



TECHGEAR

The Blackberry Playbook tablet (from \$499) sports a seven-inch screen, built-in support for Flash and HTML 5, front and rear-facing cameras, and its own OS. At launch, enterprise email required tethering to a separate Blackberry phone.



WEBLINKS



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Physorg.com

I learn something new and amazing every day on this site, which covers science, research, and technology news. I love its medicine and health section, but it covers many other geeky topics, including physics, nanotechnology, space, biology, chemistry, engineering, mathematics, and other sciences and technologies.

DailySquee.com

Everyone needs a little squee in their day. These adorable animals with funny captions will make you smile and say, "squee!" when your day is dragging or you need a break from the serious endeavors of law.

Postsecret.com

PostSecret is a collection of postcards where people share their secrets anonymously. Some are funny, while others are serious. Part of the idea behind PostSecret is to address suicide, letting people see that they are not alone.

Thinkexist.com

This is a great place to find quotations. I often use this site to search for quotes to include in cards or letters I send to friends and family.

E-Filing in Appellate Courts

BY D. TODD SMITH

For years, technologically savvy appellate lawyers have wondered when appellate courts will catch up with trial courts on electronic filing. Although appellate courts are still lagging behind, the digital gap is closing.

Regular practitioners in the U.S. Fifth Circuit Court of Appeals are already accustomed to electronic filing, as that court launched a mandatory e-filing initiative more than a year ago. Unless excused for good cause, counsel or an approved designee must register under Fifth Circuit Rule 25.2.3 and comply with standards posted to the Electronic Case Filing (ECF) information page on the Fifth Circuit's website (www.ca5.uscourts.gov). By registering, a lawyer consents to electronic service of all documents.

More recently, the Texas Supreme Court released amendments to the Texas Rules of Appellate Procedure that allow appellate courts to adopt rules permitting or requiring e-filing or electronic copies of court documents. Amended Rules 9.2 and 9.3 were open to public comment through May 31, and, with any modifications, will take effect June 30. Meanwhile, the Supreme Court has adopted e-filing and e-copy rules and — along with four intermediate courts of appeals — has begun to accept filings through www.texas.gov, the web portal that currently enables e-filing in trial courts set up to receive it. After selecting and registering with a third-party electronic service provider, parties may submit PDF documents to the Texas Supreme Court, the 1st, 3rd, 5th, or 14th courts of appeals, and other registered users for filing and service.

Note the subtle, but important, distinction between the concepts of e-filing and e-copies. The Supreme Court has required e-copies since early 2010, when it issued an order that parties must email PDF versions of just about every kind of filing to the clerk and opposing counsel, in addition to traditional papers filed in the clerk's

office and delivered to the other parties. A number of other state appellate courts have accepted e-copies on a courtesy basis for some time, with one actually requiring parties to submit electronic versions of briefs. Before the Supreme Court's recent order, however, there was no state-court equivalent to the Fifth Circuit's ECF program.

Both the Fifth Circuit and the Supreme Court have imposed sensible rules concerning the types of PDF files they will accept. For briefs and motions, the user must generate searchable PDF versions from the desktop, meaning that simply scanning printed briefs is not permitted. Appendices and similar submissions may be scanned if necessary, but must be made searchable using optical character recognition (OCR) software. Aside from the general mechanics of filing an electronic document and the additional costs associated with electronic service providers, these are the more significant adjustments lawyers and staff must make when using these systems. Fortunately, both the Fifth Circuit and the Supreme Court websites link to guides for creating e-briefs. The materials available at www.supreme.courts.state.tx.us are particularly helpful.

Unlike the Fifth Circuit, the Supreme Court's e-filing program is voluntary; those who do not wish to e-file may fall back on the traditional paper method, but still must send e-copies of most filings to the clerk the same day the paper copies are filed. E-copies must meet the same standards as e-filed documents. State appellate-court e-filing is expected to become mandatory as well.

The original plan was to bundle e-filing functionality into the Texas Appeals Management and E-Filing System (TAMES) project, which received significant funding two legislative sessions ago. Because the TAMES rollout dates have been pushed back repeatedly, the Supreme Court separated e-filing from TAMES to make it available



sooner. Once implemented, TAMES will automate some internal court processes, enable users to view court documents online, and replace regular mail as the appellate courts' official event notification system.

More changes may be coming. Since the Supreme Court issued its rules amendments, the Judicial Commission on Information Technology (JCIT) and the Texas Office of Court Administration (OCA) have issued a request for information about products and services available to support statewide e-filing efforts. The JCIT may use the information it collects to request formal proposals for the development of a single, unified e-filing system for Texas courts. Legislation is in the works for funding such a system, which could include a central portal for accessing all Texas court records.

E-filing and e-service — particularly if mandatory — should raise awareness of the possibility of paperless appellate practices and appellate courts. But a lingering resistance to letting go of paper has hindered any such development. After a brief or motion is submitted electronically and accepted for filing, the Fifth Circuit clerk's office generates an e-letter instructing counsel to tender seven paper copies of the document, as Fifth Circuit Rule 31.1 and ECF Filing Standard E.1 require. Similarly, Supreme Court E-Filing Rule 8 requires parties to file two paper copies of most documents within one business day after a document is e-filed.

The Fifth Circuit and Texas appellate e-filing programs have a number of potential benefits over the old systems, including the streamlining of office procedures and resources, more efficient distribution to appellate justices, and better management of court dockets in the face of dwindling budgets and human resource constraints. The latter group of benefits can only be realized through development of an infrastructure capable of managing large amounts of data and helping the courts use it more efficiently. The JCIT appears to be taking some preliminary steps toward designing that sort of system.

From the practitioner's viewpoint, continuing to require paper submissions undermines some of the advantages appellate e-filing has to offer. The next generation of federal and state e-filing systems, whatever their form, should enable courts to abandon paper copies entirely. ❖



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