

4.3 Time Document is Filed

(a) A filer may electronically transmit a document through an EFSP to the EFM 24 hours per day each and every day of the year.

(b) Upon receipt by the EFM of an electronically transmitted document from the filer's EFSP, the filer is deemed to have delivered the document to the Clerk and the document is deemed to be received. The filing date and time of an electronically transmitted document shall be the date and time the last page thereof is received by the EFM, and shall be endorsed upon each electronically transmitted document. A transmission report by the EFM shall be *prima facie* evidence of date and time of receipt of transmission.

(c) On receipt of a filer's document, the filer's EFSP must send the document to the EFM in the required electronic file format along with an indication of the time the filer sent the document to the EFSP and the filer's payment information. The EFM will electronically transmit to the EFSP an "acknowledgment" that the document has been received by the EFM and include the date and time of receipt. The EFSP will then electronically transmit to the filer an "acknowledgment" that the document has been received by the EFM. The acknowledgment will note the date and time that the electronically transmitted document was received by the EFM.

(d) Not later than the first business day after receiving a document from the EFM, the Clerk shall determine whether the document will be accepted for filing. The Clerk shall accept the document for filing provided that the document is not misdirected and complies with all filing requirements. The Clerk shall reject any pleading with an incorrect case number provided on it. If the Clerk fails to accept or reject a document within the time period, the document is deemed to have been accepted and filed, subject to the provisions previously stated.

(e) If the document is accepted for filing, the Clerk shall note the date and time of filing which shall be the date and time that the EFM received the document from the EFSP. The Clerk shall electronically inform the EFM of its action the same day action is taken. The EFM shall, on the same day as notified by the Clerk, electronically transmit to the filer's EFSP a "confirmation" that the document has been accepted for filing by the Clerk. The EFSP will electronically transmit the confirmation to the filer. This confirmation will include a link or instructions to access a "file-marked" copy of the document showing the date and time the Clerk considers the document to have been filed.

(f) If the document is not accepted for filing, the Clerk shall inform the EFM of its action, and the reason for such action, the same day action is taken. The EFM shall, on the same day as notified by the Clerk, electronically transmit to the filer's EFSP an "alert" that the document was not accepted along with the reason the document was not accepted. The EFSP will electronically transmit the alert to the filer.

(g) The Clerk or the EFM acting as agent for the Clerk shall provide to the Judiciary the EFM data export upon acceptance by the Clerk, as part of the transfer of electronic

information, any and all applicable transaction numbers, time stamps, any Clerk corrections of any portion of the pleading, paper, or document electronically filed, and the filer's e-mail address.

4.4 Follow-up Filing

(a) Where a filer has electronically filed a document, the filer shall immediately thereafter file the identical document in paper form with an original signature of the attorney, party, or other person if a signature is otherwise required by the Rules of Judicial Administration (hereinafter referred to as the follow-up filing). A cover sheet shall accompany follow-up filings alerting the Clerk to the fact that an electronic version of the document was previously electronically filed.

(b) The follow-up filing of any document that has been previously filed by electronic transmission may be discontinued upon approval of the Supreme Court after the 90-day pilot period. However, a judge may, at any time, require the filer to properly file the document in a traditional manner with the Clerk. A third party may also request the judge before whom the matter is pending to allow inspection of an original document maintained by the filer.

(c) A filer electronically filing a document shall set forth before his or her signature block and after any certificate of service a certification clause as follows:

“The originally executed document is in the possession of the filer, the original document will be maintained as required by Florida Rule of Judicial Administration 2.430 and will be produced for filing or inspection as directed by the Court and the submission of this pleading/paper for filing is authorized by the attorney of record or party.”

4.5 Filing Deadlines Not Altered

The electronic filing of a document does not alter any filing deadlines as otherwise established or required by law.

4.6 System or User Filing Errors

If the electronic filing is not filed with the Clerk or served because of (1) an error in the transmission of the document to the EFM which was unknown to the sending party, or (2) a failure to process the electronic filing when received by the EFM, or (3) rejection by the Clerk, or (4) other technical problems experienced by the filer, the Court may, after an evidentiary hearing and upon satisfactory proof, enter an order permitting the document to be filed or served *nunc pro tunc* to the date it was first attempted to be sent electronically.

4.7 Multiple Documents

(a) A filer may include multiple documents in an electronic transmission to the Clerk's EFM as long as all documents being electronically filed within that transaction pertain to the same case, with the same case number and style. Instances of multiple documents filed in one transaction within the same case shall be treated as one electronic transmission.

(b) A filer may electronically transmit a lead document to the EFM that includes another document (or documents) as an attachment(s) (e.g., a motion to which is attached a brief in support of the motion).

4.8 Official Document

(a) The Clerk's file for a particular case may not contain a combination of electronically filed documents in its electronic format and traditionally-filed documents.

(b) During the course of the pilot, the Clerk shall print electronically filed documents into a hard-copy format and file them into the court file along with traditionally filed documents.

(c) The Clerk shall maintain and make available electronically filed documents in any manner allowed by law.

4.9 E-mail Address Required

In addition to the information required on a pleading by Rule 2.515(a), a filer shall include an e-mail address on any electronically filed document.

4.10 Document Format

Electronically filed documents shall be computer formatted as specified by Administrative Order of the Florida Supreme Court In Re: Electronic Transmission and Filing of Documents – Standards and Guidelines (AOSC04-11 dated May 19, 2004) or any Administrative Order superseding AOSC04-11. Electronically filed documents shall be formatted for printing on 8 ½-inches by 11-inch paper.

Additionally, any document electronically filed shall meet any and all technical standards of the 17th Judicial Circuit as published at www.17th.flcourts.org.

Two distinct types of data, referred to as 'meta data' and 'XML tagged content data', will accompany each electronically filed document or paper. 'Meta data' includes key index and docketing data necessary for the Clerk, as custodian of the record, to associate, index and docket the document or paper to the appropriate case record(s) in the Clerk's case maintenance system. This 'meta data' is also essential to the Judiciary for the processing of the document or paper in the Judiciary's case management system. The 'XML tagged content data' is essential to the Judiciary's operations and processes associated with the case management system.

The Judiciary of the Seventeenth Judicial Circuit will be a primary recipient of all of the E-filing 'XML tagged content data' captured, transmitted and accepted by the Clerk's Office. This data will include both data unique to the Clerk's Office case maintenance processing and data unique to the Judiciary's case management processing. The Judiciary will be active participants and contributors to the Clerk's e-filing Pilot and phased rollout. The Judiciary will be responsible for identifying and authorizing the 'XML tagged content data' (and subsequent forms). The Clerk and Judiciary will mutually identify the types of filings accepted and processed by the Clerk during the pilot and phased rollouts.

The Judiciary will be responsible for assisting in identifying the data capture/editing, formatting, telecommunication and internal control (i.e., checkpoint, restart, backup, recovery, etc) standards for e-filing data/forms. The initial XML oriented standard sanctioned by the Judiciary will be the standard recommended by the Article V Technology Committee in its final Report dated January 10, 2006 wherein the Committee recommended adoption of both Global Justice XML and LegalXML as the most accommodative approach and will be implemented or utilized by each E-filing EFSP in the E-filing process. This authorized standard data schema will be transmitted from the EFSP to the EFM and subsequently on to the Clerk's case maintenance and Judiciary's case management processing, respectively.

PART 5. SERVICE OF DOCUMENTS

5.1 Electronic Service of Documents Permissible

(a) A filer may serve documents upon another party in the case by electronically transmitting the document to that party at the party's e-mail address as set out in paragraphs (b) and (c) below.

(b) Documents may be electronically served upon a party only where that party has agreed to receive electronic service in that case or where the court has ordered the parties to electronically serve documents.

(c) A party agreeing to receive electronic service or as ordered by the Court to receive electronic service shall register with the Clerk or the Clerk's designee.

(d) By virtue of electronically filing a document or serving a document or by agreeing to accept service, a filer additionally agrees to provide information regarding any change in his or her e-mail address to the Clerk or the Clerk's designee and all parties in the case in a timely manner such that no interruption of service shall occur.

(e) Unless the court has ordered the parties to electronically serve documents, electronic service of documents is an optional method of service.

(f) A filer may electronically serve a document in instances where the document is traditionally filed as well as in instances where the document is electronically filed.

5.2 Completion of Electronic Service and Date of Service

(a) Electronic service shall be complete upon successful transmission of the document by the filer to the party at the party's e-mail address.

(b) When electronic service is completed after 4:00 p.m. (recipient's time), then the date of service shall be deemed to be the next day that is not a Saturday, Sunday or legal holiday.

5.3 Time for Action After Service

The date of electronic service shall be used whenever a party has the right or is required to do some act within a prescribed period of time after service of a document upon the party.

5.4 Certification of Service

(a) Documents to be electronically served upon another party shall be sent before the time or at the same time that the document is filed.

(b) A filer who electronically serves a document upon another party shall make written certification of such service included in, or as an attachment to, the document when that document is filed. The written certification shall include, in addition to any other requirements imposed by the Florida Rules of Judicial Administration, the following:

- (i) the filer's e-mail address;
- (ii) the recipient's e-mail address;
- (iii) the date of electronic service; and
- (iv) a statement certifying the document was electronically furnished

PART 6. VIEWING OF ELECTRONICALLY-FILED DOCUMENTS

6.1 Viewing of Electronically-filed Documents

(a) The Clerk shall comply with all administrative orders of the Florida Supreme Court regarding electronic access to court records.

(b) This Administrative Order provides for the viewing of electronically filed documents by the judges, general magistrates, staff attorneys, and court administration employees as required for his or her job duties and responsibilities and as may otherwise be required or allowed by rule of court or law.

6.2 Confidential and Sealed Documents

A filer who electronically files a document containing exempt information for which public access is not authorized pursuant shall comply with Florida Rule of Judicial Administration 2.420 and any subsequent rule.

PART 7. MISCELLANEOUS PROVISIONS

7.1 Assigned Court to Resolve Disputes

In the event a dispute should arise involving the application of this Administrative Order or various electronic filing issues, the court assigned in accordance with local assignment procedures shall decide any dispute.

7.2 Interpretation.

(a) This Administrative Order is designed to govern the conduct of a pilot project. It is likely this Administrative Order does not contemplate each problem that may arise in the electronic filing or service of court documents. The application of this Administrative Order

shall be consistent with the understanding that this Administrative Order was written for the conduct of an initial pilot project, and shall be made without undue prejudice to any person using the electronic filing system or sending or receiving electronic service in good faith.

(b) This Administrative Order shall be updated periodically to clarify intent and purpose due to (1) additional phases to the pilot project to address additional functionality and court divisions, and (2) unanticipated circumstances that may have been overlooked in the initial pilot.

DONE AND ORDERED at Fort Lauderdale, Broward County, Florida on this 10th day of August, 2007.

/s/Mel Grossman
Mel Grossman, Acting Chief Judge
17th Judicial Circuit
Broward County, Florida