

Electronic Court Filing in the State of Texas

By Cathy Smith and Terry Ross

Our judicial system has long been fraught with the relentless processing of paper, but after 150 years of traditionally filing court documents, the legal community is delighted with the technological solution to the proverbial paper trail. Electronic filing, more commonly known as “e-filing” is becoming prevalent in counties across Texas and is providing a simple, cost effective way for attorneys to conduct business and serve their clients in a timely manner.

THE HISTORY

Texas was fortunate in that two counties pioneered the e-filing trail in the mid-1990s. The district courts in Jefferson County initiated e-filing in 1995 to cope with the large number of filings in multi-party lawsuits. The county contracted with a local e-filing service provider to process the filings. Its judges adopted rules which allowed them to require e-filing in selected cases and further provided that filers must use the county’s contracted vendor. The process was proving successful and therefore, Montgomery County followed suit two years later in 1997 to ease its paper burden. Overall, the systems and technology worked well and the information learned from the Jefferson and Montgomery models proved to be invaluable to the impending statewide project.

Initially, the Texas Legislature established the Supreme Court’s Judicial Committee on Information Technology (JCIT) as the leader in defining the Texas e-filing model. The JCIT’s purpose was “to develop minimum standards ... provide for the electronic flow of information within the judicial system and recommend rules for electronic filing of documents with courts.” The legislature also created TexasOnline (www.texasonline.com), a partnership between the State of Texas and BearingPoint, its e-governmental portal manager. It is the official electronic government hub for the state. The legislature requires state agencies to use this portal for their e-government services and, therefore, Texans may now register their vehicles; renew licenses; pay utility bills, taxes, and fines; and most recently, e-file court documents through this medium.

The JCIT presented its draft rules to the Texas Supreme Court in October 2002 and the court, along with clerks, judges, attorneys, legislators, law professors, and information technology experts, worked for more than six months to produce the proposed e-filing rules. The court also modified the Texas Rules of Civil Procedure to establish permanent rules for e-filing. The significant changes include:

- A user password and signature ID replace an attorney’s physical signature.
- As soon as an electronic document is uploaded to the Electronic Filing Service Provider (EFSP), it is considered filed with the court (not accepted, but filed).
- Only civil case documents can be e-filed, although exceptions have been made.
- Documents must be converted to a court-approved format, typically, PDF format.
- Documents may be filed twenty-four hours a day.



Case File Xpress and BearingPoint came to BBWCDF on March 16th to present Derek Freitag with an award for filing 76 pleadings in January—the most e-filings in the State of Texas for that month.



Derek Freitag with (left to right): BearingPoint representative, Mike Griffith, Operations Manager, Eric De Palma and CaseFileXpress representative, Tammy Carter. In addition to his award from CaseFileXpress and BearingPoint, Derrek received a special basket of goodies from BBWCDF to thank him for his outstanding work.

In January 2003, the State of Texas launched its pilot program to establish the systems and processes for e-filing court documents. The pilot program ran through March 2004 and, given its success, concluded with the decision to implement e-filing statewide. TexasOnline serves as the court’s Electronic Filing Manager (EFM), and commercial vendors act as the EFSPs. The service provider must be certified by meeting technical standards, and as of March 2006, there were seven certified providers in Texas.

THE PROCESS

E-filing is almost as simple as sending e-mail but is more secure and reliable. Filers access their EFSP’s web site and simply follow the instructions. Documents are uploaded from the filer’s system and filed with the district or county court almost instantaneously. The filer and the attorney of record receive emails confirming that the document has been filed with the court. Documents may be filed twenty-four hours a day from any Internet access point.

The first filing in Tarrant County, Texas (Fort Worth) was made on May 3, 2004, by Michael C. Barrett, managing partner with the law firm Barrett Burke Wilson Castle Daffin & Frappier, L.L.P. (BBWCDF). Mr. Barrett followed the simple procedures on the CaseFileXpress Web site (Texas’ first approved EFSP), filed an Authenticated Secured Claim from his Addison, Texas office, and within a few seconds, the Tarrant County Clerk received the document and returned his file stamped copy. The process formerly required sending a courier or driving to the courthouse to deliver a document before the daily 4 p.m. deadline. “I’m amazed at how easy, straightforward, and fast e-filing is,” Mr. Barrett said. “I look forward to more counties going online so we can take advantage of e-filing across the state. This has the potential to save our firm a lot of time processing paper.” Since this filing, the number of Texas counties implementing e-filing has increased from four to twenty-three, with another eighty of

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the 254 Texas counties currently adopting local rules and coordinating the processes.

THE RESULT

There are many benefits to using the e-filing process and all are being realized daily at BBWCDF. The ease of use and the twenty-four hour court access has increased productivity while decreasing copying, packaging, and mailing costs. Recently, Derek Freitag, an employee at the firm, was recognized by BearingPoint and TexasOnline, as the top e-filer in the State of Texas for January 2006. Although the firm e-filed over 240 pleadings, Derek personally e-filed seventy-six pleadings for two BBWCDF attorneys in one month. Another example of the convenience and efficiency of e-filing is the first filing in Bexar County, Texas (San Antonio). The filing was made by an attorney using the wireless network at a Starbucks. While in Arizona, another attorney beat a filing deadline by e-filing a document to an El Paso, Texas court and a third attorney, whose

flight was delayed by bad weather, filed his pleading with a Harris County (Houston) court from the airport terminal.

Although e-filing can reduce the number of work hours and employee resources needed to print, fold, and mail hundreds of court documents each week, the most important advantage is the amount of time saved moving documents and pleadings through the judicial system and its affect on client service. In the past, a Home Equity Foreclosure Application mailed to the court might have taken up to two weeks to be returned to the firm with a file-stamp affixed to it. When that same application is e-filed today, the time spent waiting for the necessary file-stamped copy has been reduced to one day or even a few hours in some cases. The reduction in the amount of time between filing the initial pleading and moving forward to obtain the order can mean the difference in as much as a month in completing a home equity foreclosure. The simple choice to e-file pleadings is providing the client with one of the most valuable advantages in the foreclosure process – time.