The Circuit Court
for the Sixth Judicial Circuit of Michigan
COURTHOUSE TOWER
PONTIAC, MICHIGAN 48341-0404

JOAN E. YOUNG
CIRCUIT JUDGE

Telephone
(248) 858-5282

January 2, 2003

Supreme Court Clerk
P.O. Box 30052
Lansing, MI 48909

Re: Proposed Electronic Filing Standards
File No. 2002-37

Dear Clerk:

The Oakland County Circuit Court urges the adoption of the proposed Electronic Filing Standards and that similar standards be adopted for use by Michigan courts.

Comments provided by the Circuit Court and the Department of Information Technology, specifically relating to the proposed Electronic Filing Standards are contained in the attached documents. The Circuit Court also submits the following suggestions/comments regarding the electronic filing process:

- In order to avoid the implementation of disparate E-Filing systems throughout the state, the Supreme Court should consider limiting the E-Filing service providers to one approved vendor. (Similar to the process implemented with respect to JAVS being designated as the sole provider of video recording services for Michigan courts.)

- In the event that courts elect to develop in-house E-Filing systems, guidelines and business practices similar to that of the approved vendor should be required.

- Any E-Filing systems approved by the Supreme Court should be non-proprietary, having an open architecture to allow for the maximum number of users across jurisdictional boundaries.

In addition, we believe that the Oakland County Circuit Court should be involved in the development of electronic filing standards for Michigan Courts because of the following factors:

- The high volume of cases filed within the Oakland County Circuit Court.
- The large number of attorneys practicing within our jurisdiction who have expressed an interest in the electronic filing process.
- The Oakland County Clerk's interest in pursing electronic filing; and
- The high-level of technical expertise that exists within Oakland County's Department of Technology

Oakland County Circuit Court looks forward to the development of electronic filing standards that will enhance Michigan's judicial system and provide greater service to the public and the legal community.

Sincerely,

Hon. Joan E. Young
Chief Circuit Judge

Copy: Kevin Oeffner, Circuit Court Administrator
G. William Caddell, County Clerk/Register of Deeds
Phillip Bertolini, Director – Department of Information Technology

OAKLAND COUNTY CIRCUIT COURT'S COMMENTS
REGARDING THE PROPOSED
STANDARDS FOR ELECTRONIC FILING PROCESSES

NOTE: It is difficult to provide comments on the proposed standards without first knowing what business model Oakland County intends to follow with respect to electronic filing.

The following are the Court's comments regarding the proposed standards:

SECTION 1 - POLICY STANDARDS

- **1.1E Self-Contained Documents**

  It should be clarified that two types of hyperlinks exist – those to links outside a document and those within a document. The latter should be encouraged so that an attorney has the ability to file a completely electronic pleading. It would also benefit the judges in that the hyperlinks with the filed document would permit an immediate link to the case cited.

- **1.1J Surcharges for Electronic Filing**

  It seems highly unlikely that a court would be able to provide electronic filing for free – especially if the system is developed in-house and court/clerk staff are providing technical support to the legal community and public.

- **1.2D Availability of Electronic Filing Process**

  The standards states that "if courts are not using an automated process for docket update without clerk review, filing can only occur when court staff are working."" This would substantially reduce an attorney or litigant's ability to file on a 24/7 basis and substantially reduce the potential benefits of e-filing.

- **1.3H Archiving Electronic Documents**

  Maintaining outdated equipment in order to provide archived data in a readable format may prove to be very costly for courts/clerks.

SECTION 2 – CONCEPTUAL MODEL

- **XML Standard 6 (Page 52)**

  This standard, which calls for "incorporation of transcripts, full citation and research information and other value added elements into electronic case file processing" seems to contradict Policy Standard 1.1E 1.1E Self-Contained Documents, which prohibits the filing of a document containing links to documents or references not included in the pleading itself.

SECTION 3 – FUNCTIONAL STANDARDS

- **3.7 Case and Document Confidentiality**

  The standard states that "it does not endorse, anticipate or require redaction of individual data fields within documents" but rather suggests that the entire electronic document be made confidential. Without allowing the redaction of specific data fields (i.e., social security number, etc.) this provision would require a large number of pleadings to be made inaccessible. One would think that with the XML technology available that the redaction of specific data elements would be possible, rather than rendering entire pleadings confidential.

- **3.8 Acceptance and Rejection of Filings**
  Subfunction 3.8.4

  As with Standard 1.1E Self Contained Documents, it should be clarified that two types of hyperlinks exist – those to links outside a document and those within a document. The latter should be encouraged so that an attorney has the ability to file a completely electronic pleading. It would also benefit the judges in that the hyperlinks with the filed document would permit an immediate link to the case cited.

OAKLAND COUNTY DEPARTMENT OF INFORMATION TECHNOLOGY'S COMMENTS REGARDING THE PROPOSED STANDARDS FOR ELECTRONIC FILING PROCESSES

- If the Michigan Supreme Court adopts the Electronic Filing Standards Oakland County Information Technology could support the proposed standards and in many cases already does given the current e-commerce platform in place. However, a long-term commitment from Oakland County would be required to provide the resources to implement electronic filing including development costs, infrastructure costs, hardware costs, and long-term support of improvements and maintenance.

- The proposed Electronic Filing Standards reference additional Federal and judicial standards that are currently under development. For example, the Web interface standard being set at the Federal level is under development as well as the Policy on Data Access. These standards provide more potential for impact to courts implementing electronic filing, including Oakland County Information Technology. In particular Information Technology and Court Policy and Procedures will need revision to include electronic filing functions.

- The Electronic Filing Standards described an open, architecture environment that relies on continued innovation. In other words, the standards will need to be put to the test since no court has had the benefit of implementing electronic filing using the proposed standards.

- Before Oakland County commits to a direction regarding electronic filing, it is recommended that the user community and Information Technology embark upon a Business Process Review (BPR). The purpose of the BPR would be for Oakland County to define existing practices (As-Is Model of case initiation procedures), define desired practices (To-Be Model), identify needed statute and administrative and court rule changes required, and build a business case that supports the investment required to undertake the effort.

- The To-Be Model should include conscious decisions by the user community to an acceptable level of business practice changes to which management is willing to support and commit. All research completed involving electronic filing has revealed the caution that Electronic Filing is NOT a technology project, but a tremendous business practice project.