



INGHAM COUNTY BAR ASSOCIATION

BRIEFS

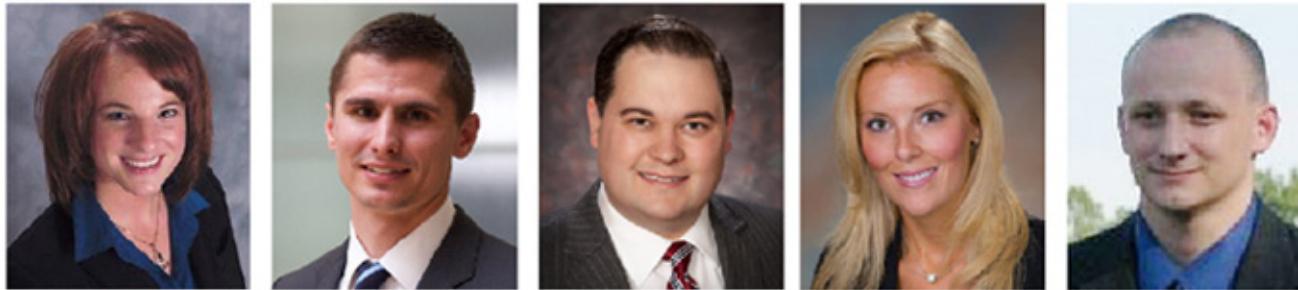
MARCH 2016

FULL HOUSE AT BENCH/BAR

[Page 12](#)



TOP 5 UNDER 35



PRACTICING LAW
DOWN UNDER

[Page 15](#)

E-FILING FEE
CHANGES

[Page 18](#)

MENTAL
HEALTH COURT

[Page 24](#)

JUVENILES WITH
LIFE SENTENCE

[Page 27](#)



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New laws pave way for statewide e-filing system and fees

A series of laws that authorize and provide funding for the Michigan Supreme Court and the State Court Administrative Office (“SCAO”) to establish a statewide electronic filing (“e-filing”) system recently went into effect. Generally, Public Acts 230 through 235 of 2015 mandate that court clerks collect an e-filing fee when civil cases are commenced, establish the Judicial Electronic Filing Fund that will be used to create and maintain a statewide e-filing system, authorize the Michigan Supreme Court to choose an e-filing vendor, and allow court clerks to request access to the statewide system from the Michigan Supreme Court. The new laws are codified at MCL 600.176, MCL 600.1985-1989, and MCL 600.1990-1993.

Prior to the enactment of these laws, there was no statewide e-filing system for Michigan courts. Some counties, such as Oakland and Wayne, have offered e-filing for a number of years, as have the Michigan Supreme Court and Michigan Court of Appeals. Some states, such as New York, have offered statewide e-filing for over a decade, and at least one federal court allowed attorneys to e-file as early as 1996. Federal courts nationwide began implementing e-filing systems starting with bankruptcy courts in 2001. However, there is not a universal federal e-filing system as individual courts have the authority to develop their own system and local rules. Currently, federal courts are upgrading to a next generation (NextGen) Case Management/Electronic Case Files (CM/ECF) system.

When reached for comment, John Nevin, Communications Director for SCAO, stated that: “The Michigan Supreme Court and State Court Administrative Office are implementing technologies that help courts be more efficient while increasing access and convenience for users. Statewide e-filing will help accomplish those goals by increasing the ability of courts to manage documents electronically and allowing users to file anytime, anywhere, without having to make copies, drive to court, find parking, and

stand in line at the counter.”

As of March 1, 2016, the new e-filing fees must be collected by court clerks when a civil action is filed. The fee will be collected when a civil action is commenced, whether or not the action is filed electronically, and will be forwarded to a fund for the creation and maintenance of the statewide e-filing system. Any e-filing fee paid by a prevailing party is a taxable cost. The new fees are as follows:

- \$25.00 for civil actions filed in the supreme court, court of appeals, circuit court, probate court, and court of claims.
- \$10.00 for civil actions filed in the district court, including actions filed for summary proceedings.
- \$20.00 for civil actions filed in district court if a claim for money damages is joined with a claim for relief other than money damages.
- \$5.00 for civil actions filed in the small claims division of district court.

If a filing fee is waived by a court due to indigency or inability to pay, then the e-filing fee shall also be waived. Further, governmental entities are exempt from paying the e-filing fee. No other fees may be charged in a civil action specifically for e-filing and no party can be required to e-file a document unless directed to do so by the Michigan Supreme Court. The new e-filing fee may not be collected after February 28, 2021.

SCAO estimates that the new e-filing system will cost between \$40 and \$45 million over the next five years, and that the filing fees will generate approximately \$41.5 million over that same time period. If the new e-filing fund is insufficient to pay for the system, then the remainder will be covered by General Fund/General Purpose moneys.

According to Barb Byrum, Ingham County Clerk and Clerk of the 30th Circuit Court, “The Office of the Ingham County Circuit Court Clerk accepts filings in paper form only. The new electronic filing system will go far to ramp up efficiencies so that customers will be better served and bring the Office into the 21st Century. That being said, the system’s integration with the Circuit Court Clerk’s Office will require careful planning and tireless dedication on the part of the deputy clerks and other staff. The \$25.00 fee is designed to cover the expense of the new statewide system, but we will need to be cognizant of the costs that will likely be heaved on the County to cover, which the Legislature did not address in this new law.” □

For more information, the State Court Administrative Office has made a number of materials regarding the new e-filing system available online. □

Civil filing fee increase effective March 1

Starting March 1, the 54-A District Court will be required to collect an additional “electronic filing system fee” in addition to the regular filing fees at the time a case is filed.

The new fees are:

- \$10 for civil actions, including summary proceedings (landlord-tenant).
- \$20 for cases filed with a claim for both money damages and another type of relief.
- \$5 for small claims cases.

The above amounts are in addition to the statutory filing fee, according to a 54-A District Court release.

The court will not be able to accept new cases without the additional fee paid at the time of filing.