

**Electronic Court Filing
Answers to Frequently Asked Questions (FAQs)
May 2004**

Q. Is there a signature on the document and can it be forged electronically?

A. Rule 3.4 discusses signatures on filed documents.

Rule 3.4. Documents Containing Signatures

(a) A document that is required to be verified, notarized, acknowledged, sworn to, or made under oath may be electronically filed only as a scanned image.

(b) A document that requires the signatures of opposing parties (such as a Rule 11 agreement) may be electronically filed only as a scanned image.

(c) Any affidavit or other paper described in Rule 3.4(a) or (b) that is to be attached to an electronically-filed document may be scanned and electronically filed along with the underlying document.

(d) Where a filer has electronically filed a scanned image under this rule, a court may require the filer to properly file the document in a traditional manner with the district clerk. A third party may request the court in which the matter is pending to allow inspection of a document maintained by the filer.

Filings are signed electronically by virtue of authenticating the filer through PIN and password controls. As with paper filings, signatures on e-filed documents could be forged since they are merely scanned copies of the paper document.

Q. Who confirms the state bar license?

A. A filer provides his/her state bar license number to TexasOnline at registration, prior to receiving the userid and password. TexasOnline may verify or confirm the number through the state bar.

Q. Why should the clerk be given the authority to turn down a document for filing?

A. Clerks have the authority to reject a filing that is misfiled, such as a filing in the wrong county or jurisdiction, or if rules do not allow the particular document to be e-filed, such as wills. Unlike with paper filings, clerks are guaranteed payment and do not need to worry about rejecting filings for insufficient funds, incorrect check amounts, or bad credit cards. TexasOnline guarantees payment of all fees for the filing, even if the filer uses a bad credit card. All fees are automatically deposited in the clerk's account if the filing is accepted. TexasOnline and the filer's service provider are responsible for collecting from the filer. The clerk gets paid in full for the filing and does not have to contact credit card companies or try to collect from the filer.

Q. What hidden costs to the county are there?

A. There are no known hidden costs. Minimum requirements are a computer with Internet connection. Potential costs could include an added case

management software interface module, which TSG has already developed for the El Paso District Clerk. You may also require a software modification for any document management system in use. All costs are recoverable through an e-filing convenience fee that currently runs about \$2.00 per e-filing transaction.

Q. What about pro se filings?

A. Pro se filers can register with TexasOnline and file through the service provider of their choice now.

Q. What about indigents?

A. JCIT, in coordination with the Texas Access to Justice Commission, has developed the requirement and processes for e-filing by and for indigent parties. Attorneys who e-file for indigent parties, as well as indigent pro se filers, will be able to file through a special service provider. JCIT's proposal to waive e-filing transaction fees is pending with the TexasOnline Authority.

Q. What are the benefits to attorneys?

A. Attorneys can e-file in any participating jurisdiction instantly, regardless of the hour or location. The costs to e-file are estimated to be less than traditional filings. Instead of driving to the courthouse, waiting in line, or sending documents by express delivery service, the attorney can use time more effectively and efficiently by e-filing. One solo practitioner estimates his e-filing savings as two hours per filing. Attorneys can also e-serve other parties in the case.

Q. Doesn't this help only out of town attorneys?

A. E-filing can help all attorneys, regardless of location. It can be used by local attorneys as well as those out of the area. Local attorneys do travel and may need to e-file in their home counties. A San Antonio attorney e-filed a motion successfully in Bexar County District Courts while in Dallas for a business meeting. It can save local attorneys time or expense in delivering documents to the local courthouse. E-filing puts all attorneys on a level playing field in meeting time and distance challenges.

Q. Why would they want to file electronically instead of by fax?

A. E-filing provides another means of delivering documents to the courthouse and it offers features not available in fax filing. Filers can pay associated filing fees as part of the e-filing transaction. Service providers offer electronic archive and electronic service features to filers. Filers receive a stamped copy of the filed document instantly. E-filing can offer a guarantee of meeting filing deadlines that may not be possible with busy fax lines.

Q. Doesn't this discriminate against attorneys who don't use computers?

A. Very few filed documents are expected to be handwritten or typewritten. Attorneys who do not use computers probably have legal staff who can use computers to prepare and file electronic documents. Attorneys who do prefer to

file handwritten or typewritten documents will probably not use e-filing, even though it remains an option for them through scanning.

Q. Doesn't this give unfair advantage to those can't make it to the courthouse by 5 p.m.?

A. As an added way to deliver filings to the clerk, e-filing affords all filers the ability to meet deadlines even when the courthouse is closed. E-filing provides County and District Clerks a means to accept last-minute filings without having to open their offices late at night, on holidays, and on weekends. One e-filer was able to meet a filing deadline on New Year's Eve even though the courthouse closed at noon.

Q. Doesn't it cost the attorneys additional money to file electronically?

A. There is a cost to file electronically. Filers will pay \$4.00 to TexasOnline and \$2.00 to the county. In addition, service provider fees can range from zero to about \$6.00, depending on the service provider and the services offered. The total cost should be in the range of \$6.00 to \$12.00. Traditional paper filing costs can be equal to or more than e-filing costs, without considering the staff time involved. Parking at some courthouses can be about \$10.00, parking tickets are \$35.00 in some cities, and gasoline is about \$2.00 per gallon and rising as this is being written. One solo practitioner estimates e-filing saves him two hours per filing.

Q. Is this still in the pilot stage?

A. No. The TexasOnline Authority approved a recommendation to end the pilot phase and move to statewide implementation on April 9, 2004.

Q. Are the Supreme Court rules going to change when it is taken out of the pilot stage?

A. Based on lessons learned during the pilot phase, the Judicial Committee on Information Technology (JCIT) has provided the Supreme Court proposed changes to local electronic court filing rules for the Court's consideration. Proposed changes include allowing local judges to require electronic filing and electronic service, allowing local judges to issue electronic orders, and allowing parties to elect to receive electronic service on a global (rather than case-by-case) basis. JCIT will also provide the Court with proposed changes to the Texas Rules of Civil Procedure to incorporate electronic court filing rules.

Q. What kind of format are they received in and can that be broken in order to see what changes have been made to it?

A. E-filed documents created with word-processing software are converted to Adobe portable document format (pdf) by the service provider for delivery to the clerk. Pdf does not show changes or edits made by the originator to a document that was originally created using MS Word (doc format). Converting the e-filed document from Adobe pdf back to MS Word doc format also does not allow

anyone to view changes or edits to the document that was originally created and edited using MS Word.

Q. Do you have to accept electronic documents into your software system already scanned and indexed?

A. If the Clerk's office uses a document management system, it should index the e-filed scanned documents to facilitate future access. The scanned document will arrive at the Clerk's office in either tiff or pdf format and will not have already been indexed when it is delivered by TexasOnline.

Q. Are there additional costs associated with integrating the image and index into our system?

A. TexasOnline e-filing delivers both word-processing documents and scanned images to the Clerk's office in either portable document format (pdf) or tiff format (selectable by the Clerk). If the Clerk's system can accept pdf or tiff formats, it should be able to accept and index e-filed documents. To be certain, please check with the vendor of the Clerk's system.

Q. Which other counties are currently accepting electronic documents?

A. As of May 7, 2004, Fort Bend, Upton, Bexar, El Paso, and Tarrant Counties accept e-filing. Harris, Dallas, and Travis Counties are expected to implement e-filing this summer. At least seven other counties have adopted local rules for e-filing. More than two dozen other counties have expressed an interest in accepting e-filed documents.

Q. Isn't it more trouble to accept a document that has already been scanned and indexed incorrectly than taking it across the counter and scanning and indexing it yourself?

A. Scanned documents that are e-filed will not have already been indexed when they arrive. The indexing is done by the Clerk's office. If the filer has entered incorrect docketing data for the filing, the data can be changed by the Clerk's office before the document is indexed. Feedback from a participating County Clerk indicates that it is less labor-intensive for the clerk's staff to accept and index an electronic document than it is to accept, index, and scan a paper document.