

## TECHNOLOGY IN INDIANA

### *State and federal courts move to e-filing*

by Andrea M. Witcher

Technology is all around us. It has even seeped its way into the traditional confines of Indiana federal and state courtrooms.

Late last month, Laura A. Briggs, clerk of the court with the United States District Court for the Southern District of Indiana, had to find a sealed case that was several years old. She looked in the court's sealed vault for the file but could not find it. She then looked in another locked filing cabinet but could not find the case there either. As she searched for the case, all she could think was: Where's the paper?

Eventually, a member of her staff told Briggs where she could find the file. Since the Southern District's implementation of the electronic filing system, Briggs has discovered that she is no longer immediately aware of where all of the paper files are kept.

In July 2002, the U.S. District Court for the Southern District of Indiana implemented the Case Management/Electronic Case Filing ("CM/ECF") System. "CM/ECF allows courts to maintain electronic case files and offer electronic filing over the Internet," as explained on the Southern District's web site. Essentially, the e-filing system "allows attorneys to file all documents in a case ... electronically from anywhere in the world," Briggs explained.

The system has been widely popular with attorneys using the system, even before the date it was scheduled to begin. "[W]e had brought the case management side of the system up for the Court, for docketing and issuing documents. This was the first day of January 2002. Then some attorneys, after registering for CM/ECF registered, started filing electronically early, in September or October (well before we intended to go live with attorney filings). So we thought, okay, we'll go from here," said Briggs.

And once it started, praise of the system continued. As Briggs said, "Almost every attorney we talked to loved it ... . Attorneys love the convenience of being able to file something, and not have to worry about getting runners to the Court before 5:00." When asked the benefits of the system, Briggs explained that e-filing "allows for instantaneous filing, whether it's 2:00 a.m. or 5:00 p.m., everything can get filed right at the moment the attorney wants it filed; and the other parties are served immediately with a notice of electronic filing. So opposing counsel is notified within seconds of a document being filed, can view the actual document and then can start preparing a response or whatever is appropriate. The same goes for a judge-issued order. Attorneys do not have to wait until the postman brings it."

Despite litigants' seemingly unlimited ability to file any matters concerning their cases, there are some restrictions. For instance, the ease of e-filing is not granted to everyone. Pro se litigants cannot e-file. Pro se litigants can remain up to date with their cases by registering for Pacer accounts, but they are ineligible for participation in the electronic case filing component. Thus, they are also ineligible to receive notices of electronic filing.

In addition, attorneys cannot electronically file case-initiating documents. Generally, this restriction has more to do with administrative issues than with technological ones. "We haven't permitted electronic case initiation yet, mostly because we are not ready. When new cases are filed, there are many, many questions that have to be answered," Briggs explained. These questions may affect staffing. "We are not prepared to let attorneys make the decisions that will have a statistical impact on the staffing" resources allocated to the courts.

What about those people who are not as consumed by technology as the rest of us? They, too, will probably still have to e-file their cases. "If an attorney does not want to file electronically, the attorney actually has to ask the court for permission to file using paper. A determination is made by each judge on a case-by-case basis. So, an attorney can't just get a blanket exemption from the electronic case filing requirement," Briggs said.

And for those who love e-filing, Briggs advises that they should reevaluate how they submit their documents. They should use descriptive titles for the documents they file. The system automatically numbers the exhibits, so if the document is described by a number instead of a description, the exhibit will likely appear as "exhibit 1, 1; exhibit 2, 2" and so on.

"Just think of the judge sitting in chambers trying to finish up an entry and ... looking at the summary judgment exhibit list." How helpful it would be to have a description of the document, as opposed to merely a number.

The Southern District is not the only court in Indiana implementing modern advances in technology. Indiana state courts are also looking for ways to enhance their use of technology.

Mary DePrez, director and counsel for Trial Court Technology, ensures that electronic filing is one of the main goals for the Indiana state courts. "We are busy trying to implement, get our foot in the door, so to speak. And get the case management system installed in as many counties and courts as we can, as quickly as possible." She cautioned though, "[I]t is a very long-term project. It's not going to happen in one or two years."

However, it is not for lack of desire. "The biggest part of our project, or at least probably seventy-five percent of it, is converting the data." In fact, the courts are already starting to use the e-file system. "We are e-filing traffic tickets. One of our many projects was the e-citation application, which is law enforcement using software that develops and prints e-tickets."

DePrez explained that she and others "have had discussions with [their] federal partners because [they] don't think [they] need to reinvent the wheel." These discussions have concerned how the

federal court implemented the e-filing system, how it was financially structured, lessons it has learned from its use, what would be changed if could be done again and what would be retained.

DePrez is also aware of the benefits e-filing may bring. “It would be a tremendous benefit on the court and clerk staff as well. Although, not necessarily will people or jobs go away, they’ll just have different responsibilities, including review of what does get filed electronically.”

And of course, part of the incentive is to establish a statewide uniform system. It could create more efficient, uniform procedures.

However, the state court system is not entirely deprived of Internet-based technology. In addition to e-filing traffic tickets, state courts also run a system called Odyssey. “Odyssey is a new technology that is internet, web based. All of its data is housed with the Indiana Office of Technology. But ultimately, data is transmitted over the internet,” DePrez advised. With case loads growing each year, the Internet is an essential tool in properly managing cases and the documents associated with those cases.

Though pleased with Odyssey, DePrez is optimistic about the implementation of electronic filing within the state courts relatively soon and the benefits such a system would bring. “E-filing will play a roll in making a way where we can all work together.” However, as with any technological advancement, time and patience are imperative.

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