

**OAKLAND COUNTY SIXTH CIRCUIT COURT  
PROTOTYPE PROGRAM E-FILING RULES**

**1. Construction.**

The purpose of the Prototype program is to study the effectiveness of electronically-filing court documents in connection with the just, speedy, and economical determination of the actions involved in the Prototype program and to avoid the consequences of error so as not to affect the substantial rights of the parties. The Court may exercise its discretion to grant necessary relief to ensure that participation in the Prototype program does not unfairly prejudice the parties. Except for matters related to electronically filing documents during the Prototype program, the Michigan Rules of Court govern all other aspects of the cases involved in the program.

**2. Definitions.**

- (a) "Clerk" means Oakland County Clerk.
- (b) "E-filing" means any court pleading, motion, brief, response, list, order, judgment, notice, or other document filed electronically pursuant to the Prototype program.
- (c) "LAO" means all local administrative orders governing Sixth Judicial Circuit Court.
- (d) "MCR" means the Michigan Rules of Court
- (e) "Prototype" means an initiative by the Sixth Circuit Court and Oakland County Clerk's Office using the eFiling application created by IBM, under contract, through the Michigan State Court Administrative Office (SCAO). This e-filing application facilitates the electronic filing of pleadings, motions, briefs, responses, lists, orders, judgments, notices, and other documents. The vision is that all state courts in Michigan will eventually use this eFiling application (with appropriate modifications and improvements). Judge Michael Warren and Judge Rudy Nichols are testing the Oakland County prototype on active civil cases. The prototype program is expected to last approximately five months, beginning on April 15, 2006.
- (f) "Technical malfunction" means any hardware, software, or other malfunction that prevents a user from timely filing a complete e-filing or sending or receiving service of an e-filing.

### **3. Participation in Prototype.**

Participants in the Prototype program shall be drawn from volunteers from cases assigned to Judge Warren or Judge Nichols after the filing and service of an initial complaint.

### **4. E-filings Submission, Acceptance, and Time of Service with the Court; Signature.**

- (a) Program participants must submit e-filings pursuant to these rules and the Prototype program's technical requirements.
- (b) E-filings may be submitted to the court at any time, but shall only be reviewed and accepted for filing by the Oakland County Clerk's Office during normal business hours. E-filings submitted after business hours shall be deemed filed the business day the e-filing is accepted (usually the next business day).
- (c) E-filings shall be treated as if they were hand delivered to the court for all purposes under the MCR and LAO.
- (d) An e-filing is deemed to have been signed by the attorney submitting the e-filing for all purposes under the MCR and LAO.
- (e) The original of a sworn or verified document that is an e-filing (e.g., a verified pleading) or part of an e-filing (e.g., an affidavit or bill of costs) must be maintained by the filing attorney and made available upon reasonable request of the court, the signatory, or opposing party.

### **5. Time for Service and Filing of Pleadings, Documents, and Motions; Judge's Copies; Hearings on Motions; Fees.**

- (a) All times for filing and serving (and hearing, where applicable) e-filings shall be governed by the applicable MCR and LAO as if the e-filings were hand delivered. Where a praecipe is required by LCR 2.119(A), it must be e-filed along with the e-filings that require the praecipe.
- (b) The electronic submission of a motion and brief through this Prototype program satisfies the requirements of filing a Judge's Copy under MCR 2.119(A)(2). Upon a request of the Court, the filing party shall provide a traditional Judge's Copy promptly.
- (c) The Court may establish a separate motion call for cases involved in the Prototype program. MCR 2.119(E)(1).

- (d) Motion fees shall be paid electronically through procedures established by the Oakland County Clerk's Office at the same time and in the same amount as required by statute, court rule, or administrative order.

**6. Service.**

- (a) All parties shall provide the court and opposing parties with one email address with the functionality required for the Prototype program. These email addresses shall serve as the email addresses from which filings shall originate and to which service may be perfected.
- (b) Unless otherwise agreed to by the court and parties, all e-filings must be served electronically to the email addresses of all parties. The subject matter line for the transmittal of document served by email shall state: "Service of e-filing in case [insert caption of case]."
- (c) The parties and court may agree that, instead of email service, e-filings may be served to the parties (but not the court) by facsimile or by traditional means. For those choosing to accept facsimile service:
  - (i) the parties shall provide the court and opposing parties with one facsimile number with appropriate functionality,
  - (ii) the facsimile number shall serve as the number to which service may be made,
  - (iii) the sender of the facsimile should obtain a confirmation of delivery, and
  - (iv) parties shall comply with the requirements of MCR 2.406 on the use of facsimile communication equipment.
- (d) Proof of Service shall be submitted to the Court according to MCR 2.104.

**7. Format and Form of E-filing and Service.**

- (a) All e-filings shall be in the same written or typed form as required by the MCR.
- (b) All e-filings shall be in PDF or TIFF electronic format and shall not exceed 5 megabytes per submission. Documents larger than 5 megabytes shall be filed and served in traditional methods pursuant to the MCR and LAO.
- (c) Any exhibit or attachment that is part of an e-filing must be clearly designated and identified as an exhibit or attachment.

- (d) All e-filings (including those served by facsimile or traditional service) shall be served to the parties in same format and form as submitted to the court.

**8. Pleadings, Motions, and Documents not to be E-filed.**

The following documents are not included in the Prototype program and must be filed in the traditional methods pursuant to the MCR and LAO:

- (a) documents to be filed under seal (pursuant to court order),
- (b) documents identified by the Oakland County Clerk's Office as requiring a filing fee that cannot be paid electronically, such as Writ of Seizure and Garnishment, and
- (c) documents for case evaluation proceedings.

**9. Official Court Record; Certified Copies.**

- (a) For purposes of this Prototype program, E-filings are the official court record. An appellate record shall be certified in accordance with MCR 7.210(A)(1).
- (b) Certified or true copies of e-filed documents shall be issued in the conventional manner by the Oakland County Clerk's Office.
- (c) At the conclusion of the Prototype program, if the program does not continue as a Pilot project or in some other format, the Clerk shall convert all e-filings to paper form in accordance with MCR 8.119(D)(1)(d). Participating attorneys shall provide reasonable assistance in constructing the paper record.
- (d) At the conclusion of the Prototype program, if the program continues as a Pilot project or in another format, the Clerk shall provide for record retention and public access in a manner consistent with the instructions of the court and court rules.

**10. Court Notices, Orders, and Judgments.**

At the Court's discretion, the Court may issue, file, and serve orders, judgments, and notices as e-filings. Pursuant to a stipulation and order, the parties may agree to accept service by the Court via facsimile pursuant to the procedures set forth in Rule 6(c).

**11. Technical Malfunctions.**

- (a) A party experiencing a technical malfunction with the party's equipment (such as PDF conversion problems or inability to access the Prototype sites), another party's equipment (such as an inoperable email address), or an apparent technical malfunction of the court's Prototype equipment, software or server shall use reasonable efforts to timely file or receive service by traditional methods and shall provide prompt notice to the court and parties of any such malfunction.
- (b) If a technical malfunction has prevented a party from timely filing, responding to, or otherwise receiving service of an e-filing, the affected party may petition the Court for relief. Such petition shall contain an adequate proof of the technical malfunction and set forth good cause for failure to use non-electronic means to timely file or serve a document. The Court shall liberally consider proof of the technical malfunction and use its discretion in determining whether such relief is warranted.

## **12. Privacy Considerations**

- (a) With respect to any e-filing, the following requirements for personal information shall apply:
  - 1. **Social Security Numbers.** Pursuant to Administrative Order 2006-2, full social security numbers shall not be included in any e-filings. If an individual's social security number must be referenced in an e-filing, only the last four digits of that number may be used and the number specified in substantially the following format: XXX-XX-1234.
  - 2. **Names of Minor Children.** Unless named as a party, the identity of minor children shall not be included in any e-filings. If a non-party minor child must be mentioned, only the initials of that child's name may be used.
  - 3. **Dates of Birth.** An individual's full birth date shall not be included in any e-filings. If an individual's date of birth must be referenced in an e-filing, only the year may be used and the date specified in substantially the following format: XX/XX/1998.
  - 4. **Financial Account Numbers.** Full Financial account numbers shall not be included in any e-filings. If a financial account number must be referenced in an e-filing, only the last four digits of these numbers may be used and the number specified in substantially the following format: XXXXX1234.
  - 5. **Driver's License Numbers and State-Issued Personal Identification Card Numbers.** A person's full Driver's license number and state-

issued personal identification number shall not be included in any e-filings. If an individual's driver's license number or state-issued personal identification card number must be referenced in an e-filing, only the last four digits of that number should be used and the number specified in substantially the following format: X-XXX-XXX-XX1-234.

6. **Home Addresses.** With the exception of a self-represented party, full home addresses shall not be included in any e-filings. If an individual's home address must be referenced in an e-filing, only the city and state should be used.

(b) Parties wishing to file a complete personal data identifier listed above may:

1. Pursuant to and in accordance with the MCR and LAO, file a motion to file a traditional paper version of the document under seal. The Court may, in granting the motion to file the document under seal, still require that an e-filing that does not reveal the complete personal data identifier be filed for the public files.

OR

2. Pursuant to and in accordance with the applicable MCR and LAO, obtain a court order to file a traditional paper reference list under seal. The reference list shall contain the complete personal data identifiers and the redacted identifiers used in the e-filing. All references in the case to the redacted identifiers included in the reference list shall be construed to refer to the corresponding complete personal data identifiers. The reference list must be filed under seal, and may be amended as of right.

(c) Parties should exercise caution when filing papers that contain private or confidential information, including but not limited to the information covered above and listed below:

1. Medical records, treatment and diagnosis;
2. Employment history;
3. Individual financial information;
4. Insurance information;
5. Proprietary or trade secret information;
6. Information regarding an individual's cooperation with the government; and
7. Personal information regarding the victim of any criminal activity.

### **13. Amendment.**

These rules may be amended upon the recommendation of Judge Warren or Judge Nichols with the approval of the Chief Judge, and authorization by the State Court Administrator.

**14. Expiration.**

Unless the Chief Judge issues an order extending the applicability of these rules to an e-filing Pilot project or another format, they shall expire at the conclusion of the Prototype program.