



## Electronic Filing of Civil Cases at the State Courts

by Hon. Gary Chang, Velma Kam, and Mark Santoki

The state courts continue to transform the way the Judiciary conducts business by moving from primarily paper-based systems to electronic filing (“efiling”) and processing.

The Judiciary Information Management System (“JIMS”) will launch efiling for District and Circuit Court civil cases beginning on October 7, 2019 and October 28, 2019, respectively. With that, the Judiciary moves closer to its goal of providing attorneys and the public with the benefits of an integrated statewide case management system featuring efiling for all courts and case types.

By using efiling, attorneys will be able to:

- Electronically file court documents virtually 24/7.
- Initiate cases and submit filing fee payments online using a credit card, which will include a processing fee.
- Automatically send electronic notification and provide service to parties represented by attorneys upon efiling, thereby eliminating the associated time delay and expense of conventional service.
- Immediately receive via email notification of efiled documents, with online access, typically within 20-30 minutes of efiling.

The transition to JIMS, however, may be challenging for civil attorneys who are accustomed to paper processes and/or have never used an electronic court filing system before (e.g., PACER, which is the federal court’s electronic filing system). While the learning curve will certainly be steeper for practicing attorneys who do not even use email, technology-savvy attorneys with PACER experience will still need to learn the Judiciary’s Electronic Filing Service System’s unique user interface and understand the operational changes that will occur.

In addition to in-person training that was provided from July to September, the Judiciary has online training resources available on its website at

<http://www.courts.state.hi.us/civiljefsinfo>. Here are some frequently asked questions and answers about JIMS and efiling.

### What is JEFS?

JEFS is short for Judiciary Electronic Filing Service System. It is a web-based user system that connects with the Judiciary Information Management System (JIMS) to allow attorneys to electronically file documents.

### What are the launch dates for the JIMS electronic case filing in District and Circuit Court civil cases?

1. **October 7, 2019:** All filings for District Court.
2. **October 28, 2019:** All filings for Circuit Court (except wills in Probate proceedings)
3. **November 18, 2019:** All filings for Land and Tax Appeal Court.

### What documents can be viewed electronically after the launch dates?

After the launch dates, only documents that are efiled through JEFS can be electronically viewed remotely. Documents conventionally filed in a case before the launch dates will not be available for electronic viewing. One must go to the hard copy paper case file at the court to view these documents.

### When is the Ho`ohiki “blackout” period when data entry will be suspended?

Approximately one week prior to each launch date, data entry into the Judiciary’s existing case management system, Ho`ohiki, will be suspended. During the blackout period, court documents conventionally filed at the courthouse, newly scheduled court dates, minutes from hearings, etc., will not be updated or viewable in Ho`ohiki.

After the launch of JIMS Civil:

- Court documents that have been conventionally filed at the courthouse during the blackout period will be scanned and uploaded into JIMS as pdf documents.
- Information relating to court events scheduled and associated outcomes will be manually entered into JIMS by the court staff.
- The speed with which the court staff can complete this work will depend on the volume of filed documents.

After the launch of JIMS Civil, data prior to the blackout date will continue to be temporarily available in both Ho`ohiki and JIMS. However, after the final launch (Land and Tax Court Appeal in November) access to all civil cases in Ho`ohiki will be disabled, except Family Court.

### Is efilng mandatory?

When efilng is available, attorneys must efile. See Hawai'i Electronic Filing and Service Rules ("HEFSR") 2.2 and 4.1. Mandatory attorney efilng is already in effect for all appellate and criminal cases. Once the launch of JIMS Civil occurs, there will be no grace period allowing for attorneys to conventionally file in state District Court and Circuit Court civil cases. Family Court civil cases will continue to be conventionally filed.

### Why was efilng implemented?

Efilng was implemented for the benefit of parties, attorneys, courts, and the public. Efilng allows expanded hours for filing, access to documents when the courthouse is closed, and simultaneous access to documents by judges, court staff, and attorneys. Public electronic dockets increase the Judiciary's transparency.

### How are documents efiled?

Documents are filed through JEFS by uploading a portable document format ("pdf") version of the document and attaching the document to the docket of the appropriate case. Documents must be submitted as pdf files. Each efiled document may not be larger than 10 megabytes, but multiple documents may be filed at the same time. Furthermore, each exhibit must be separately filed. HEFSR 2.3.

### What are the noticeable benefits of efilng and an electronic record?

Case documents can be filed and accessed even when the courts are closed. Unlike paper documents, multiple individuals can access documents simultaneously on their own computers. In addition, the filing system can provide notice of the filing to all parties, thereby eliminating costs and delays associated with physical service of documents. Efiled documents are instantly available to court personnel, including judges and justices.

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### **What rules apply to civil district and circuit documents filed through JEFS?**

Documents filed through JEFS are subject to the requirements of the Hawai'i Electronic Filing and Service Rules, the Hawai'i Court Records Rules, Rules of the Circuit Courts of the State of Hawai'i, Rules of the District Courts of the State of Hawai'i, and the Hawai'i Rules of Civil Procedure that govern Circuit Court and District Court proceedings. This includes formatting, service, and sanction rules. Rule 9 of the Hawai'i Court Records Rules, governing the submission of personal information and account numbers, must also be followed. Please refer to the Judiciary Internet website to view the proposed rule changes and recently adopted court rule changes that are associated with the JIMS Civil Project.

### **What training is available for e-filing? If I miss the training or if I need a refresher, how can I train myself and/or staff?**

The Judiciary provided in-person training opportunities for attorneys from July to September 2019. If you missed the in-person training sessions or if you need a refresher, please review the e-filing web training videos that are available on the Civil JEFS Information Page.

- JEFS Registration
- JEFS 101 Overview
- JEFS Case Create
- JEFS Submit Filing on Existing Case
- JEFS Manage Cases
- JEFS Manage Payments
- JEFS User Administration
- JEFS Make Payment

### **What instructions are available for e-filing and where are those instructions located?**

Go to the E-filing page, where you will find a wealth of information, including the link to the JEFS Training and Information page and the Civil JEFS Information page:

- Training Videos
- Training Documents
- Rules
- General Information

### **What computer equipment do you need to efile?**

- Windows 7 or higher or Mac OS X or higher
- Internet connection and web browser (Chrome 44, Firefox 43, IE11, or Safari 9 recommended)
- Email address per JEFS User
- One monitor (Two monitors recommended)
- Word processing software (Microsoft Word recommended)
- Adobe Acrobat to review court documents (Adobe Acrobat Standard or Pro DC to edit/convert documents recommended, as well as a scanner or multi-purpose scanner/copier/printer, which may be necessary to scan and convert paper documents to pdf format)

### **May I call the clerk's office to confirm receipt of my electronic filing?**

The best way to confirm receipt is to log into JEFS and select "manage my cases." Give the system at least 30 minutes from the time you submit a document before you check "manage cases." Most documents upload within 5 to 10 minutes, but if many people are filing, it will take longer.

### **Who may I contact if I have other questions or if I encounter problems with e-filing?**

During the launch period, e-filing technical questions may be directed to the JIMS help line. Operational and procedural questions should go to the appropriate courthouse. Contact information for the JIMS help line and for each court are on the Civil JEFS Information page.

### **What kinds of cases may be initiated electronically?**

Once JIMS Civil launches, all civil, criminal, and appellate cases statewide can be initiated electronically. Only civil Family Court cases will continue to be filed conventionally.

### **JEFS System Availability**

**Q:** When is the e-filing system not available?

**A:** System maintenance occurs from midnight to 4:00 a.m. on weekdays and from approximately midnight on Saturdays until noon on Sundays.

**Q:** What happens if the e-filing system is unavailable and I cannot efile a document?

**A:** If the e-filing system is unavailable due to technical problems, you should submit a paper document to the clerk. If the e-filing system is unavailable due to a natural or man-made disaster that closes the courts, the Chief Justice may extend the filing deadlines.

### **Courtesy Copies Required in Circuit Court Civil Cases**

In all Circuit Courts statewide, attorneys representing the filing party must provide two courtesy hard copies of all documents that relate to any request for

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court action to the court. This includes but is not limited to: motions, petitions, proposed orders, disputed proposed orders, and any opposition to and reply in support thereof, as well as exhibits, declarations, and affidavits in any way related to the request for court action; settlement conference statements; trial briefs; and notices of appeal.

Courtesy copies of the following do not need to be delivered to the court: complaints and amended complaints, answers, appearances of counsel, certificates of service, entry of default, routine discovery (including designations and naming of witnesses, disclosures, answers to interrogatories and document requests, requests for admissions, expert reports, etc.), returns and acknowledgements of service.

For all District Courts statewide, no courtesy hard copies shall be required to be provided to the court.

If a document has been efiled, a courtesy copy of the efiled document

should be printed showing the header containing the filing information. If a document is filed in hard copy, the courtesy copies must be submitted at the time the original document is filed. Courtesy copies of efiled documents that are submitted from out-of-state shall be deemed to comply with this rule when mailed no later than the business day after filing using “overnight” or “next day” priority. Courtesy copies of electronically filed documents may be mailed to the division of the presiding judge or clerk’s office in the normal course if they are mailed from anywhere in Hawai‘i no later than the business day following the date the document was filed. If a document concerns an imminent or expedited proceeding, courtesy copies shall be delivered as soon as possible after filing.

#### **Confidential/Sealed Documents**

Q: What kinds of documents should be sealed?

A: Documents that are designated “con-

fidential” by statute or court rule or “sealed” by court order.

Q: How is a “sealed” or “confidential” document different from an “in camera” document?

A: “Sealed” or “confidential” documents may be viewed by the parties and the court. This is a significant change from prior manual procedures. With efil- ing a “sealed” document in JEFs can be automatically viewed by all parties to the case, but may not be accessed or viewed by the public. Documents designated “in camera” may be viewed only by the judge, but not by the parties or the public.

Q: Who can view a “restricted access” document?

A: “Restricted access” documents are viewable by parties authorized by the court, but not other parties in the case or the public.



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**Confirmation**

**Q:** Does the e-filing confirmation screen mean that everything was submitted properly?

**A:** The e-filing confirmation screen means that the documents were e-filed. The e-filing system makes no judgment about the merit or content of documents filed.

**Court Filing Fees and Online Payment Convenience Fee**

**Q:** Is there an additional charge for electronic filing?

**A:** A 2.6% fee is added by the Hawai'i Information Consortium if you pay filing fees online by credit card. Fees are not charged to government agencies. Attorneys who do not wish to pay this convenience fee may opt to pay their filing fees at the courthouse instead.

**Non-Payment of Filing Fees**

Attorneys must fully pay what is owed within 10 days of e-filing a document. If the total amount due is not received by that time, the document(s) will be stricken and the complaint may be dismissed.

**Civil Case Information on eCourt Kokua**

After each JIMS Civil launch date (District Court, Circuit Court, Land and Tax), civil case information relating to the converted case types will no longer be available in Ho'ohiki. All civil case information will be viewable in eCourt Kokua and the Judiciary Electronic Filing System ("JEFS").

eCourt Kokua is the website through which members of the public will access court information online. Users can look up cases by name or by case number. They can view case history and can pay to download documents that are not sealed or in camera.

Attorneys may also use eCourt Kokua to access information and filed documents in cases in which they are not a party. Law firms, news media organizations, companies, and members of the public can order a subscription for \$125 a quarter or \$500 a year.

## Data Errors

Q: If the wrong party is added to a case, will there be any time to retract the email notification?

A: No. A party will need to move to correct the record.

Q: If the wrong party is assigned to the case at efile case creation, how is the incorrect party removed?

A: A party must move to correct the record. This requires a formal motion to the court and cannot be corrected by a phone call.

Q: If the filer intends to file a sealed or in camera document but does not select the appropriate check box in JEFS, how will access be prevented?

A: Access will not be prevented until someone brings the matter to the attention of the clerk. The clerk can temporarily make a document sealed or in camera until the court rules on the accompanying motion to seal/in camera.

Q: If the filer forgets to indicate the document is sealed and email notification is sent, is there a concern about allowing the recipients of that notification to see the document when it should be sealed?

A: Only parties to the case will get the email notification. The parties to the case are entitled to see sealed documents.

## Documents for Efiling

Q: May I efile a Word or WordPerfect document?

A: No. The Word or WordPerfect documents should be converted to a pdf file in order for it to be efiled.

Q: How do I create a pdf document?

A: PDF documents may be created in several ways. Please review the “help” portion of the word processing or other word processing software you are using, but the process is usually simple. For example:

1. In some versions of Word, you may click the Printer button and select “Microsoft Print to PDF.” In other ver-

sions of Word, you may select “Save as Adobe PDF” from the File tab.

2. In recent versions of WordPerfect you may select “publish to PDF” from the File menu.

3. Most photocopy machines now include software that allows you to photocopy and save the copy as a pdf document. Follow the instructions in your word processing application or for your photocopy machine.

## Imaged Documents

Q: I received a notice of electronic filing. The filing is shown on the docket, but no image is attached.

A: The clerk may not yet have scanned the documents. When parties file through JEFS, the parties attach the documents and the image of the documents is accessible within a few minutes. If the documents are submitted over-the-counter by a self-represented litigant, for example, the clerk must scan the documents and then attach them to the docket. Depending on the clerk’s workload, it may take the clerk a few days to image scan and attach the documents.

## Lead Document; Supporting Document

Q: The system asks for my “lead” document and “supporting” documents. What does this mean?

A: A lead document is the main document being filed. A supporting document is an attachment. Examples: If you file a notice of appeal, the “notice of appeal” is the lead document, the required copy of the judgment is a supporting document. If you file a motion, the motion is the “lead” document. Supporting documents may include a memorandum in support of the motion, a declaration, or an exhibit.

Q: May I have a lead document without a supporting document?

A: Yes.

Q: May I have a supporting document without a lead document?

A: No.

Q: What is the advantage of identifying “lead” and “supporting” documents?

A: The documents are less likely to be rejected because they exceed the maximum 10 MB size. Also, the separate docket entries make the documents easier to find.

## Paper Filing

Q: If I initiated an efiled case, may I later file paper documents instead?

A: Not in usual circumstances. Attorneys must efile unless excused by court order

## Party, Judge, Attorney

Q: Must I add parties to the case, as well as the judge(s) and attorney(s)?

A: In civil cases, the person initiating the case is not required to add any additional parties. As such, when a civil case is first initiated in JEFS, conventional service of the complaint and other documents to parties must occur until the parties and/or their attorneys add themselves as parties to the case in JEFS. Only after all the parties add themselves to the case in JEFS, can everyone take advantage of the “notice of electronic filing” in lieu of conventional service. Non-parties (e.g., witnesses) and any non-JEFS user parties (e.g., self-represented litigants) will still need to be conventionally served. This is different from criminal cases, where the party initiating the case in JEFS must identify at least one additional party.

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*Judge Gary W.B. Chang, who was appointed to the First Circuit Court on June 1, 1999 and was reappointed for a third term on June 1, 2019, is the JIMS Civil Project Judge. Velma Kam is the JIMS Civil Project Manager and has been an important member of the JIMS Project Team since 2009. Mark Santoki is a Court Operations Specialist in the First Circuit.*