

Technical Recommendations
Civil Procedure and Courts Committee, suggested revisions incorporated
Electronic Filing Rules
RE: ADM File Number 2002-37 - Proposed New Rules 2E.001 et seq. (Electronic Filing)

Rule 2.131 Electronic Filing and Service

MCR 2.132-2.139 govern the electronic filing and service of documents in all courts established by the constitution and laws of the State of Michigan. Rules 2.132-2.137 apply to both electronic filing and service. MCR 2.138 applies to electronic filing only. MCR 2.139 applies to electronic service only.

Rule 2.132 Electronic Filing and Service Program

- (A) **Electronic Filing Plan.** A court may submit to the state court administrator for approval an electronic filing plan in a form approved by the state court administrator. The plan must specify an electronic filing service provider, which may be the court or a vendor approved by the court, that will provide for the electronic filing and service of documents through the Internet.
- (B) **Permitted Functions.** A court whose electronic filing plan has been approved by the state court administrator may do any of the following, consistent with these rules:
 - (1) Accept electronic filing and permit electronic service of documents, except as prohibited by subrule (C);
 - (2) Issue electronic filing guidelines consistent with these rules and the approved plan. The guidelines must be posted prominently on the court's electronic filing portal;
 - (3) Mandate electronic filing and electronic service of documents in specified cases;
 - (4) Electronically issue, file, and serve notices, orders, opinions, and other documents, subject to the provisions of these rules.
- (C) **Limitations.** Unless expressly authorized by a court, the following documents may not be electronically filed or electronically served:
 - (1) Documents that are sealed by a court under MCR 8.119(F);
 - (2) Case evaluation awards, acceptances, and rejections;

- (3) Documents for in camera review;
- (4) Documents that have access restricted by statute, court rule, or court order.

If a court expressly authorizes the electronic filing or service of such documents, the court must impose specific requirements regarding service that will reasonably assure appropriate limitation on access to the documents, such as redacting confidential information.

Rule 2.133 Authorized Users

- (A) **Authorization Requirement.** Only authorized users may engage in electronic filing or service. If a party's attorney, or a party who is not represented by an attorney, is not an authorized user, filing and service by or on that party must be as otherwise provided by the rules applicable to the case.
- (B) **Registration; Fees.** To become an authorized user, a person must complete registration with an electronic filing service provider and the electronic filing service provider must approve the person's registration. User fees established by the electronic filing plan or specifically approved by the court may be assessed by an electronic filing service provider.
- (C) **Revocation of Authorization.** A court may revoke user authorization for good cause as determined by the court, including but not limited to a security breach or failure to comply with system requirements.
- (D) **Undated Information.** An authorized user must notify the court and the electronic filing service provider of any change in the authorized user's firm name, delivery address, telephone number, fax number, e-mail address, or other required registration information. This notice must occur as soon as practicable but no later than 7 days after the effective date of the change.

Rule 2.134 Signatures

- (A) A pleading, document, or instrument electronically filed or electronically served shall be deemed to have been signed by the judge, court clerk, attorney, party or other person whose name appears on the signature line.
- (B) Documents containing signatures of persons other than parties or their attorneys (i.e., affidavits) may also be filed electronically by indicating that the signed originals are maintained by the filing party. Signed copies shall be provided to the parties or court upon request.

Rule 2.135 Retention of Documents

Unless otherwise ordered by the court, copies of all documents filed or served electronically shall be maintained by the party filing or serving those documents and shall be made available, upon reasonable notice, for inspection or copying. Parties shall retain such copies until final disposition of the case and the expiration of all appeal opportunities.

Rule 2.136 Transmission Failures

- (A) In the event of a transmission failure, a party may file a motion requesting that the court enter an order permitting a document to be deemed filed or served nunc pro tunc on the date it was first attempted to be sent electronically.
- (B) The moving party must show that,
 - (1) the transmission was attempted at the time asserted by the party;
 - (2) the transmission to the intended recipients was unsuccessful because of the failure of the electronic filing service provider to process the electronic document or for another reason that was not caused, in whole or in part, by any action or inaction of the party.

Rule 2.137 Public Access Terminals

When an electronic filing system becomes mandatory for some or all cases in a court, or if the court maintains case files in electronic form, the court must provide a publically accessible computer terminal that is available during the hours the court is open at which documents may be filed and served and on which public court records may be viewed.

Rule 2.138 Electronic Filing

- (A) **Time of Filing.** A pleading or other paper filed electronically shall be considered filed with the court when the transmission to the electronic filing service provider is complete. The court's electronic filing plan must state the time by which transmissions must be completed to be considered filed by the close of business on that day.
- (B) **Electronic Filing Transaction Receipt.** Upon completion of an electronic filing transmission to an electronic filing service provider, the electronic filing service provider shall issue to the authorized user and to the court a transaction receipt that includes the date and time of the transmission, and the size of the transmission. The receipt may be provided electronically.

- (C) **Electronic Case File.** The court may maintain the official case file in electronic format, if it is able to conform to the retention period required in General Records Retention and Disposal Schedule 16 applicable to Michigan Trial Courts.
- (D) **Payment of Filing Fees.** Any applicable filing fee is due and payable at the time of the transmission of the electronic document unless the fee is waived by the court pursuant to court rule. Authorized users may pay filing fees electronically through an electronic filing service provider. Failure to timely pay a filing fee may result in the rejection of the filing by the court.
- (E) **Rejected Filings.** If the court rejects a submitted document pursuant to court rule, the court shall notify the filer of the rejection and the document shall not become part of the official court record.

Rule 2.139 Electronic Service

- (A) Except as prohibited by MCR 2.132(C), if authorized by the court's electronic filing plan or court order in a particular case, service of pleadings and other papers may be accomplished electronically among authorized users through the electronic filing service provider. Unless the court specifically orders otherwise, electronic service may not be used to serve process to obtain jurisdiction over a person or property.
- (B) **Time and Effect.** A document served electronically through an electronic filing service provider in conformity with these rules is deemed served when the transmission from the electronic filing service provider to the recipient's e-mail address is complete, except that for the purpose of computing time to respond, a document served after 5:00 p.m. local court time shall be deemed to have been served on the next day that is not a Saturday, Sunday, or legal holiday.
- (C) **Electronic Service Transaction Receipt.** Upon completion of an electronic service transaction, the electronic filing service provider shall issue to the authorized user and to the court a transaction receipt that includes the date and time of service. The transaction receipt may be provided electronically and serves as proof of service.