

OUT WITH THE OLD...IN WITH THE NEW MISSOURI EFILING SYSTEM

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Progress is painful, or so it has been said. But, sometimes, it need not be as painful as we make it. It seems to me that often the "pain" related to progress results from recalcitrant, "old school" thinking or methods sneaking into or clashing with the new systems or processes.

The [Missouri eFiling System](#) has been a work in process since September 2011, when the Circuit Court of St. Charles County first began to partially implement electronic filing on certain associate civil matters. In the nearly five year intervening period, the eFiling System has been [implemented](#) in all of Missouri's appellate courts and the circuit courts for all but four Missouri counties. Those last four counties are scheduled to be brought into the eFiling System by the end of this month. So, one might think that the Missouri courts will be all electronic and everything will be paperless, hassle-free and copasetic within the next lunar cycle, right? Wrong.

The touted [benefits of the eFiling System](#), to both the courts and practicing attorneys, are real and substantial, including: reduced file storage, ability to file and view cases or documents outside of regular business hours and to do so without a trip to the court house, electronic service to other registered users, ability to receive notices, orders and judgments from the court electronically, elimination of courier fees, reduction of postage or overnight delivery expenses and reduction of office supplies and photocopies. However, because the old invades the new with the Missouri eFiling System, unnecessary "pain" in the preparation and prosecution of appeals in the Missouri courts is created in at least two ways. The first involves the preparation of the [Legal File](#) in an appellate case. The second relates to the filing of the Legal File.

To prepare a Legal File one must direct the circuit clerk's office to prepare the Legal File. In doing so, you must specifically designate each item of the circuit court's file that you want to be included in the Legal File. In the old "paper file" days one accomplished this by a trip to the circuit clerk's office, pulling the file, reviewing the file, and paper-clipping the documents desired to be included in the Legal File.

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The process in the new “eWorld” is a bit more streamlined. Now one can simply print the case's docket sheet from the [Missouri Case.net](http://MissouriCase.net) website, mark the desired documents and fax or email the annotated docket sheet to the clerk with a request that a Legal File be prepared. So far, so good, but things get a bit more convoluted as the process progresses. The clerk prepares the Legal File in paper format and turns it over to the requesting party. The requesting party must then convert the Legal File from paper format to electronic format (*along with some other manipulations, such as inserting a cover page, page numbering and index*) for filing with the court of appeals. In many instances (*see the next paragraph*), the party preparing the Legal File must also then convert the newly converted electronic Legal File back again to paper format for filing with the court of appeals.

So, if you are following along, the Legal File undergoes the following metamorphoses:

electronic documents (circuit clerk) paper Legal File (ver. 1)

electronic Legal File paper Legal File (ver. 2)

It would appear that the process could use a bit of tweaking. It makes no sense to flip-flop back and forth between electronic and paper formats. I would propose that the electronic documents be kept in an electronic format from the start to the finish of the process. One impediment, however, stands in the way of truly “going green” and eliminating the paper – the applicable Missouri Supreme Court Rules, and local rules of two of the three appellate courts, would need to be amended to accommodate the process. Which brings us to the second painful anachronism in the current Legal File process.

The second ghost of paper-based systems past found within the appellate process relates to the filing of the Legal File. The local rules of both the Eastern and Western Districts of the Missouri Court of Appeals require that a paper version of the Legal File be filed after the filing of the electronic version. (See [EDMO Special Rule 333](#); [WDMO Special Rule XII](#)). Only the Southern District does not require the filing of a paper copy of the Legal File. ([SDMO Special Rule 18](#)).

It's time to truly go green and eliminate the unnecessary creation of paper copies completely from the process of creating and filing of the record on appeal in Missouri appeals. As Confucius once said, “Life is really simple, but we insist on making it complicated.” That need not be the case with respect to the record on appeal, we can, and should, keep it simple - by keeping it in a single, electronic format.

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