

IN THE SUPREME COURT OF MISSISSIPPI

No. 2005-AD-00001

ADMINISTRATIVE ORDER

IN RE: STRATEGIC GOALS AND POLICY STANDARDS FOR ELECTRONIC FILING AND DATA AND CASE MANAGEMENT IN THE COURTS OF MISSISSIPPI

The Chief Justice heretofore created the Supreme Court E-Filing/Court Docket Management Study Committee and charged the Committee, under the chairmanship of Presiding Justice Waller, with developing in conjunction with the Administrative Office of Courts strategic goals and policy standards to serve as the baseline for the development of functional standards, rules, regulations, procedures, practices, and, ultimately, implementation of a unified, comprehensive electronic system for the management of case-related data and the management of dockets and electronic filing in the courts of Mississippi. The Committee, made up of representatives of the Supreme Court, Court of Appeals, Administrative Office of Courts, the trial bench, the bar, circuit and chancery clerks, and other agencies, has diligently studied its assigned task, and has submitted to the Court its Report dated May 13, 2005. Each member of the Committee was asked to present specific comments, and these were submitted to the Court with the Report. In addition, the Report was placed on the Court's web site, and comments of the bench, the bar, and the general public were solicited. The comments received as a result of that solicitation were likewise submitted to the Court with the Report.

The Report includes Strategic Goals and Policy Standards for Data and Case Management and Electronic Filing. The Court has carefully studied the Committee's report and the standards presented and finds that the adoption of those goals and standards will promote the fair and efficient administration of justice in the state.

IT IS THEREFORE ORDERED that the Strategic Goals and Policy Standards for Data and Case Management and Electronic Filing set forth in the Report of the Supreme Court E-Filing/Court Docket Management Committee attached as Exhibit "A" to this order are approved and adopted as the goals and standards to be followed in the development of a system or systems for data and case management and electronic filing for the courts of this state.

IT IS FURTHER ORDERED that the Committee and each of its members is commended with the thanks of the Court for the Committee's work and the diligent attention to the task by its members.

SO ORDERED, this the 31st day of May, 2005.

/s/ James W. Smith, Jr.
JAMES W. SMITH, JR., CHIEF JUSTICE FOR
THE COURT

DIAZ, J., NOT PARTICIPATING.

EXHIBIT “A” TO ORDER

**SUPREME COURT OF MISSISSIPPI
E-FILING/COURT DOCKET MANAGEMENT STUDY
COMMITTEE**



**REPORT OF THE COMMITTEE
TO THE SUPREME COURT**

MAY 13, 2005

INTRODUCTION

Recognizing an urgent need to apply current data management technology to the management of our courts, Chief Justice James W. Smith, Jr., commissioned a group of interested citizens representing the bench, the bar, the clerks of the courts of the state as well as other agencies to study alternatives for electronic docket and case management systems and electronic filing systems and to submit to the Supreme Court recommendations in that regard. This group is designated the Supreme Court E-Filing/Court Docket Management Study Committee. Pursuant to the directions of Chief Justice Smith and Presiding Justice William L. Waller, Jr., Chair of the Committee, this Committee, having performed the study with which it was charged, submits this document as the Report of the Committee with respect to the Strategic Goals and Policy Standards for E-Filing and Court Docket Management.

The Committee membership and staff is composed of:

Presiding Justice William L. Waller, Jr., Supreme Court, Chair
Presiding Justice Kay Cobb, Supreme Court
Justice James E. Graves, Jr., Supreme Court
Justice Jess H. Dickinson, Supreme Court
Justice Michael K. Randolph, Supreme Court
Judge T. Kenneth Griffis, Jr., Court of Appeals
Judge David Clark, Chancery Court District Two
Judge Thomas J. Gardner, III, Circuit Court District One
Judge W. Swan Yerger, Circuit Court District Seven
Judge Franklin M. Coleman, Lauderdale County Court
Arthur Johnston, Madison County Chancery Clerk
Steve Amos, Copiah County Chancery Clerk
Lucy Carpenter, Marshall County Circuit Clerk
Gayle Parker, Harrison County Circuit Clerk
Cono A. Caranna, III, Office of the District Attorney, Harrison County
Kevin Lackey, Administrative Office of Courts
Timothy Howard, Office of the Attorney General
Lisa Counts, Circuit Court District Nine
Bill Hanna, MS Dept. of Archives and History
Karen Alsworth, MS Dept. Information Technology
David Pilcher, Department of Archives and History

Robert Niles Hooper, Markow Walker Law Firm
William E. Ready, Jr., Ready Law Firm
Patricia Bennett, Mississippi College School of Law

Steve Kirchmayr, Supreme Court, Staff
Jack Pool, Supreme Court, Staff
Mike Jones, Supreme Court, Staff
Margarette Meeks, Administrative Office of Courts, Staff
Susan Ingram, Judicial Assistant to Justice Waller, Staff

Justice Waller delegated the actual drafting of Strategic Goals and Policy Standards to a Subcommittee composed of Judge David Clark, Arthur Johnson, Niles Hooper, Lisa Counts, Karen Alsworth, with Jack Pool providing Staff support.

The activities of the Committee and the Subcommittee are reflected in their minutes which are submitted to the Court with this report. On April 21, 2005, the Subcommittee reported to the full Committee and presented a draft of goals and standards which were reviewed and discussed by the Committee. Thereafter, members of the Committee submitted written comments to the Subcommittee. The draft was also placed on the Court's web site and comments from the bench, the bar and the public were solicited and thereafter received. All comments, whether from Committee members or from others are submitted with this report.

On May 13, 2005, the Subcommittee met, considered all comments, and revised the draft of goals and standards as set forth herein for presentation to the full Committee. These goals and standards were submitted to the Committee and are now submitted to the Court as representing a general consensus of the Committee, subject to the comments of members submitted herewith.

Respectfully submitted, this the 13th day of May, 2005.

s/ William L. Waller, Jr.
WILLIAM L. WALLER, JR.,
PRESIDING JUSTICE, FOR THE
COMMITTEE

STRATEGIC GOALS FOR DATA AND CASE MANAGEMENT AND ELECTRONIC FILING

Policy standards should be adopted only after they are tested against these strategic goals and are found to contribute to their achievement.

- 1. Greater convenience and efficiency for attorneys and litigants and improved public access to case information,**
- 2. Greater convenience and efficiency in the recording, docketing, and reporting of data by the clerks of the courts and the Administrative Office of Courts,**
- 3. Greater convenience and efficiency in the use of data by the judges and their staffs in the management of their dockets and cases, and**
- 4. Greater convenience and efficiency in exchanging data with other state agencies that are required to use or report information.**

SECTION I

DATA AND CASE MANAGEMENT POLICY STANDARDS

Data and Case Management Policy Standards

1. Data and case management systems must be integrated into an overall, interactive system. All rules, designs, and technology must be a part of an overall, uniform state system of electronic document management, case management and electronic filing.

2. The respective clerks and Administrative Office of Courts shall remain custodians of the data for cases and information filed with their respective offices. This principle should be self-evident. While the courts may use outside entities on a contract basis, ultimately, the courts, clerks, and the data itself must not be at the mercy of these contractual relationships. Vendors and contractors shall have no rights in the data. As a

general principle, the state should seek copyright protection on the database schema, processes, file structure, methodology, etc. which constitute the creative output of any contractor retained to develop the system.

3. Courts and service providers must comply with functional standards promulgated by the Administrative Office of Courts and approved by the Supreme Court and rules adopted by the Supreme Court. The functional standards must be based on needs determined in consultation with trial judges, clerks and attorneys. Local courts and clerks should be allowed to use technology which they have in place, when adapted to an overall state system with data flowing seamlessly into case management systems and to AOC. Flexibility is desirable, and it is anticipated that local courts will adopt rules suited to their different circumstances. As technological developments occur, it is inevitable that AOC standards will be continuously revised. For that reason, system designs and agreements reached with providers must be able to accommodate change.

4. Data must be stored on site in the office of the clerk responsible for maintaining the records. Duplicate and/or back-up records must also be maintained in a central repository off-site.

5. Electronic documents will be the official court record. Paper documents, if maintained, will be considered a copy of the official court record. At the core of electronic data systems is the principle that the electronic document will be the official record of documents filed electronically. The need for maintaining paper documents will be reduced to those items which cannot be placed in an electronic system without affecting their quality, character and usefulness. Rules and perhaps statutes will need to make provision for transition from treatment of paper documents to the electronic documents as originals. This standard relates only to pleadings and exhibits to pleadings and has no application to evidentiary materials whether documents or physical exhibits.

6. Data and case management systems must, at a minimum, be based on open architecture and provision must be made for convenient maintenance and updating. Open architecture refers to software that is developed using common languages, standards, databases, etc. In order to accommodate maintenance and modification, the systems must be based on open architecture and system documentation must be provided, whether the systems are designed in-house or by contractors or vendors. The data must be stored in such a manner that it can be feasibly extracted in the future by the end users with no further involvement by the creating contractor or vendor.

7. Provision must be made for training and conversion of existing data in open cases. Any system will require that personnel be adequately trained prior to

implementation. Provision for this training must be made at the front end. Further, the use of two systems, one new and one old (or purely based on paper filings and manual entries) for any extended period is unacceptable. Therefore, implementation must provide for prompt conversion of existing data in open cases. In addition, the system must be capable of bringing closed cases, particularly those filed in electronic data systems, into a single system.

8. Conceptual designs and functional standards must be developed in tandem with designs and standards for electronic filing. Electronic filing systems must be integrated into an overall document and case management system. In order to avoid later major modification with the attendant expense and delay, data and case management systems must be created with a clear recognition of the demands of electronic filing systems. Although not all courts using the data and case management system will initially accept electronic filing by attorneys, the data and case management systems must be designed so as to be compatible with AOC established policy standards for electronic filing.

9. Key management data must be entered and captured in a manner that will provide basic management and tracking reports needed by the courts and AOC. This data will be that specified in Civil Cover Sheets, Case Disposition Reports, and Criminal Case Initiation Reports designed or to be designed by AOC. This data will facilitate the reports needed for effective case management and statistical reporting.

10. Case documents must be electronically viewable and searchable by the courts and by the public. A complete electronic case management system must make available to the judges not only the management and tracking of data but the documents themselves. An electronic docket and electronic minute book must be included. This will allow the judges and their staffs access to the “court file” at all times. There must also be provision for public access through the internet, but the system should provide a means for the recovery of fees by the clerks associated with the reproduction or down loading of case documents. Of course, public access will be limited in the case of confidential and sealed filings.

11. Attorneys and litigants will use secure Internet access (minimum of 128-bit SSL Encryption) via any commercially available Internet Service Provider (ISP) to transmit and receive data conforming to the Global Justice Extensible Markup Language (XML), Data Model (Global JXDM), standards through the use of standardized Internet Browsers for the electronic filing process. Courts will use the same technologies as the attorneys and litigants but will have the option to use other client software besides an Internet browser for data access and processing. The technology used must accommodate security, accurate reproduction and “tagging” of documents so as to allow efficient searching and indexing of documents and document

segments. This standard should assure that systems are platform independent and are based on open, nationally-accepted standards rather than on proprietary solutions.

12. The data management system must provide for one-time data and docket entry. The overarching goal is to have all data possible maintained in electronic form with one-time entries serving the needs of the clerk, the judges, AOC, the filers and the internet docket. That will require planning and coordination of each aspect of an overall system from the beginning.

13. There must be a capability for identifying persons interacting with the data management system. Courts will have some means to determine who accesses data.

14. Access to data must accommodate privacy and confidentiality concerns. Distinctions must be made between information and documents appropriately available to the general public, to filing counsel, and to the judges only. Any system must provide for protection of confidential matters or those where limited access is necessary.

15. Within the limits of privacy concerns, the data management system must accommodate data exchange with non-judicial agencies as directed by AOC. Other agencies such as those included in the Mississippi Automated System Project will benefit from the ability to mine court data and include it in their databases. Likewise, there may be a need for the judiciary to incorporate information such as prior arrests and convictions, citizenship status, etc. in its database. Thus, any design should interface with the other systems to the extent that data may be properly made available and useful.

16. Any system must insure the integrity and security of transmitted and filed documents and data. Protections must be incorporated in the data management system to assure that data is not corrupted in any transmission and that it cannot be intercepted by inappropriate persons.

17. Case management systems must include a means to enter and account for fees, fines, surcharges and other financial obligations electronically, including applications to waive fees. While the handling of fees is a financial function and may not often be thought of as a part of case management, fees associated with cases and filings must be accounted for in relation to those cases and filings. Therefore, the financial component should be integrated with the case management system.

18. The Courts will maintain forward migration processes to guarantee future access to electronic court documents. The National Archives and Records Administration and most state departments of archives have been reluctant to accept electronic court records for archival purposes. Their reluctance generally stems from the common experience that

documents created on equipment over ten years ago (for instance, obsolete word processing technology) can no longer be read—not because the storage media of magnetic tapes or disks have failed but rather because the basic hardware and software required to read the storage media no longer exists. They generally require courts to convert them to microfilm or other media for archiving. A few states have agreed to accept electronic court records when the court system has signed a guarantee that they will maintain forward compatibility of permanent court records. This can be accomplished either by requiring that any new automated applications be able to display and print documents created or maintained on the equipment and software the new applications are replacing, or, alternatively, that all old documents be converted to a format readable by the new equipment. In either case, the court is taking on a major additional commitment to pay attention to the integrity of its historical as well as of its current records.

SECTION II

ELECTRONIC FILING POLICY STANDARDS

Electronic Filing Policy Standards

1. Electronic filing systems will be designed in such a manner as to anticipate that all documents in all cases will be included in an electronic data management and case management system. The overarching goal is to have all data maintained in electronic form. That will require planning and coordination of each aspect of an overall system from the beginning.

2. Courts and service providers must comply with functional standards promulgated by the Administrative Office of Courts and approved by the Supreme Court and rules adopted by the Supreme Court. The functional standards must be based on needs determined in consultation with trial judges, clerks and attorneys. Flexibility is desirable, and it is anticipated that local courts will adopt rules suited to their different circumstances. As technological developments occur, it is inevitable that AOC standards will be continuously revised. For that reason, system designs and agreements reached with providers must be able to accommodate change.

3. In courts adopting electronic filing, the clerk will be prepared to process documents filed in paper form electronically pursuant to rules to be adopted. It is undesirable to have separate electronic and paper document management systems in the same

office. Therefore, any court adopting electronic filing must make provision for the clerk's office to file and scan paper filings into the electronic data management system.

4. Electronic filing systems must accommodate ultimate filing of appeals electronically.

5. Attorneys and litigants will use secure Internet access (minimum of 128-bit SSL Encryption) via any commercially available Internet Service Provider (ISP) to transmit and receive data conforming to the Global Justice Extensible Markup Language (XML), Data Model (Global JXDM), standards through the use of standardized Internet Browsers for the electronic filing process. Courts will use the same technologies as the attorneys and litigants but will have the option to use other client software besides an Internet browser for data access and processing. The technology used must accommodate security, accurate reproduction and "tagging" of documents so as to allow efficient searching and indexing of documents and document segments. This standard should assure that systems are platform independent and are based on open, nationally-accepted standards rather than on proprietary solutions.

6. Electronic documents will be submitted in a format that can be rendered with high fidelity to originals, and, when possible, will be searchable and tagged. Acrobat .PDF standard shall be the standard for the electronic storage of documents.

7. Filed documents must be self contained, with no external links to other documents. Technically, courts could accept a link to another document on a remote web site. This is inconsistent with the clerk being the custodian of court records. The clerk could never guarantee that a document on a remote website would continue to exist or would not be altered.

8. Filers must transmit data identifying the submitted document and other specified information for the entry in the court's docket. In the case of documents initiating a new case, sufficient other information must be included to create a new case in the court's case management system. These data items will be specified by AOC. This standard recognizes the basic "cover sheet" information must be provided by the filer as specified by AOC and as needed for case management. The fact that this information may be gleaned from the file document is not sufficient as the document analysis would place an excessive burden on the clerk.

9. There must be a method for identifying persons interacting with the electronic filing system. Courts will have some means to determine who submits a document for filing and who seeks to obtain documents or information.

10. The electronic filing system must accommodate privacy concerns.

11. Courts must insure the integrity and security of transmitted and filed documents and data. This has traditionally been done in the paper setting by signatures and file stamps. Technical standards must articulate the method for accomplishing this. The federal government has adopted the Federal Information Processing Standard 180.2 for this purpose, and either the FIPS or similar standards adopted by AOC must insure the integrity of all filings.

12. Systems must include human and automated quality control procedures sufficient to ensure accuracy and reliability of electronic record systems. Functional standards must require that electronic filing systems incorporate clerk's review of all electronic filings and validation prior to being accepted and entered as parts of the court records.

13. Filing systems must include a means to accept payments of fees, fines, surcharges and other financial obligations electronically, including applications to waive fees. An electronic filing system that does not include a payment mechanism is of little value. Whatever system is adopted should take into consideration the use of credit cards and direct electronic funds transfer. One approach often used is to require the electronic filing vendor to make all fee payments associated with filings through its system with the vendor obtaining reimbursement through credit cards or otherwise.

14. Courts should avoid or at least minimize surcharges for electronic filing. The costs of electronic filing are substantial. This, of course, would require available public funding or an adjustment to regular filing fees to cover the additional costs of electronic filing. If fiscal considerations make this approach impossible, surcharges should be kept to a minimum in order to avoid burdens which restrict traditional access to the courts and which will discourage the use of electronic filing. (This standard is not a restriction on charges by private service providers to their customers. Those involve private contracts which are not barriers to general access to courts and which are not true "court costs." Nevertheless, the total overall cost will impact on the acceptance of electronic filing by attorneys.)

15. Rules and systems must address special needs of users. This will include recognition of the needs of indigents, self-represented, non-English speaking, or illiterate persons and persons lacking access to or skills in the use of computers, particularly where electronic filing is made mandatory (or, at the court's option, mandatory in court specified cases). It is also a high priority matter where electronic filing gives such an advantage to users that it is a severe practical restriction on others without the ability to file electronically. There are ADA implications in this area.

16. Rules and systems must include electronic service of notices and pleadings subsequent to the original complaint to opposing counsel or parties who participate in the electronic filing process. Electronic service is an important part of an electronic filing system. Rules must be adapted to allow service in this manner on those who participate. Generally, these systems will serve directly to the opposing party or counsel and generate and file a certificate of service and a receipt for service. This would not include the initial service of the summons and complaint bringing an opponent into court and establishing jurisdiction. Traditional service should be exclusively retained for this purpose.

17. Court rules will provide that a lawyer or other person provided with a unique identifier for the purposes of filing documents electronically will be deemed to have filed any document submitted using that identifier. In the case of an attorney, his or her bar number coupled with a password will constitute the unique identifier.

18. Court rules will articulate the criteria by which an electronic document is deemed “received,” “filed,” and “served,” and other terms which have importance in the timing of procedures.

19. Courts will accept electronic documents 24 hours per day, 7 days per week, except when the system is down for maintenance or otherwise.

20. Court rules will create procedures for resolving controversies arising from the election filing process. These rules will recognize that disputes will occur over real or perceived failure of systems.

21. Paper processes that are obsolete or redundant in an electronic environment should be eliminated. Making the transition to electronic processes provides an opportunity to review paper management procedures. As examples, traditional file stamps and signatures of judges on orders may be found to be relics which are not appropriate where new functionally equivalent electronic methods of verifying authenticity are more appropriate and efficient. However, new verification tools must comply with law and must be acceptable to the judiciary, law enforcement and businesses such as banks.

22. The Courts will maintain forward migration processes to guarantee future access to electronic court documents. The National Archives and Records Administration and most state departments of archives have been reluctant to accept electronic court records for archival purposes. Their reluctance generally stems from the common experience that documents created on equipment over ten years ago (for instance, obsolete word processing technology) can no longer be read—not because the storage media of magnetic tapes or disks have failed but rather because the basic hardware and soft-ware required to read the storage media no longer exists. They generally require courts to convert them to microfilm or other

media for archiving. A few states have agreed to accept electronic court records when the court system has signed a guarantee that they will maintain forward compatibility of permanent court records. This can be accomplished either by requiring that any new automated applications be able to display and print documents created or maintained on the equipment and software the new applications are replacing, or, alternatively, that all old documents be converted to a format readable by the new equipment. In either case, the court is taking on a major additional commitment to pay attention to the integrity of its historical as well as of its current records.

CONNECTIVITY ISSUES

There are concerns regarding efficient, secure, and reliable communications among the courts and with AOC. At some point, consideration should be given to the feasibility of an independent transmission system under the control and direction of the judiciary and/or the state. This may involve laying DSL connections or T1 lines or contracting for dedicated transmission facilities.