



**2008 BUSINESS REFORM COMMITTEES  
MATERIALS FOR THE BUSINESS COURTS  
STUDY GROUP  
MEETING ON TECHNOLOGY**

**JULY 23, 2008  
11:00 A.M.**

**Secretary of State's Office  
700 North Street  
Jackson, Mississippi**

## **MS Supreme Court website: E-filing and case management**

The Mississippi Supreme Court since 2004 has worked to develop a case management and electronic filing system for trial courts statewide.

Chief Justice Smith appointed a 24-member committee of judges, lawyers, clerks of the courts and members of other state agencies and charged them with the task of recommending guidelines for the development of a statewide case management and e-filing system. Presiding Justice William L. Waller Jr. is chairman of the E-Filing/Court Docket Management Committee.

In 2006, the Mississippi Legislature established a Comprehensive Electronic Court System Fund with a fee of \$10 assessed on all new civil case filings.

The 2006 legislation says the computerized case docket management and electronic filing system will be designed to:

- (a) Provide a framework for the seamless, transparent exchange of data among courts and with appropriate law enforcement, children's services and public welfare agencies.
- (b) Allow judges and prosecutors to determine whether there are holds or warrants from other jurisdictions for defendants prior to release on bail or otherwise.
- (c) Assist related agencies in tracking the court activity of individuals in all participating jurisdictions.
- (d) Assist child protection and human services agencies to determine the status of children and care givers in the participating jurisdictions.
- (e) Duplicate and preserve court documents at remote sites so that they may be protected against catastrophic loss.
- (f) Improve the ability of the Administrative Office of Courts and the state courts to handle efficiently monies flowing through the courts and to collect delinquent fees, fines and costs.
- (g) Enable the state courts and clerks to generate management reports and analysis tools, allowing them to constantly track individual cases and the overall caseload.
- (h) Provide a uniform system for docketing and tracking cases and to automatically generate status reports.
- (i) Enable the Administrative Office of Courts to acquire statistical data promptly and efficiently.
- (j) Make trial court and individual case dockets available to the public on-line through use of the Internet.

The Mississippi Supreme Court in June 2007 entered into an agreement with the Administrative Office of the U.S. Courts to study the feasibility of adapting the federal trial court case management and electronic filing system for use in state courts. Madison County Chancery and Circuit clerks are part of a test project begun in late 2007 to evaluate the federal court management and electronic filing system for use in state courts.

It is hoped that this project will lead to the development of a pilot program and ultimately to a statewide computerized case management and electronic filing system. Use of the docket management and e-filing system by the trial court districts will be voluntary.

From MS Supreme Court Annual Report 2007

**Court Administration—Electronic Filing and Case Management**

The Supreme Court has embarked on a major long range initiative to develop a uniform electronic case filing and court management system for distribution to the chancery and circuit courts and their respective clerk's offices. Strategic goals and policy standards have been adopted, and, with the assistance of the Department of Information Technology Services, the Court has completed a needs analysis based on interviews with representative judges and clerks. During the current year, the Court has entered into an agreement with the Administrative Office of United States Courts and, with a federal grant, is studying the electronic filing and case management system now used in the federal district courts to determine whether that system can be adapted to a state court system. This study should be completed in the early spring and, if the results are favorable, could lead to the adaption of the system for Mississippi with great benefit and cost savings.

## **Chief Justice says docket management and e-filing are his top priority**

For release July 18, 2005

Mississippi Supreme Court Chief Justice James W. Smith Jr. told lawyers and judges Friday that a broad-based effort is underway to create a statewide computerized court records filing and information sharing system.

The Chief Justice outlined plans for developing a uniform statewide system of docket management and electronic filing in state courts during his State of the Judiciary speech July 15 at the 100<sup>th</sup> Mississippi Bar Convention in Destin, Fla.

“This is the court’s number one priority at this time,” said Chief Justice Smith.

Chief Justice Smith also updated lawyers on the Supreme Court’s emphasis of timeliness in rendering all decisions, study of a possible class-action rule, and an ongoing review of security for courthouses.

“I pledged to restore integrity to the judiciary,” Chief Justice Smith said. “I am confident that our focus on a renewal of structure, order, timeliness in decisions, predictability of adhering to precedent law, and pursuit of true justice has, in fact, restored a very much needed appearance of integrity to our judiciary.”

Outlining developments in the area of docket management and electronic filing, Chief Justice Smith said a needs analysis survey of 10 Mississippi counties, ranging from urban to small rural areas, is expected to be completed by Nov. 1. Legislation is expected to be sought in January to assist in implementing the statewide program.

The office of the State Auditor secured funding for the needs analysis with a \$50,000 grant from the Department of Homeland Security. Chief Justice Smith noted that the involvement of the Auditor’s Office is just one example of the multi-agency effort. Agencies outside the judiciary stand to benefit from information sharing.

The E-Filing/Court Docket Management Study Committee includes representatives of the Department of Information Technology Services, the office of the Attorney General and the Department of Archives and History as well as judges of the Supreme Court, Court of Appeals, chancery courts, circuit courts and county courts, chancery and circuit clerks, court staff, a district attorney, a law professor and attorneys in private practice.

Chief Justice Smith said, “I’ve involved everybody who has shown an interest in this. I’m looking for every means possible to make this succeed.”

He’s also working to share information with other courts. Chief Justice Smith and Presiding Justice William L. Waller Jr., chairman of the E-Filing/Court Docket Management Study Committee, met on July 5 with leaders and judicial officials of the Mississippi Band of Choctaw Indians to share information about utilization of computer technology in docket management and electronic filing.

Chief Justice Smith will be the keynote speaker at 8:45 a.m. July 20 at the third annual Justice Symposium of the Mississippi Band of Choctaw Indians. He will speak about docket management and electronic filing.

During the Bar Convention, Chief Justice Smith recognized the efforts of judges and a court staff member who made significant contributions to the planning of a docket management and e-filing system. Recipients of the 2005 Chief Justice Awards are Presiding Justice Waller, Second District

Chancery Judge H. David Clark II, and Supreme Court Central Legal Staff Director Jack Pool. The annual awards recognize contributions of people whose work improved the judicial system. Chief Justice Smith, who announced the award winners Saturday, July 16, at the Bar Convention, praised all three men for their leadership and tireless work on the project.

Chief Justice Smith said he picked Presiding Justice Waller to head the E-Filing/Court Docket Management Study Committee because "I know he will get it done."

Judge Clark already has a successful computerized case management system in place in his district, which includes Scott, Newton and Jasper counties. He served as chair of the subcommittee which drafted goals and standards for case management and e-filing.

Pool worked closely with the committee. Chief Justice Smith praised Pool's dedication. "He is just a tremendous and valued individual who is able to do all of these tasks in addition to keeping up with the management of Central Legal."

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**Media Contact: Beverly Pettigrew Kraft, Administrative Office of Courts, 601-354-7452**

# Supreme Court adopts standards for electronic case management and e-filing

June 9, 2005

The Mississippi Supreme Court on Thursday adopted standards which will serve as the framework for developing a uniform statewide system of case management and electronic filing in state courts.

Mississippi Supreme Court Chief Justice James W. Smith Jr. said that case management and electronic filing is his number one priority. First, Chief Justice Smith and the Court's justices proceeded to clean up their own docket, and accomplished this goal by mid-October 2004.

Next, Chief Justice Smith appointed a 24-member committee of judges, lawyers, clerks of the courts and members of other state agencies and charged them with the task of recommending guidelines for the development of a statewide electronic filing and case management system for the trial courts.

Chief Justice Smith has sought inclusion of state officials and agencies in this project, which should jump-start a statewide network which ultimately will prevent duplication or waste of time, resources and funds for all these state agencies and counties involved in the system.

The E-Filing/Court Docket Management Study Committee submitted its report to the Supreme Court on May 13. The Supreme Court adopted the report by an order entered today.

Chief Justice Smith appointed Presiding Justice William L. Waller Jr. as chairman of the E-Filing/Court Docket Management Committee.

Presiding Justice Waller said, "The adoption of Strategic Goals and Policy Standards for data and case management and for electronic filing in Mississippi represents an important step to provide openness and accessibility to the judicial process."

"We need a statewide system that consolidates docket management, data management and e-filing into one system. The overall objective is to have a single, comprehensive data, case management and e-filing system statewide for all courts," Presiding Justice Waller said. "This would reduce delays and backlogs in the adjudication of cases. It would promote time and cost efficiency, and it would ensure consistency in judicial administration."

The May 13 report of the E-Filing/Court Docket Management Study Committee states that policy standards for case management and e-filing should contribute to greater convenience and efficiency in four areas:

- public access to case information;
- recording, docketing and reporting of data by court clerks and the Administrative Office of Courts;
- use of data by judges and their staffs in docket and case management;
- data exchange with other state agencies.

The policy standards call for shifting record-keeping from paper to an electronic format viewable and searchable via computer by the courts and the public. Access to data must accommodate privacy and confidentiality concerns. The system must have the capability to identify who accesses the data.

The data management system must provide for one-time data and docket entry. Filing systems must include a means to accept payments of fees, fines, surcharges or other financial obligations electronically.

In courts adopting electronic filing, the clerk will be prepared to scan newly filed paper documents into electronic format. Rules must be adopted addressing the special needs of litigants who are indigent or are representing themselves, who are illiterate, who don't speak English, or who lack the skills to use computers or lack access to computers.

Electronic filing systems must accommodate electronic filing of appeals.

A copy of the 12-page report of the E-Filing/Court Docket Management Study Committee is attached to the Supreme Court's order on the court's web site. To view a copy, go to [www.mssc.state.ms.us](http://www.mssc.state.ms.us), click on DECISIONS and go to the HAND DOWN LIST for June 9, 2005.

Approximately 27 chancery and circuit courts have no automation. Some districts, however, have already incorporated computerized docket management.

Chief Justice Smith noted that Chancery Judge H. David Clark II effectively uses computerized case and docket management in his district, which includes Scott, Newton and Jasper counties. He praised Judge Clark's leadership of a subcommittee which drafted the goals and standards for case management and e-filing.

No estimate is available yet of how much a statewide system would cost.

Chief Justice Smith said that funding will be sought from the Legislature as well as from grants and other sources to design and implement an electronic case management and e-filing system. Legislation may be sought in January 2006.

The next step is a needs analysis, which is expected to take three to four months. The office of the State Auditor has secured \$50,000 from the Department of Homeland Security to pay for the needs analysis.

State Auditor Phil Bryant said, "A uniform court docket management system is one of the most important challenges facing the state of Mississippi today. We must be able to track civil and criminal cases throughout the system. It is imperative that we invest our time and resources in the next few years to develop a statewide system available to all of Mississippi governing agencies."

David L. Litchlitter, executive director of the Mississippi Department of Information Technology Services, said his agency "is one hundred percent in support of the objectives and approach of the Supreme Court."

Litchlitter said, "We have all seen situations in which the implementation of disparate systems throughout the state have wasted scarce technology dollars and have complicated communications among various government entities, levels of government, and geographic regions of the state. I commend the Court for its unified, integrated approach to automation of e-filing and document management, and I see this project as a potential catalyst for the implementation of an affordable and comprehensive statewide communications network at the county level."

Litchlitter said, "ITS is looking forward to the opportunity to work with the courts in the requirements definition phase of this project. As input into this process, interviews will be conducted with a representative sample of court districts throughout the state, representing large metropolitan, medium sized urban and rural, and small rural areas. Requirements will also be collected from the Supreme Court, Administrative Office of the Courts, private attorneys, district attorneys, county courts, and the Department of Archives and History. I believe this formal documentation process, that will include representatives from each category of potential system users, is an essential next step toward acquiring and deploying technology that is the best fit for our state's current and future needs."

Presiding Justice Waller said, "The Supreme Court is aggressively moving to the next step of program development by working with the Department of Information Technology Services in conducting a case management and e-filing needs analysis. I appreciate the assistance of ITS Executive Director David Litchlitter in conducting the needs analysis, and the help of Phil Bryant, our State Auditor, and Ed Worthington, State Director of Homeland Security, who made funding possible. Full cooperation across agency lines and branches of government is necessary for our citizens to enjoy the benefits of a responsive, comprehensive digital system of court management, e-filing, and access by the public."

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**Media Contact: Beverly Pettigrew Kraft, Administrative Office of Courts, 601-354-7452**

West's Annotated Mississippi Code Currentness

Title 9. Courts

Chapter 21. Administrative Office of Courts

Creation and Duties of Administrative Office of Courts

→ § 9-21-14. **Comprehensive Electronic Court Systems Fund**

(1) There is created in the State Treasury a special fund to be known as the Comprehensive **Electronic Court Systems Fund**. The purpose of the fund shall be to provide funding for the development, implementation and maintenance of a comprehensive case management and electronic filing system, one of the purposes of which will be to provide duplicate dockets and case files at remote sites. The system will be designed to:

(a) Provide a framework for the seamless, transparent exchange of data among courts and with appropriate law enforcement, children's services and public welfare agencies.

(b) Allow judges and prosecutors to determine whether there are holds or warrants from other jurisdictions for defendants prior to release on bail or otherwise.

(c) Assist related agencies in tracking the court activity of individuals in all participating jurisdictions.

(d) Assist child protection and human services agencies to determine the status of children and caregivers in the participating jurisdictions.

(e) Duplicate and preserve court documents at remote sites so that they may be protected against catastrophic loss.

(f) Improve the ability of the Administrative Office of Courts and the state courts to handle efficiently monies flowing through the courts and to collect delinquent fees, fines and costs.

(g) Enable the state courts and clerks to generate management reports and analysis tools, allowing them to constantly track individual cases and the overall caseload.

(h) Provide a uniform system for docketing and tracking cases and to automatically generate status reports.

(i) Enable the Administrative Office of Courts to acquire statistical data promptly and efficiently.

(j) Make trial court and individual case dockets available to the public online through use of the Internet.

(2) Monies from the fund shall be distributed by the State Treasurer upon warrants issued by the Administrative Office of Courts.

(3) The fund shall be a continuing fund, not subject to fiscal-year limitations, and shall consist of:

(a) Monies appropriated by the Legislature for the purposes of funding the comprehensive case management and electronic filing system;

- (b) The interest accruing to the fund;
- (c) Monies received from the federal government;
- (d) Donations; and
- (e) Monies received from such other sources as may be provided by law.

(4) The Supreme Court may utilize and fund as a pilot program any case management and electronic filing system of the Three Rivers Planning and Development District or that of any county or vendor that complies with the data and case management and electronic filing policy standards adopted by the Supreme Court. No statewide comprehensive case management and electronic system shall be implemented by the Mississippi Supreme Court unless such system is approved by the Legislature.

CREDIT(S)

Added by Laws 2006, Ch. 573, § 1, eff. July 1, 2006. Amended by Laws 2007, Ch. 385, § 1, eff. July 1, 2007.

HISTORICAL AND STATUTORY NOTES

The 2007 amendment, in subsec. (4) in the first sentence, substituted "may utilize and fund" for "shall utilize".

Miss. Code Ann. § 9-21-14, MS ST § 9-21-14

Current through all 2007 Sessions and Chs. 302, 309, 312, 373 and 376 of the 2008 Reg. Sess.

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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 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.

## 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.