

To: Michigan House Judiciary Committee

From: Michigan Creditors Bar Association (MCBA)

Re: MCBA Position Regarding the Delay of Statewide Efiling in Michigan

Date: March 8, 2022

MCBA: The Michigan Creditors Bar Association, established in 1994, is composed of 35 law firms who specialize in the legal collection of debt.

For the past 28 years, MCBA has worked cooperatively with this Legislature and the Supreme Court to draft and support billsⁱ and court rulesⁱⁱ which have clarified and improved debt collection practices in Michigan.

Debt collection lawsuits are the majority of civil cases filed in District Courts which have a jurisdictional limit of \$25,000.

The Creditors Bar seeks information and transparency regarding the \$41,683,887.00 in efilings fees which courts have collected and deposited into the Judicial Electronic Filing Fund, of which SCAO has expended \$32,225,436.00 over the past five years.

We pledge to work with the Supreme Court to expedite implementation of statewide efilings in Michigan, and we ask that its staff work with us to address the needs of the public, the courts and our members, all of whom would greatly benefit from this 21st century technology.

History and facts re Efilings:

1. In 2006 the Michigan Supreme Court authorized five “pilot project” courts to establish their own separate efilings systems and charge filers with fees.
2. In 2015 the Michigan Supreme Court estimated that it would need \$40 million to create a statewide efilings system for all courts.
3. In that same year, MCBA worked cooperatively with the Court’s then Chief Counsel, Joe Bauman, to draft and lobby for legislation establishing a statewide efilings system.
4. In 2016 the Michigan Legislature passed six bills establishing the Judicial Electronic Filing Fund (JEFF) to finance the \$40 million SCAO needed for a statewide system. These bills increased filing fees by \$25 in Circuit and Probate Courts and \$10 in District Courts. ⁱⁱⁱ
5. The new law included a “sunset” date of February 28, 2021^{iv}, after which court clerks could no longer collect the electronic filing fees. The purpose of the sunset date was to require an accounting of those funds and to ensure transparency in their expenditure.

6. However, in 2019, the MSC was successful in petitioning the Legislature to extend that sunset to 2031^v without any accounting of funds collected or how they were used.
7. Those electronic filing fees have generated \$41,683,887.00 through September, 30, 2021.^{vi}
8. The State Court Administrator Office (SCAO) has expended \$32,225,436.00 of those funds as of September 30, 2021.^{vii}
9. Michigan has 230 courts. Among them are 105 District Courts where most Michigan citizens find themselves when in court... be it a traffic ticket, a landlord tenant matter, or, most commonly, a debt collection lawsuit. The other 125 courts are Circuit and Probate.
10. Twenty-five states already have statewide efilng systems, ^{viii} as well as the District of Columbia and Puerto Rico. Nine states have 33-50% of their counties on efilng. ^{ix}
11. Michigan has only eight courts on its MiFILE system,^x which is less than 1% of the 230 courts in our state.
12. SCAO has not reached out to MCBA for its input or assistance since we had a meeting with its staff in June of 2019.

The benefits of immediate implementation of efilng:

1. Benefits to counties and local funding units:

- a. Michigan courts are continuing to waste time and money sorting mail, paying postage, and processing payments by check.
- b. Efilng would eliminate these problems by reducing the cost of labor, postage, paper, toner, copy machines, etc, which would benefit those counties and cities who finance their local courts.
- c. Efilng permits electronic payment of filing fees which is more secure and eliminates the need for clerks to post payments and deposit checks.

2. Benefits to Michigan citizens and litigants:

- a. Efilng expedites the filing of documents, electronic payment of fees and the issuance and delivery of court orders to parties.
- b. Michigan citizens would get their cases resolved more quickly, which is of paramount concern in divorce and family matters.
- c. Judgment debtors would benefit by the prompt resolution of their cases, including expediting release of garnishments when they make payment arrangements or settlements.

Goal: transparency now and efilng tomorrow, not in 3 years.^{xi}

Michigan deserves to have an accounting of the \$32,225,436.00 expended by SCAO.

Michigan deserves have efilng implemented now.

Michigan District Courts that need funds for training and to upgrade their technology should be given money from the JEFF as allowed by the statute, MCL 600.1991.^{xii}

MCBA is ready and willing to help complete this project, but is concerned about the delay and lack of transparency.

Respectfully submitted,

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ⁱ Uniform Enforcement of Judgments Act (1996,) Judgment Lien Act (2004,) Amendments to Michigan's garnishment laws (2015,) Six bills establishing and financing statewide efilng (2016.)

ⁱⁱ MCR 3.104 governing installment payments, MCR 2.603 clarifying entry of default judgments, MCR 2.112 clarifying requirements for debt collection pleadings (2009,) MCR 3.101(R)(2) and 2.625 clarifying garnishment costs (2018.)

ⁱⁱⁱ The bills, once passed and signed into law, became MCL 600.176, 600.1985,1986,1987,1988, 1989,10901991, 1992 and 1993.

^{iv} MCL 600.1993

^v PA 40, 2019

^{vi} See attached Addendum 1 for years 2016 through 2021.

^{vii} Addendum 1 shows that of the \$42,683,887 collected, there is a remaining balance of \$9,458,051 as of September 30, 2021.

^{viii} Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Massachusetts, Minnesota, Nebraska, New Hampshire, New Jersey, New Mexico, North Dakota, Oregon Rhode Island, South Dakota, Vermont. Information obtained from the National Creditors Bar Association.

^{ix} Maryland, California, Ohio, Texas, Mississippi, Tennessee, Arizona, Nevada, and Washington.

^x Source: MiFILE – Backgrounder, February 2021. Of these, five are the former "pilot project" courts in Wayne, Oakland, Antrim, Macomb and Ottawa courts. Three are "Model Courts": 22nd Circuit Court in Washtenaw, the 37th District Court in Warren, and the 70th Probate court in Ottawa County.

^{xi} MiFILE Backgrounder, February 2021 projected 50-75 courts per year beginning in 2022.

^{xii} MCL 600.1991, provides that a Michigan court may apply to the Supreme Court money from the judicial electronic filing fund to "...pay the costs of technological improvements necessary for that court to operate electronic filing."

