



Michigan Supreme Court

State Court Administrative Office
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Milton L. Mack, Jr.
State Court Administrator

MEMORANDUM

DATE: January 4, 2016

TO: Judges
cc: Court Administrators
Probate Registers
County Clerks
Case Management System Vendors

FROM: Milton L. Mack, Jr., State Court Administrator

RE: Frequently Asked Questions: Electronic System Fee Legislation

In response to numerous questions regarding e-filing legislation we provide the following information to assist courts.

Q1: Does the legislation increase civil action filing fees?

A1: No, the legislation does not increase civil action filing fees. The legislation authorizes an additional electronic filing system fee which, upon commencement of a *civil action*, is charged to a party filing the civil action. This electronic filing system fee does not go into effect until March 1, 2016. ([JIS Courts: Please refer to the memo regarding cash codes dated December 18, 2015.](#)) The term *civil action* is defined in [PA 230](#) (to be codified at MCL 600.1985) and specifically excludes criminal cases, civil infraction actions, proceedings commenced in the probate court under MCL 700.3982, and proceedings involving juveniles under Chapter 12A of the Probate Code (MCL 712A.1 *et seq.*).

Q2: When an appeal is filed, is the electronic filing system fee charged to the party filing the appeal?

A2: No, the electronic filing system fee is not charged on an appeal. The electronic filing system fee is only charged once per case when the case is originally filed.

Q3: Does the court charge the electronic filing system fee when a motion, garnishment, or subpoena is filed in a civil action?

A3: No, the electronic filing system fee is only charged when the civil case is commenced. It does not apply to other filings that take place after the civil case is initiated.

Q4: Does the legislation regulate third-party vendor transaction fees that vendors charge directly to users to make credit card or debit card payments on civil infraction or criminal matters?

A4: The legislation speaks to fees specifically charged for electronic filing, so it does not regulate vendor systems that facilitate payment of civil infraction or criminal matters.

The legislation specifically authorizes three fees that may be charged to the party filing a civil action: (1) an automated payment service fee, (2) an electronic filing system fee, and (3) a per transaction fee (which is only applicable to e-filing pilot courts). An automated payment service fee is one that is charged *to the court or the court's funding unit* by the bank or other electronic commerce business for processing the automated payment. The third party vendor system does not fit the description of an automated payment service fee because neither the court nor its funding unit is being charged a fee. If your court is not an e-filing pilot court, then the "per transaction" fee does not apply.

For example, under this legislation, a person filing a new general civil case and paying by credit or debit card would pay for the initial filing fee of the case, plus the electronic filing system fee and an automated payment service fee that cannot exceed 3 percent of the automated payment or the actual merchant transaction fee, whichever is less, if the court is being charged a fee by the bank or other business for processing the payment. Unless the court was also an e-filing pilot court, no other fees could be assessed to the party.

Q5: The legislation provides that the clerk may accept automated payment of "any fee" being paid to the court. Does that mean that it may pass on the credit or debit card processing fee to a customer whenever an automated payment is made to the court?

A5: The legislation allows a court to accept automated payment of any *fee* being paid to the court, and allows a court to charge the person paying the fee an additional automated payment service fee (commonly understood as a "credit card fee") if the court or funding unit pays that service fee. This service fee could be assessed on payments for any fee, which would be those charges designated by statute as a "fee," but would not include fines, costs, or any charge designated as something other than a fee. The amount of the automated payment service fee is limited to 3 percent of the automated payment or the actual cost charged to the court or its funding unit to process the payment, whichever is less.

Q6: How do courts apply to get access to and use of the electronic filing system?

A6: As the system is developed and tested over the coming months, a process will be created to allow new courts to integrate with the statewide system.

Q7: Can my court start e-filing now?

A7: Not until your court has been given permission from the Michigan Supreme Court. See PA 233 (to be codified at MCL 600.1991). At this time only those courts with MSC Administrative Orders are allowed to accept e-filed documents.