

## **TAMING THE PAPER TIGER**

Exploring the Feasibility of a Paperless Court in Snohomish County Superior Court, Washington

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## ABSTRACT

More than five years ago the Snohomish County Clerk's Office implemented digital imaging of Superior Court records. Since that time the Clerk's Office has maintained both electronic records and paper court files. Electronic filing (e-filing) has not been implemented, and customers do not have electronic access to court records; rather, they have to physically travel to the courthouse to file documents or view records. Furthermore, handling paper is labor intensive and expensive for litigants and the court.

Research was conducted to examine the feasibility of implementing a paperless system locally, to review the experiences of other courts that have implemented paperless systems, and to look at potential funding to support technology. The benefits and liabilities of a paperless system were explored, and it was determined they can be broken into four categories of access, savings, security, and environment.

There were two methods of research used. First, an opinion survey was administered to the judiciary, local attorneys, Clerk's Office staff, self-represented litigants and other customers. It evaluated users' opinions as to whether a digital system would be more effective than a paper records system, their existing attitudes and knowledge levels regarding paperless court records, and the degree of their willingness to pay a technology surcharge on filing fees. Additionally, Washington State filing fees were compared against other general jurisdiction courts across the nation to determine if an increase would correlate with current fees elsewhere. The second research method was the analysis of both manual and paperless systems using current civil case workflows. This helped identify potential process savings in the event paperless workflows were to be introduced.

The results of the survey showed that, with the exception of judicial officers, the majority of all participants believed that a digital system would be more effective than a paper records system. Participants most likely to be impacted by a change in fees, such as attorneys and self-represented litigants, indicated that they would be willing to pay a surcharge. The survey also revealed that some stakeholders did not have a clear understanding of the technological advances that would allow a paperless court to operate, e.g., digital signatures. An additional component of the research revealed that those participants who were age 39 or younger were more likely to be in favor of a digital system. Again, the judiciary was an exception in that the majority of judicial officers in support of a paperless system were in the age category of 60 and older. The review of civil workflows revealed that partial implementation of paperless processes would result in some efficiency. However, the greatest benefits would only be realized if e-filing were also adopted, which would allow a truly paperless system to be introduced. One particular benefit is that a paperless system would result in environmental savings because fewer documents would be printed, and there would not be hand-delivery to the court and other parties.

The research concluded with the recommendation that further refining of workflows and measurements of potential savings should occur prior to the implementation of a paperless system. In order to support ongoing technology costs, filing fees should be reviewed and a surcharge considered. Additionally, it was discovered that some manual processes may need to continue in order to meet the needs of self-represented litigants.

The most significant determination was that there is a need for outreach to educate stakeholders regarding paperless processes. While the report concluded that a paperless court could be successful in Snohomish County, it is vital that all stakeholders be knowledgeable supporters of a paperless system in order to ensure success.

## INTRODUCTION

In the world of courthouses and lawsuits, documents drive the system in which we operate. For civil cases conducted in Snohomish County, currently a paralegal at a law firm types the pleadings, prints them, and then has them delivered to the Snohomish County Clerk's Office (Clerk's Office) – either personally delivering them or by paying a legal messenger service to perform this necessary task. In the case of a self-represented litigant, the individual must download forms to fill them out on a computer, or prints out the forms and fills them in by hand, or must travel to the courthouse to obtain the forms and fill them out. The completed forms must then be delivered to the Clerk's Office to start a new case.

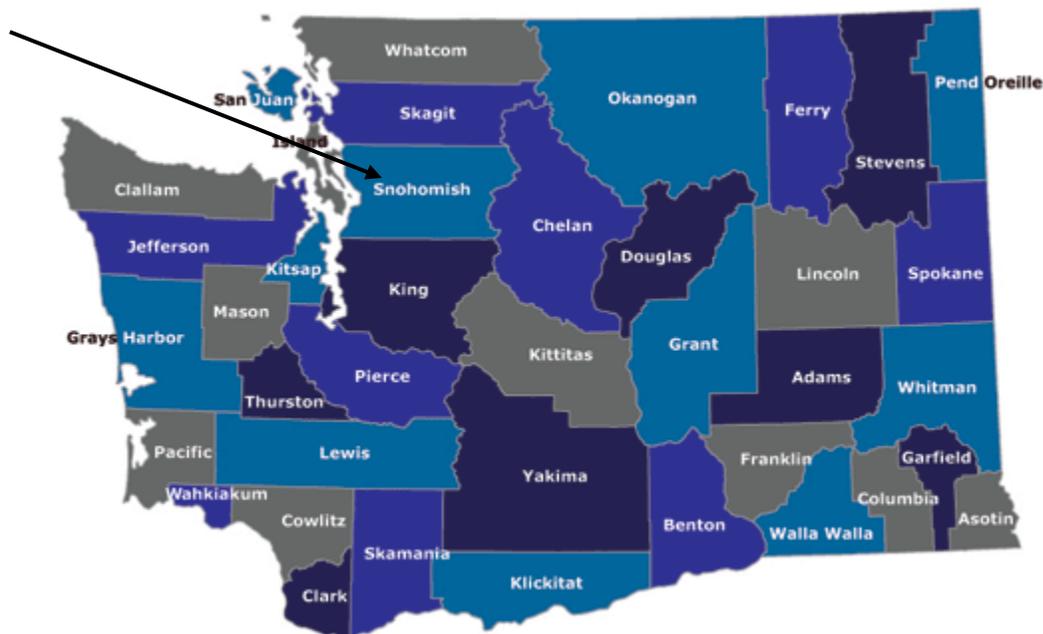
In the above scenarios, once the individual pleading reaches the courthouse and upon payment of the statutory filing fee, a case number is assigned, a barcode label is applied, and the document is time-stamped. The newly filed document then waits for a Clerk's Office staff member to physically retrieve it and deliver it to the indexing division (Case Management) located two floors away, where it will be entered into the state database. The document is then routed to the Enterprise Scanning Center (ESC)<sup>1</sup> where staples are removed, the document is scanned, the image is verified, and the document is re-assembled and returned to Case Management. The next step is for a staff member to deliver the document to the records division of the Clerk's Office (on the same floor where the document was originally filed) to be clipped into the appropriate corresponding file. With the exception of paying the filing fee, this entire process occurs up to 2,500 times each day for documents filed in the Clerk's Office.

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<sup>1</sup> ESC is operated by Snohomish County's Department of Information Services and is separate from the Clerk's Office.

## Snohomish County

With a population of 704,300<sup>2</sup> Snohomish County is the third largest county in Washington State, bordered on the west by the Puget Sound and on the east by the Cascade Mountain range. The Canadian border is approximately a two hour drive, while the metropolis of Seattle can be reached in just over 30 minutes.



The County Clerk is the ex officio Clerk of Superior Court and independently elected. The Superior Court is a general jurisdiction court and includes 20 judicial officers (15 judges and 5 court commissioners). Since the State of Washington does not have a unified court system, each of the 39 counties is free to employ nearly any electronic processes and systems they choose.

The Clerk's Office implemented digital imaging in March 2005. Digitizing court documents was the only articulated goal at that time. Since imaging began, paper files have

<sup>2</sup> Office of Financial Management, State of Washington, <http://www.ofm.wa.gov/census2000/profiles/default.asp#county>; July 2009.

continued to be maintained, which has placed the Clerk's Office in the untenable position of managing dual-systems.

In 2008 more than 30,000 new cases were filed<sup>3</sup>. In addition to managing individual court documents, access to physical files continues to be an issue. Digitizing has allowed multiple parties to access the same document simultaneously from their chambers or office (as long as an individual is a member of the internal law and justice system and on the county's network infrastructure). However, the presence of the physical file in courtrooms continues to be the glue of the court calendars/dockets. This requires files to be retrieved and re-shelved nearly 90,000 times annually for hearings and trials.<sup>4</sup> Furthermore, attorneys continue to check out files for presentation of ex parte orders, and other customers continue to check out the "real file" for viewing in the Clerk's Office lobby in lieu of utilizing available computer terminals to view digital images.

The process of clipping the documents into the court files as well as the continuous check-in/check-out and re-shelving of files (managed by a system similar to what a library would use), requires nine staff members between two court locations.<sup>5</sup> Staff time is also spent searching for any documents that have been misfiled.

In 2004 (the year preceding implementation of the imaging system) all archived files<sup>6</sup> were digitally scanned, and microfilming of court documents for purposes of long-term preservation stopped. The imaging system was then populated with these digital images. However, after implementation of the imaging system, the Clerk's Office continued to "archive" files and send them to the county's records center for storage. As this practice has continued to

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<sup>3</sup> Washington State Administrative Office of the Courts, Superior Court 2008 Annual Caseload Report, Page 1.

<sup>4</sup> Washington State Administrative Office of the Courts, Superior Court 2008 Annual Caseload Report, Page 53.

<sup>5</sup> The Clerk's Office is located at the county courthouse, and has a second location at the Juvenile Court 2 ½ miles across town.

<sup>6</sup> Archived files are files that have been physically removed from the Clerk's Office, but are still available in paper form.

the current time, there are approximately 7,000 boxes of records in storage. Moreover, because the image maintained on the county database was previously determined to not meet the long-term preservation requirements, these boxed records have remained in limbo.

In October of 2008 the Clerk's Office became aware of a service offered by the Washington State Digital Archives (WSDA) that would allow for the secure transfer and official retention of digital images. The Clerk's Office is currently working with both the WSDA and the county's technology department (DIS) to implement an interface that would allow for the daily transfer of records to the WSDA. This is an attractive service as it will address a long-term preservation strategy, disaster recovery, and increased public access via the web. This service will also allow the Clerk's Office to destroy the multitude of boxed paper records currently in storage. Destruction of the boxed records will provide immediate cost savings as there continue to be significant interfund charges imposed by DIS for storage, ongoing access to records, and transporting of files. While an official digital archive will offer the benefits outlined above, it is not a long-term technological solution. There currently is no system in place which would allow the Clerk's Office to accept electronic-filings (e-filing is the process of filing court documents electronically) or to implement a paperless court records system, which is the filing, viewing and processing of all court documents electronically by the litigants, the court staff and the judiciary.

From a purely business perspective it would seem that the next logical step would be to implement a paperless system, including e-filing and e-service (e-service is the provision and acceptance of documents electronically by attorneys and/or litigants). In a paperless system, the process described on the first page of the Introduction of this document would be much different. A paralegal would draft pleadings on a computer and submit them electronically via the internet. The Clerk's Office would accept the electronic pleadings, any filing fee would be electronically processed, a case number would be automatically assigned and, after some minimal indexing, the

process would be complete. Most importantly, the document would be almost immediately available to any court user – whether an internal or external user. There would be no transporting of physical documents to/from various work stations, and physical files would be a thing of the past. However, for the self-represented litigant, there may be some barriers to e-filing and e-service, and those issues would need to be considered and addressed in the implementation of such a system. While a paperless system is described here in a very simplistic approach, this research will focus on what it could mean to the way in which the Superior Court and Clerk's Office customers conduct business in Snohomish County.

### **Questions to be Addressed**

Paperless courts have been implemented elsewhere including King County,<sup>7</sup> the largest county in Washington State, so clearly it is possible. Nonetheless, it is unknown what local challenges would be encountered if such a system were to be implemented in Snohomish County. The purpose of this project is to determine if a paperless court could be successful in the Clerk's Office and Superior Court.

Could all civil case workflows and related processes in the Clerk's Office be adapted to a paperless system? Most of the workflows for the Clerk's Office were documented in preparation for imaging implementation. However, the imaging project stopped short of converting any of those to a paperless process. In 2008 there were 14,675 new civil cases filed,<sup>8</sup> which is 49% of the court's entire caseload. While it would be enlightening and helpful to review workflows for all case types, the scope of this project does not allow for that and will focus only on civil cases.

Secondly, what are the potential benefits and liabilities of implementing a paperless system? By conducting business process engineering (BPE) for each civil workflow, pros and cons of a paperless process can be developed. Due to the exceedingly tight budget environment,

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<sup>7</sup> Seattle, Washington.

<sup>8</sup> Washington State Administrative Office of the Courts, Superior Court 2008 Annual Caseload Report, page 19.

being able to demonstrate a high return on investment (ROI) will be an important component in convincing both the local funding authorities and the stakeholders to support a paperless initiative. As part of the research on funding, customers will be surveyed on their willingness to pay a surcharge for ongoing support of technology initiatives. An additional component will be a review of Washington State civil filing fees compared with other states. Potential liabilities that will inevitably arise, such as system crashes or other technological challenges, will be identified by consulting with and researching what other courts have encountered in similar implementations.

Thirdly, what are the stakeholders' and customers' attitudes and knowledge about utilizing a paperless system? Would stakeholders be supportive of such a measure? How would a paperless system affect the manner in which customers are served including pro se litigants? Although some members of the bar have expressed an eagerness to move forward with e-filing based on their experience in the bankruptcy and federal courts, others may not share that perception. Attorneys expressed privacy concerns when the Clerk's Office implemented digital imaging and documents in family law cases (once thought to be forever committed to paper and microfilm) were made available at public terminals in the lobby -- even though documents were not placed on the internet. In response to the digital movement, the Washington State Supreme Court implemented court rules<sup>9</sup> which address how personal identifiers are to be handled within the context of public court records. However, attorneys and litigants still struggle with the practical implications of these rules -- how to apply them and to which cases.

Another issue is high-volume calendars: would the bench be amenable to presiding over these without the physical court files? Although the independently elected Clerk could choose to implement a paperless system without the approval of the bench and bar, that would be unwise

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<sup>9</sup> Washington State Court Rules: GR 15, GR 22, GR 30, and GR 31.

as it is vital to have the support of all stakeholders in order for any paperless measure to be successful.

### **Research Goal**

This completed research report will allow the Clerk's Office to make a decision regarding implementation of a paperless system, give a clear outline of what issues need to be addressed in initiating such a project, and provide supporting evidence that can be relied upon both in preparing an implementation plan and in seeking funding. Moreover, other courts considering implementation of a paperless system will be able to use this report as a tool in their quest for more streamlined, technological processes.

Should implementation of a paperless system occur, success would be measured afterward by evaluating (a) the actual benefits or benefits or liabilities realized including processing time, salary expenditures and physical space, (b) changed workflows, (c) changed processes for customers, including any time and cost savings, (d) satisfaction of staff, stakeholders and customers, and (e) the impact on self-represented litigants including their access to the court.

The process of this research itself will open important dialogue, inviting both internal and external stakeholders to begin considering how a paperless system might affect the way in which court records are accessed and used, and the manner in which the Clerk's Office and the court conduct business.

## LITERATURE REVIEW

“Today it would be difficult to find a court that has not embraced technology in some fashion. As caseloads mushroom and participants cross jurisdictional boundaries, the benefits gained from using technology far outweigh the costs of not using technology. With 90 million cases in the courts producing 1.5 billion documents, the need for technological solutions is imperative.”<sup>10</sup>

### History of Paperless Courts

The nation’s first paperless courts<sup>11</sup> were implemented almost 20 years ago in the Midtown Community Court in New York and a trial court in Delaware.<sup>12</sup> The conversion in Delaware was driven by the filing of a complex insurance lawsuit, while the conversion in New York was due to the volume of misdemeanor cases and was in conjunction with the opening of a new court location. Lawsuits are infamous for generating large volumes of filings; just one of the summary judgment filings in the Delaware court generated a pile of documents over 11 feet high. The management of paper is costly. It is the expense and related problems in the handling and storage of paper that generally causes courts to explore paperless systems.

In reviewing the literature on this topic, it was difficult to ascertain which arrived first: e-filing or paperless courts. These two topics are so intertwined that it is nearly impossible to distinguish one from the other, and it is clear they go hand-in-hand. To be efficient and reap the full benefit, they should co-exist. The benefits and liabilities of a paperless court can be broken into four categories of (a) access, (b) savings, (c) security, and (d) environment.

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<sup>10</sup> Lin Walker, *Future Trends in State Courts*, 2008, 20th Anniversary Edition, National Center for State Courts (NCSC), page 20.

<sup>11</sup> <http://www.bennettmidland.com/team/president.html> (11/9/09); and “In Neighborhood Courts, Meting Out Local Justice” by Sam Roberts; *The New York Times*; June 7, 1993.

<sup>12</sup> Susan C. DelPesco & Robert J. Katzenstein, “Clad – Delaware’s Paperless Docket”, Fourth National Court Technology Conference, October 1994.

## **Access**

Paper documents can only be viewed by one person in one place at one time. Electronic records allow multiple persons in different locations to view the same record simultaneously. In a paperless court environment, the bench is able to have immediate access to any filing instead of waiting for working copies or the court file to be delivered.<sup>13</sup> The Delaware court used an outside vendor to operate its paperless system, which gave the court access to experts otherwise not available long-term; however, a consequence was that it caused access limitations due to the vendor's business hours. For example, if a document was e-filed on a Friday evening it was not accessible for users until the following Monday. This was later changed so that filings would be immediately available to lawyers.

Access can also be hindered by technology. The King County Clerk's Office in Washington State advises others that planning for down time is imperative because it's not a matter of if, but rather when this will happen. Since implementing a paperless system in 2002, King County has experienced several system crashes, and the first time the system was down for six weeks. Although the images weren't lost, the indexing in their back-up system hadn't been kept current so there was no way to access the images.<sup>14</sup>

## **Savings**

The implementation of e-filing in the Delaware court brought savings to the Clerk's Office, the bench, and the litigants. It eliminated the need to hire two additional clerks to handle the process of complex lawsuits, including data entry into the existing computerized docket and physical filing of the documents. It also saved filing space at the courthouse. The Delaware Court estimates that what previously required nine feet to file now only takes one foot. The

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<sup>13</sup> Susan C. DelPesco & Robert J. Katzenstein, "Clad – Delaware's Paperless Docket", Fourth National Court Technology Conference, October 1994.

<sup>14</sup> "Establishing Your Own Electronic Court Records Program", King County Superior Court Clerk's Office, Seattle, Washington, August 4 – 6, 2009.

bench also realized benefits in the form of more active case management by being able to easily view the cases and monitor case activity. The elimination of the need to copy and serve paper pleadings was a benefit to the litigants and their attorneys, causing them to be generally in favor of the paperless system.

King County, Washington<sup>15</sup> realized annual savings of (a) \$250,000 by eliminating microfilming, (b) \$23,000 in file folder costs, (c) courier costs, and (d) staff reductions. There were 22.5 staff positions eliminated, but all reductions were realized through attrition – no one actually lost their job because of the new technology. This does not take into account savings that were realized by local attorneys for items such as office supplies and courier fees. Additionally, Clerk's Office staff members are now able to telecommute, which has resulted in increased productivity. Telecommuters have a quota of 20% higher than other staff and exceed that quota. This has also assisted with staffing levels, e.g., snow days when staff are not faced with traveling to their job and, instead, can work from home. In spite of the positive benefits, King County did experience some staff losses as a result of implementing a paperless system. Some staff may not be able or willing to adapt to the new technology and ultimately may choose to leave.<sup>16</sup> While this is not the desired outcome, the King County Clerk, Barbara Miner, cautions other courts that are considering implementation of a paperless system to be prepared for this occurrence.

An additional important benefit of e-filing is that information is not re-keyed by court staff. This reduces errors and frees up staff for more creative work. One court estimated that it

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<sup>15</sup> "Establishing Your Own Electronic Court Records Program", King County Superior Court Clerk's Office, Seattle, Washington, August 4 – 6, 2009

<sup>16</sup> "Establishing Your Own Electronic Court Records Program", King County Superior Court Clerk's Office, Seattle, Washington, August 4 – 6, 2009.

would take one of their best clerks 9 ½ hours to file 100 cases, while e-filing could accomplish the same thing in 30 seconds.<sup>17</sup>

In addition to staff savings for the court, there are also operational savings. One example is that if paper files are eliminated, physical space at the county courthouse can be converted to public service space.<sup>18</sup> This can also save future construction money because of the special reinforcement that would otherwise be required to handle the weight of files.

“In these days of fiscal belt tightening, it is unrealistic to expect that funding bodies will be able to provide adequate personnel to meet increasing needs. Therefore, court professionals must look towards technology to enhance the capacity of existing personnel to handle the demands of an increasing caseload.”<sup>19</sup>

In addition to benefits realized by the court, attorneys and law firms can also realize savings. An attorney in a Kansas court estimated “that for every hour saved in his office, the court saves two.” Another attorney commented that electronic filing “allows us to be a law firm instead of a branch of Kinko’s with everybody crowded around the copy machine.” Benefits for attorneys include:<sup>20</sup>

- Eliminates costly storage of paper records;
- Ensures that the law firm records are consistent with the Clerk’s Office;
- Reduces delivery time and costs;
- Provides immediate access to all filings;
- Allows payment of filing fees by credit cards, which reduces the need to prepare checks and administer accounts;

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<sup>17</sup> Grace Wilson, “Electronic Filing Project Exceeds Expectations”, The Journal of the Kansas Bar Association, September 1998.

<sup>18</sup> James E. McMillan, “Court Technology in 2007”, CTC Session Article, 1997.

<sup>19</sup> John R. Peay, “Critical Factors in Technology Success”, CTC Session Articles, 1997.

<sup>20</sup> Paul L. Sherfey, “The Road to a Paperless Court”, Washington State Bar Association, May 2000.

- Saves trips to the courthouse by allowing access to the legal file directly from the law office for both the attorney and client;
- Eliminates possibility of lost papers and files;
- Improves confidential record security;
- Simplifies appeals designations;
- Provides faster processing; and
- Eliminates the wait to access and view the paper court files.

### **Security**

Storing and maintaining physical records comes with risk. The Miami courthouse storage area is below the water table, and court documents have previously suffered water damage.<sup>21</sup> Other courts have had angry litigants tear pages out of the court files. Some jurisdictions have suffered catastrophic events such as fires or flooding. However, electronic access to court records also presents risk. For many years, public court documents contained personal identifiers such as birthdates and social security numbers. They were previously protected by “practical obscurity” due to the time and effort required for an individual to travel to the local courthouse and go to the Clerk’s Office to view the file. Now, with adequate technology and electronic tools, one can access court information from the comfort of their home or office.

National technology standards were established in 2001 at the Conference of Chief Justices<sup>22</sup> but placed responsibility for ensuring implementation of standards with the leadership in the state courts. That same year, the Washington State Supreme Court adopted General rule (GR) 22 regarding Access to Family Law and Guardianship Court Records. This rule applies to

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<sup>21</sup> Billy Shields, “Court Embarks on Paperless Odyssey”, October 22, 2007.

<sup>22</sup> [http://www.ncsconline.org/d\\_tech/jtc/documents/CCJ\\_Resolution\\_13.pdf](http://www.ncsconline.org/d_tech/jtc/documents/CCJ_Resolution_13.pdf) , accessed July 18, 2009.

both paper and electronic records and states “The policy of the court is to facilitate public access to court records, provided that such access will not present an unreasonable invasion of personal privacy...” General rule 15, which was adopted in 1989, includes definitions of “court files” and “court record”, and addresses the destruction, sealing and redaction of court records. The aforementioned rules cannot be considered without also reviewing GR 30 and 31, which address electronic filing and access to court records. All four of these rules lay the groundwork and rules for electronic handling of documents within Washington State’s courts, balancing the public’s right to access the courts and related records against a personal right to privacy.

### **Environment**

“Green courts” is a phrase that is being utilized more frequently in relation to the courts.<sup>23</sup> The handling of electronic images is more efficient and cost effective than physical documents, and electronic courts (e-courts) reduce the demand for paper. In a recent guide distributed by the National Association of Court Managers (NACM) some practical benefits and savings are delineated, such as saving customers from driving to the courthouse, the convenience of online access, court storage space, electricity and related resources.<sup>24</sup> It quantifies savings for 50 one cubic foot boxes of court records, which equates to one ton. Assuming that the equivalent of 50 boxes of court records had been electronically generated, the savings would be 17 trees, 380 gallons of oil, 3 cubic yards of land fill, 4,000 kilowatts of electricity, and 7,000 gallons of water.<sup>25</sup>

Prior to the paperless environment in the Delaware court, a 35-page motion to compel would have necessitated the following steps by the law firm: (a) motion is drafted, finalized and printed, (b) 30 copies made, (c) original and two copies are carried to the court, and (d) 28 copies

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<sup>23</sup> Lin Walker, *Future Trends in State Courts*, 2008, 20th Anniversary Edition, National Center for State Courts (NCSC), page 22.

<sup>24</sup> NACM, *Achieving and Sustaining the Green Court*, 2009 Mini Guide.

<sup>25</sup> NACM, *Achieving and Sustaining the Green Court*, 2009 Mini Guide, Page 30.

served by hand delivery on the other parties. Ultimately, this described effort would have consumed the cost of over 1,000 pages of copies, the time and expense of putting together packages, and delivery costs for 30 packages. Under the new paperless system, the motion would never be reduced to paper. Rather, the motion would be e-filed with the court and electronically distributed to the other parties.

However, just because a document is e-filed doesn't mean that it will never be printed. Some judges still find it easier to print the documents for review. In spite of any subsequent printing, those operating in a paperless court indicate that it is still more cost effective to print "on demand" than to handle the paper files.<sup>26</sup>

### **Trial Court Performance Standards**

All of the categories outlined above can be linked directly to four performance areas of the Trial Court Performance Standards:<sup>27</sup> Access to Justice; Equality, Fairness and Integrity; Independence and Accountability; and Public Trust and Confidence. These standards have been endorsed by court professionals including the judiciary and NACM<sup>28</sup> and are widely used by courts across the nation.

The measurement for Access to Justice states, "Trial courts should be open and accessible," and two of the standards<sup>29</sup> require that proceedings are accessible to all participants and that the costs of access to records are "reasonable, fair and affordable."

The standard for Equality, Fairness and Integrity includes a measurement for production and preservation of records,<sup>30</sup> which not only requires records to be accurate and properly preserved, but acknowledges that "Because records may affect the rights and duties of

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<sup>26</sup> "Establishing Your Own Electronic Court Records Program", King County Superior Court Clerk's Office, Seattle, Washington, August 4 – 6, 2009; and personal visit to Whatcom County Superior Court, November 6, 2009.

<sup>27</sup> Trial Court Performance Standards Desk Reference Manual, ©2003 National Center for State Courts.

<sup>28</sup> Trial Court Performance Standards Desk Reference Manual, ©2003 National Center for State Courts, Page 1.

<sup>29</sup> Trial Court Performance Standards Desk Reference Manual, Standards 1.1 and 1.5, pages 3 & 9.

<sup>30</sup> Trial Court Performance Standards Desk Reference Manual, pages 27.

individuals for generations, their protection and preservation over time are vital.” “Inaccuracy, obscurity, loss or untimely availability of court records seriously compromises court integrity and subverts the judicial process.”

Standard 4.2, Accountability for Public Resources, requires that public resources are used prudently to wisely address multiple and conflicting demands.<sup>31</sup> Public Trust and Confidence, Standard 5.1 Accessibility, requires that barriers be removed that interfere with access to trial court services.<sup>32</sup>

Citizens have an expectation that the courts be accessible and use modern technology such as internet access. Due to the current economy, more than ever citizens and funding authorities alike are critically reviewing court processes and the cost of conducting business; there is an expectation that the courts are using budgetary monies prudently. Additionally, a paperless system could help ensure that documents are accessible for the current generation, preserved for future generations, and would assist in improving the public’s trust and confidence in the court system.

### **Foundational Planning**

Recognizing that the courts are unique – but not unique – is critical to planning for implementation of a paperless system. Although this statement seems contradictory, it recognizes that, while a court has many of the same characteristics of any organization, there are six characteristics that set a court apart from other agencies:<sup>33</sup> (1) complexity of the judicial system, (2) complicated court systems, (3) intricate data structures, (4) work that is organized differently, (5) judicial technology that is not mature, and lastly, (6) many courts are not ready for automation.

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<sup>31</sup> Trial Court Performance Standards Desk Reference Manual, Page 31.

<sup>32</sup> Trial Court Performance Standards Desk Reference Manual, Page 37.

<sup>33</sup> Lawrence P. Webster, Automating Court Systems, 1996, pages 6 – 11.

No matter how well-diagramed a court process is, there are always exceptions because at the core of each process are people. Since computer programming requires specific rules, “the tangled web of uncertainty that is our legal system almost defies automation.”<sup>34</sup> In reviewing court structures and their approaches to handling cases, one size does not fit all. Washington State alone ranges in court size from the largest with 70 judicial officers and hundreds of court staff to courts with one shared judicial officer for several counties and only a few staff. In and of itself, this drives the processes of how cases are handled.

### **Implementation**

In implementing a paperless court, lack of success has occurred when courts have been unable to move past maintenance of a duplicate system. This has been the result when there has been no vision to create a new work environment, which would allow judges to use electronic documents. It is critical that the needs of the bench be a primary focus including a format that’s user friendly.<sup>35</sup> Whatcom County Superior Court (Washington) has a paperless court system, but their judges find the slow rate of system speed to be a hindrance and still rely on paper working copies.<sup>36</sup> This echoes the opinion of James McMillan of the National Center for State Courts.<sup>37</sup> Mr. McMillan felt that retrieval is the most important factor in implementing a paperless system. He also expressed that “being able to move to the electronic version of the yellow sticky-note” should be the goal. In one of the Colorado courts all of the judges have tablet personal computers. They are able to get copies of their assigned cases on their own computer, carry it with them, and make notes.<sup>38</sup> As successful as the King County court has been, their judges still

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<sup>34</sup> Lawrence P. Webster, *Automating Court Systems*, 1996, page 11.

<sup>35</sup> Interview with James McMillan, NCSC, June 25, 2009.

<sup>36</sup> Visit to Whatcom County, Washington state, November 6, 2009.

<sup>37</sup> Interview with James McMillan, NCSC, June 25, 2009.

<sup>38</sup> Interview with James McMillan, NCSC, June 25, 2009.

rely on paper working copies. Their court offers a process that allows attorneys to electronically submit their working copies and pay the Clerk's Office to print them out for the judges.

King County has found that external customers like the electronic accessibility. However, they caution other courts not to assume that you know what customers want. Customers may have exact opposite needs from each other.<sup>39</sup>

It is also important that you plan for pro se litigants, and surprisingly most of the literature does not account for these individuals. In Snohomish County, more than 50% of family law cases have at least one party who is self-represented. The Miami-Dade clerk indicated that a self-help desk would probably still be needed,<sup>40</sup> but there was no information available on whether or not that had been implemented.

Lastly, to be successful it is important that implementation of a paperless system is viewed as a system wide process: not one office vs. another office. This is not about eliminating paper or taking anything away from court users. It is about increased access to the court record, increased efficiencies, meeting the needs of all court users, and fiscal accountability of taxpayer resources. Once a paper-on-demand system is implemented, do not underestimate how dependent you and your customers will become on it.<sup>41</sup>

## **Conclusion**

Recently the National Center for State Courts (NCSC) administered a survey,<sup>42</sup> and 90% of those that responded indicated that they had either already implemented e-filing or had plans

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<sup>39</sup> "Establishing Your Own Electronic Court Records Program", King County Superior Court Clerk's Office, Seattle, Washington, August 4 – 6, 2009; and visit to Whatcom County Superior Court, November 6, 2009.

<sup>40</sup> Billy Shields, "Court Embarks on Paperless Odyssey", October 22, 2007.

<sup>41</sup> I personally attended "Establishing Your Own Electronic Court Records Program", King County Superior Court Clerk's Office, Seattle, Washington, August 4 – 6, 2009.

<sup>42</sup> E-filing Survey 2009, National Center for State Courts, July 2009

to do so. Paperless courts aka “paper-on-demand courts” are on the rise, and it is predicted that courthouse file rooms will be obsolete in 2020.<sup>43</sup>

An editorial<sup>44</sup> that was published points out the positive benefits of a paperless court of convenience, time savings, and tax dollars, but also indicates that the courts are behind the times. The editor commends the Clerk for implementing this new technology, but also points out that the implementation of a paperless system should have happened a long time ago and expresses a hope that other courts will also implement a paperless filing system. “Or, everybody can just pretend that it’s 1980 and keep doing things as they’ve always done while progress passes them by.”

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<sup>43</sup> Lin Walker, Future Trends in State Courts, 2008, 20th Anniversary Edition, National Center for State Courts (NCSC), page 20.

<sup>44</sup> <http://www2.insidenova.com/isn/news/opinion/article/>, July 18, 2009.

## METHODS

Two methods were used to gather and evaluate data for this project:

- A web-based opinion survey in Snohomish County of stakeholders and customers.

The survey was used to determine the perspective of customers and staff regarding a paperless court records system. The survey, cover letter, and e-mails are found at Appendices A and B.

- Evaluation of current civil workflows. Current documented civil workflows were reviewed and evaluated for potential process changes should a paperless system be implemented. Current and future workflows are found at Appendices C – N.

### **Opinion Survey**

#### Participants

An opinion survey was administered to determine the perspectives of Clerk's Office customers regarding a paperless court records system. The following groups of individuals were surveyed:

- Judge or Court Commissioner
- Attorney
- Staff member in an attorney's office
- Member of the Clerk's Office
- Party to a court case without an attorney
- Party to a court case represented by an attorney
- Not a party to a court case
- Member of other organization or group not described above

#### Development of the Survey

Two definitions were provided at the beginning of the survey in an effort to bring clarity:

- "E-filing: The process of filing court documents electronically."

- “Paperless Court Records System: The filing, viewing and processing of all court documents electronically by the litigants, the court staff and the judiciary.”

The survey consisted of 11 questions (see Appendix A):

- 1.) Which of the following mostly closely describes your involvement in the Snohomish County Superior Court system (answer choices are as outlined above under “Participants”)?

Only the second question consisted of a yes/no answer:

- 2.) Do you believe that a digital system would be more effective than a paper records system?

The next nine questions were multiple choice with two of those containing a subset of questions and three including an option for additional comments:

- 3.) How often do you view Snohomish County Superior Court documents (either electronically or in paper form)?
- 4.) How often do you file court documents with the Snohomish County Clerk’s Office?
- 5.) How often do you use the internet for business purposes?
- 6.) If available, would you view court records online?
- 7.) Do you complete financial transactions online?
- 8.) If a surcharge was added to filing fees in order to support enhanced technology (paperless filing system), would you be willing to pay?
- 9.) What do you believe would be the benefits of e-filing?
- 10.) [What do you believe would be the] Barriers to implementation of e-filing?
- 11.) What is your age?

A twelfth item was included to allow participants to share any additional feedback they may have.

### Pre-testing

The definition of “regularly, semi-regularly, occasionally, and seldom” was changed after pre-testing of the initial survey was conducted with six participants. Several participants indicated they filed daily and didn’t feel that the original definition expressed clearly enough the regularity of their filings.

<u>Category</u>	<u>As Pre-tested</u>	<u>As Administered</u>
Regularly	1-2 times per week	5 times per week or more
Semi-regularly	1-2 times per month	Up to 5 times per month
Occasionally	3-4 times per year	One time per month or less
Seldom	1-2 times per year	Less than 5 times per year

While feedback indicated that the survey was clearly laid out and easy to follow, the majority of participants needed clarification on the question relating to “Barriers to Implementation of E-Filing” and the question relating to a surcharge for enhanced technology. As a result the Likert scale was adopted for the question relating to “Barriers to Implementation of E-Filing” as the original answer choices did not include “Neither agree nor disagree” and participants indicated a preference for that option. Several participants did not understand what “Speed of computer system” meant so that item was changed to read “I am concerned about the speed of the computer system I use.”

Lastly, the survey originally included the question “If a surcharge to support enhanced technology were implemented, I would be willing to pay” with choices that ranged from “More than \$10 per case” to “\$0”. Multiple participants interpreted that to mean that a surcharge would apply to individual document filings within a single case. Consequently, the question was

modified to read “If a surcharge was added to filing fees in order to support enhanced technology (paperless filing system), would you be willing to pay.”

#### Administration of survey

The survey was administered for a one-week period. It was developed and administered using SurveyMonkey,<sup>45</sup> which is a web-based survey program that allows survey participants to answer online, and results are automatically tallied and categorized. Reminder e-mails were sent to participants on day three of the survey. Surveys were distributed to 194 people (described below) with an overall response rate of 73%.

An electronic link to the survey was sent via e-mail to all 20 judicial officers (15 judges and 5 court commissioners) and all 72 Clerk’s Office staff due to the relatively low number and ease of distribution. Seventy percent (or 14) of the judicial officers and 92% (or 66) of Clerk’s Office staff members responded to the survey

Initial work using the Washington State Bar Association (WSBA) website was done to identify individuals who practiced in Snohomish County and for whom civil cases were their primary area of practice. However, after several hours of work it became clear that this was a futile effort due not only to the laborious process but also because the definition of “civil” would have to be interpreted. For example, some attorneys indicated civil as their specialty, while others broke that down into landlord tenant, medical malpractice, tort, etc. Additionally, there were attorneys the researcher was personally familiar with as being civil practitioners but who did not have that category listed on their WSBA information. Subsequently, a spreadsheet was acquired from the WSBA which contained a list of 786 members associated with Snohomish County. This high number made it impractical to survey every attorney, so every 10<sup>th</sup> person was selected to receive a survey, resulting in a total of 79 attorneys. E-mail addresses were not

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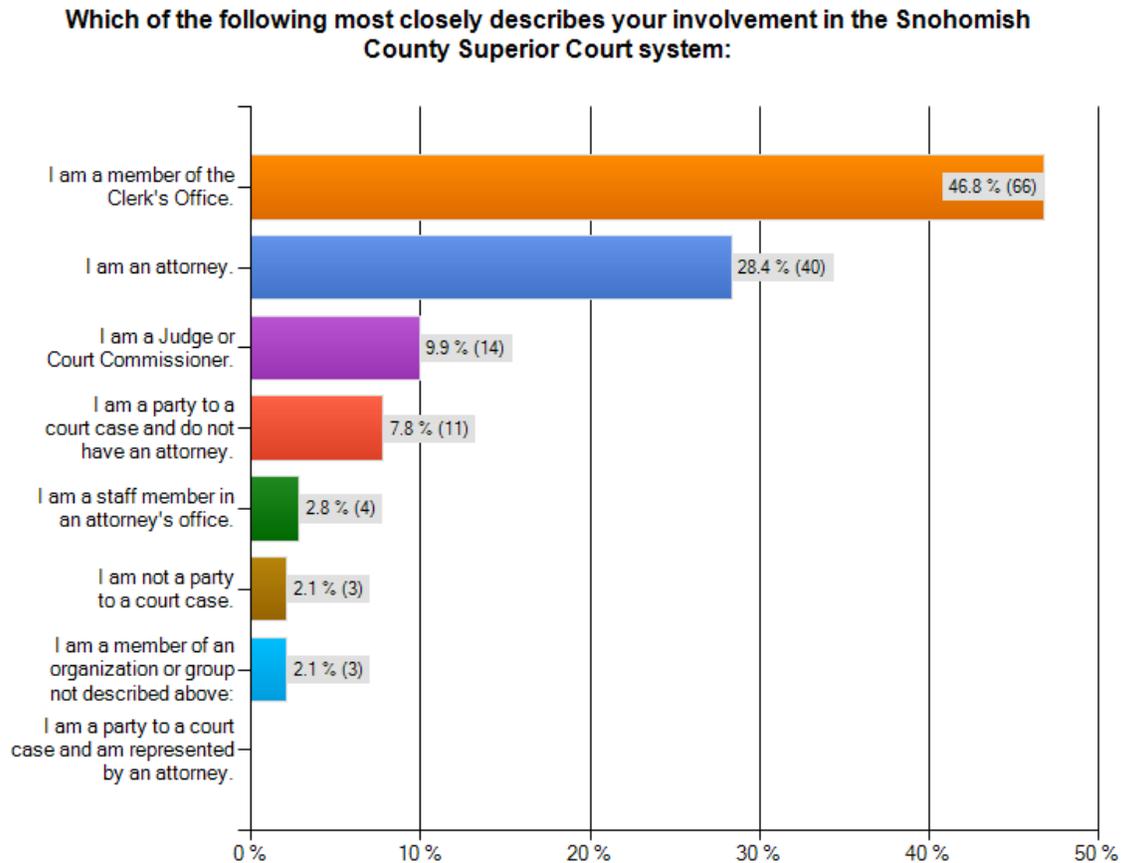
<sup>45</sup> [www.surveymonkey.com](http://www.surveymonkey.com)

available from the information provided by the WSBA so that information was obtained from each attorney's listing on the website. An electronic link to the survey was sent to the 66 attorneys for whom an e-mail address could be obtained, while a paper copy of the survey was mailed to 13 of the attorneys. The cover letter or e-mail that accompanied the survey asked that if the attorney was unable to complete the survey that it be passed on to his/her paralegal for completion. A total of 44 surveys were returned from this subset.

The remaining portion of the survey (pro se litigants, represented litigants, non-party individuals, and members of other organizations or groups) was the most laborious as it required timing with court calendars that would likely involve pro se litigants as well as an individual to administer the survey. A former Clerk's Office staff member volunteered for two partial days at the courthouse to administer the survey. Of 23 individuals who were approached, 17 agreed to participate in the survey. Although there was a survey category for individuals who were a party to a case and represented by an attorney, data was not obtained from anyone in that group (see Figure 1).

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**Figure 1: Categories of survey participants**



### **Evaluation of current civil workflows**

For purposes of this research, 12 civil workflows were evaluated by senior members of the Clerk's Office. Those workflows are:

- Archiving files
- Bench Warrants issued
- Bench Warrants quashed
- Bulk User-Check-out/Check-in
- Civil originating
- Civil subsequent
- File Withdrawal Check-out/Check-in
- File Withdrawal – Public with no ID
- Orders Shortening Time
- Reactive files
- Reject documents – external
- Reject documents – internal

It should be noted that these workflows were originally documented more than five years ago with review and input from multiple Clerk's Office members and were recently updated to ensure that they reflected current processes. In reviewing these workflows an attempt was made to identify possible changes in the event a paperless system is implemented. After refining of the workflows to incorporate electronic processes, a third revision was made specifically to the Civil Originating workflow to envision a purely electronic process (see Figure 14).

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## FINDINGS

### Survey

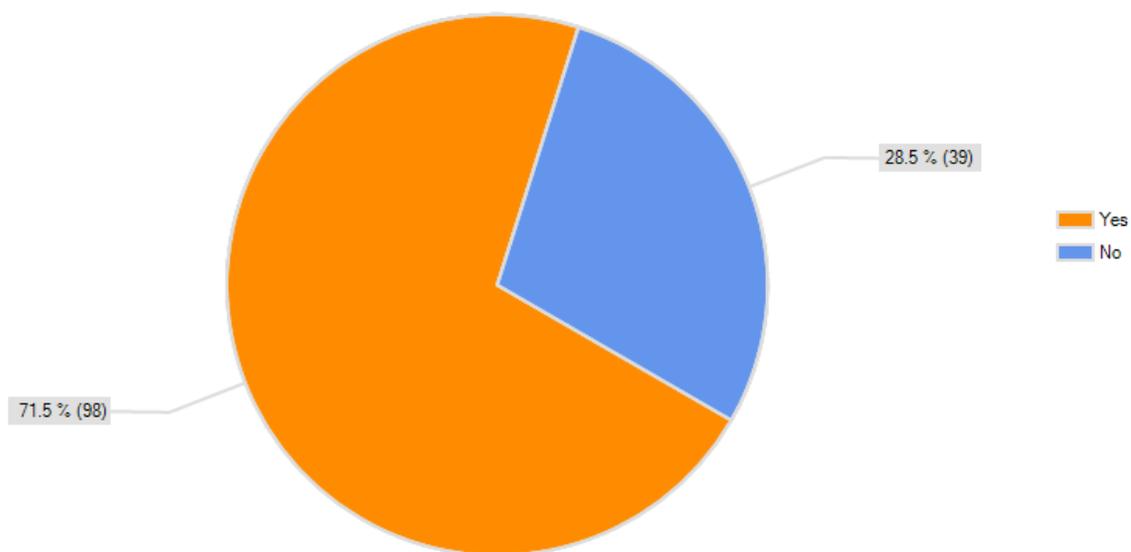
Seventy two percent of those surveyed indicated that they believed a digital system would be more effective than a paper records system (see Figure 2). However, when that response was cross-tabulated according to survey participants' involvement with the Superior Court System, it showed that the judiciary was the only group in which the majority did not believe a digital system would be more effective (see Figure 3).

Additional comments throughout the survey that could be directly attributed to judges or commissioners indicated that their job would be difficult to perform in a paperless environment and that it would greatly add to court preparation time, thereby requiring additional staff and offsetting any savings. Several other telling comments by the judiciary included 1.) That a combined [paper and digital system] would not be opposed "so long as actual physical files continue to be available for our use;" and 2.) "Electronic filing cannot possibly include an original signature, a feature of paper filing that is very helpful and even crucial." One comment from a judge included a perspective on both the pro and con of a paperless system:

"E-filing would offer me, as a judge, to see those pleadings which presently may not find their way into the court file prior to a hearing. It would also save an enormous amount of clerical time in filing pleadings and pulling and returning court files after judicial hearings. It would entail reading most materials on a computer instead of seeing the actual original papers, which may pose challenges to time management as it's likely more apparent with paper documents to see when a case will require more preparation/reading time as compared to an e-file."

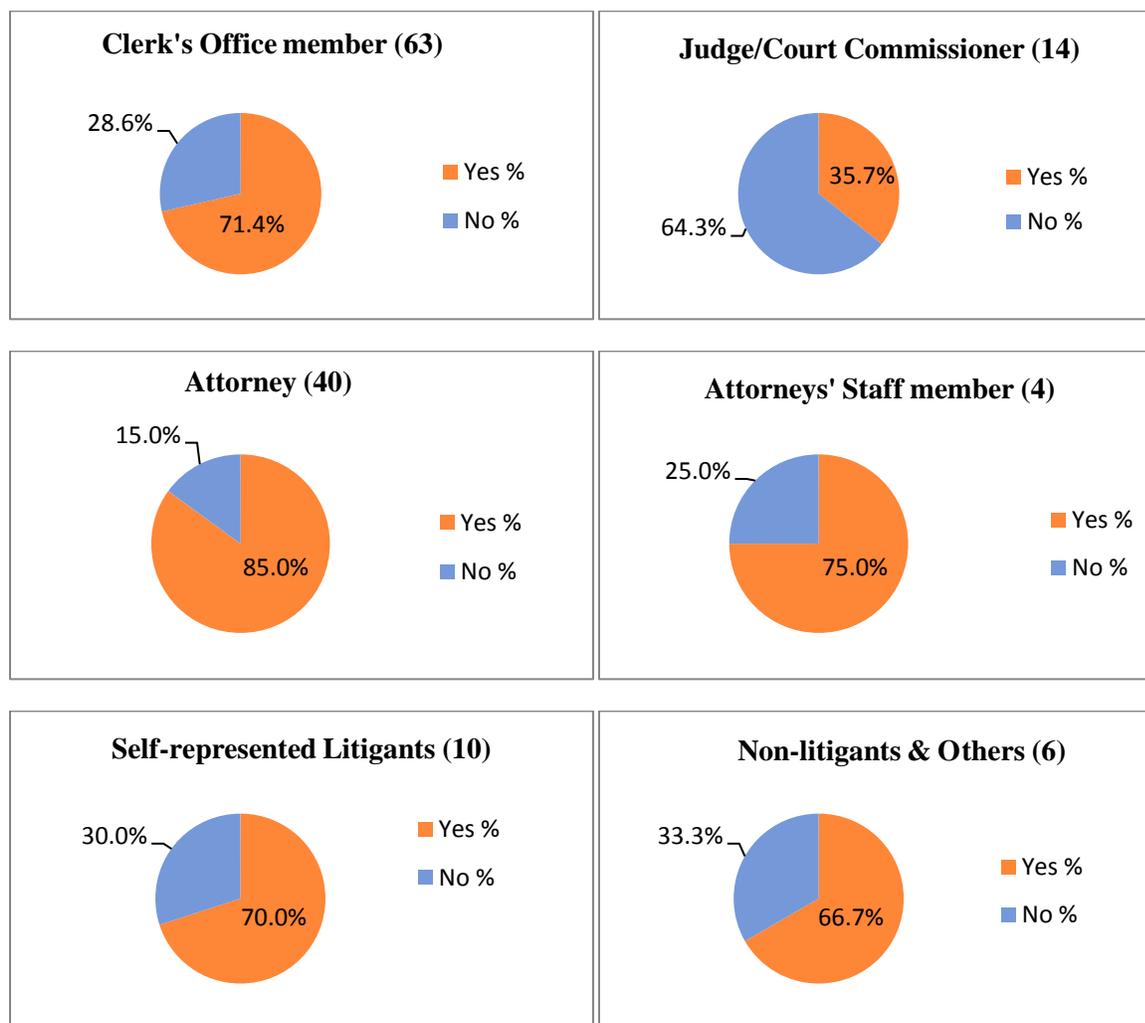
Figure 2

Do you believe that a digital system would be more effective than a paper records system?



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**Figure 3: “Do you believe that a digital system would be more effective than a paper records system?”**



### Viewing/Filing of Court Documents online

When participants were asked how often they viewed or filed court documents, or used the internet for business regularly, the majority responded that they did so regularly<sup>46</sup> (see Figures 4 - 6). Only a small percentage indicated “never”. Specifically relating to viewing of court records online, the 4% (or 5) of survey participants who said that they would never view court records online were filtered to reveal that group was comprised of one Judge/Commissioner, two attorneys, one Clerk’s Office staff member, and one pro se litigant.

<sup>46</sup> Regularly = 5 times per week or more.

Figure 4

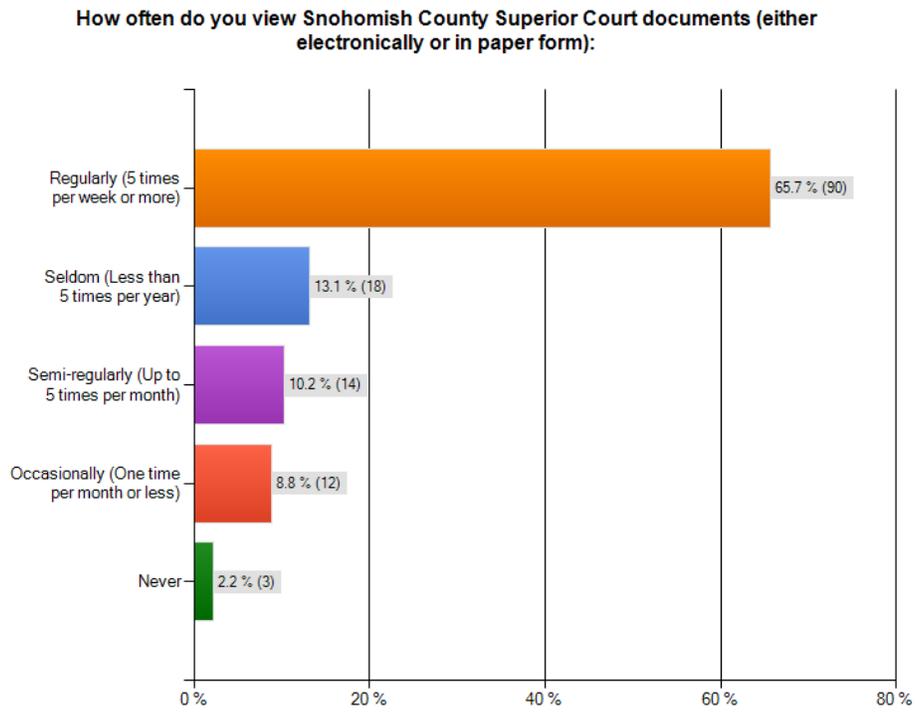


Figure 5

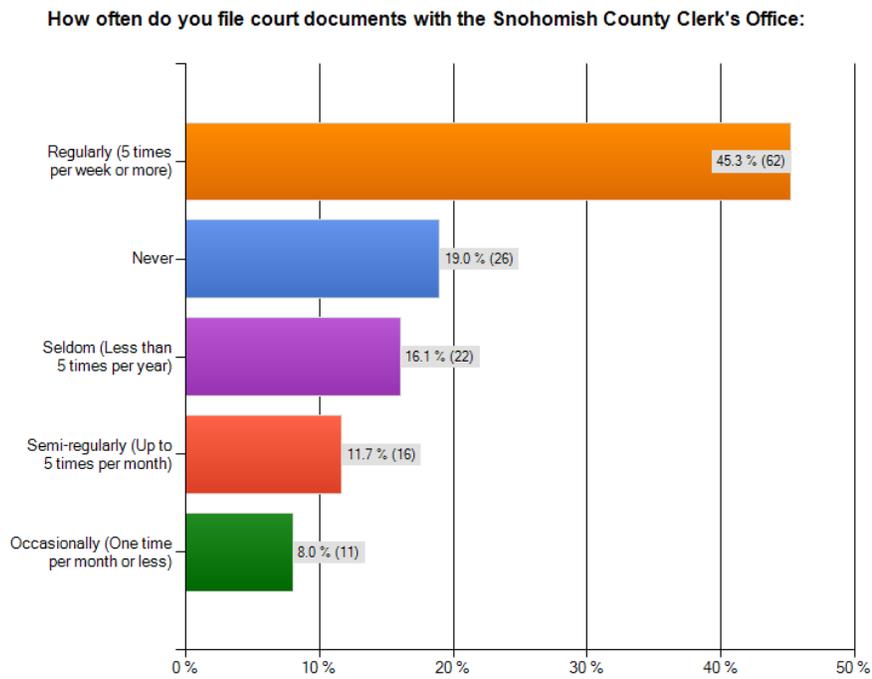
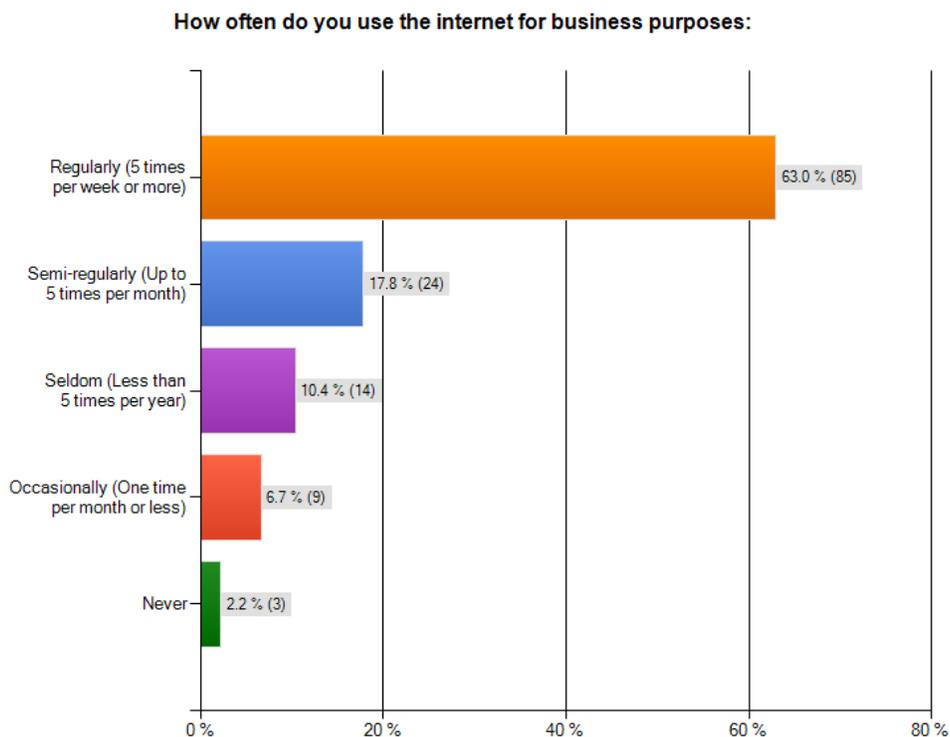


Figure 6



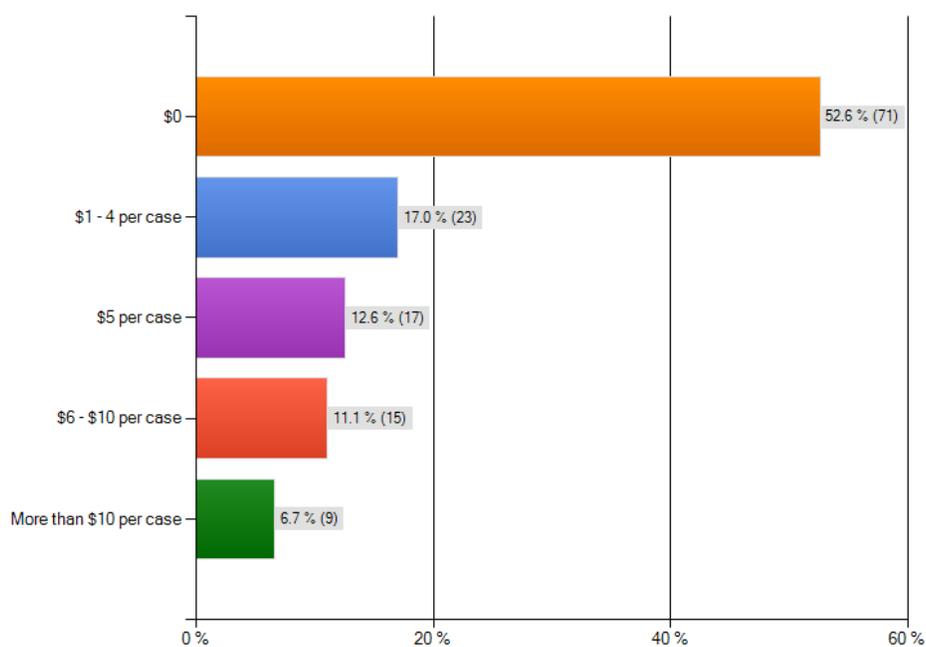
### Technology Funding

Since funding is an ongoing issue for the courts, survey participants were queried on their willingness to pay a surcharge on case filing fees in order to support enhanced technology.

Answer choices ranged from \$0 to more than \$10 per case. The majority (53%) said they would not be willing to pay any surcharge, while 7% indicated they would be willing to pay more than \$10 per case (see Figure 7). However, when that response was broken down by participants' categories, the majority of those most likely to be affected by an increase in fees (attorneys, attorneys' staff, and self-represented litigants) were willing to pay a surcharge (see Figures 8 - 10).

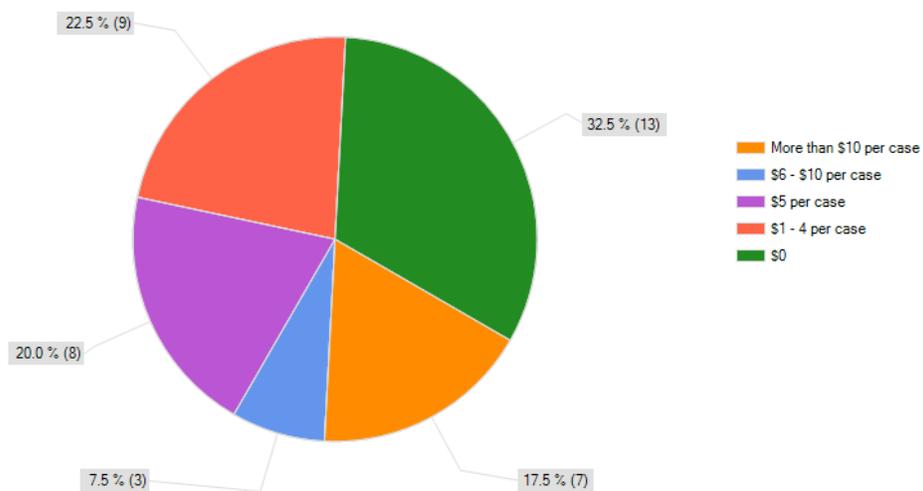
**Figure 7: Combined response from all survey participants**

If a surcharge was added to filing fees in order to support enhanced technology (paperless filing system), would you be willing to pay:



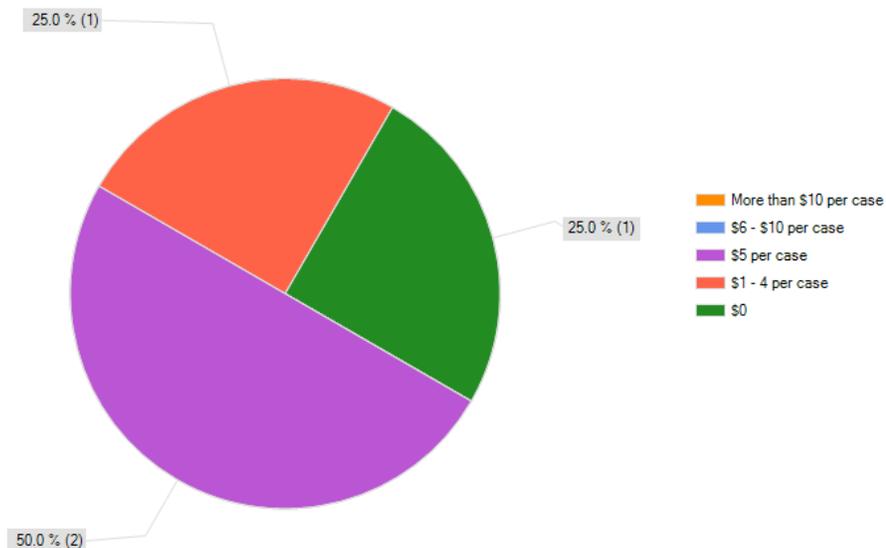
**Figure 8: Attorney responses**

If a surcharge was added to filing fees in order to support enhanced technology (paperless filing system), would you be willing to pay:



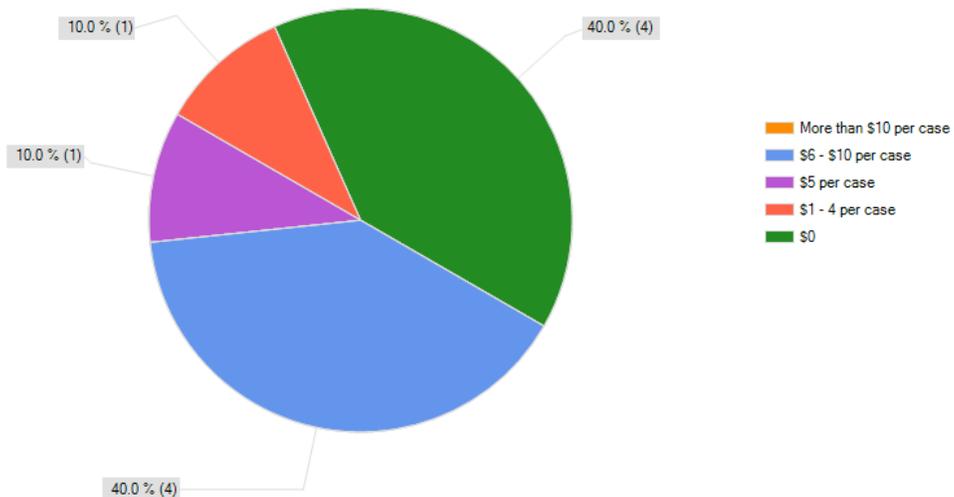
**Figure 9: Attorneys' staff**

If a surcharge was added to filing fees in order to support enhanced technology (paperless filing system), would you be willing to pay:



**Figure 10: Self-represented litigants**

If a surcharge was added to filing fees in order to support enhanced technology (paperless filing system), would you be willing to pay:



Civil filing fees for general jurisdiction courts across the country were reviewed. Fees ranged from \$60 in Wyoming to \$395 in Florida.<sup>47</sup> The information revealed that while some states have a flat rate, other states use a tiered approach incorporating multiple factors including the type of action and number of defendants. Additionally, a number of states charge an answer fee ranging from \$60 in Montana to \$320 in Minnesota. Minnesota's filing fee coupled with the answer fee totals \$640. Washington State's filing fee is 16<sup>th</sup> from the highest at \$230, and there is no answer fee.

### Benefits and Barriers to E-Filing

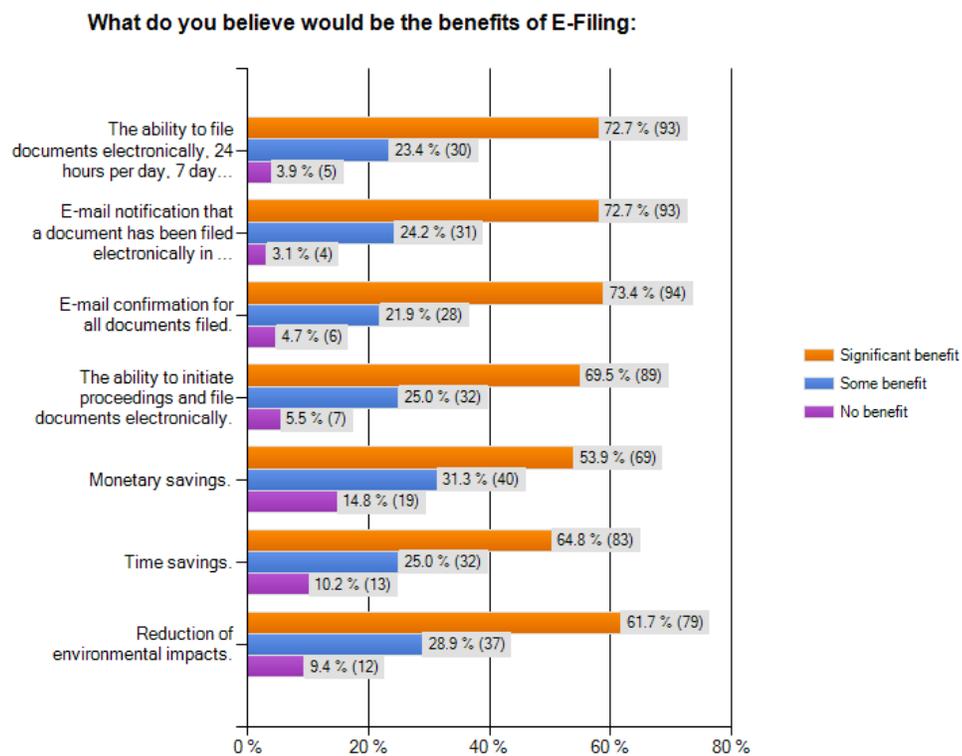
Two multi-part questions were posed to survey participants concerning benefits and barriers to e-filing. The majority of responders indicated that there would be significant benefit to e-filing (see Figure 11). Participants expressed their opinion that e-filing would save time and money, both of which would be beneficial. One participant felt e-filing should be approached very carefully and was concerned that automation of processes would remove the "personalized customer service" for which the Clerk's Office is so well known. There was also concern that e-filing "compromises the safety of information getting into the wrong hands."

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<sup>47</sup>National Center for State Courts, Civil Filing Fees in State Trial Courts, September, 2009.

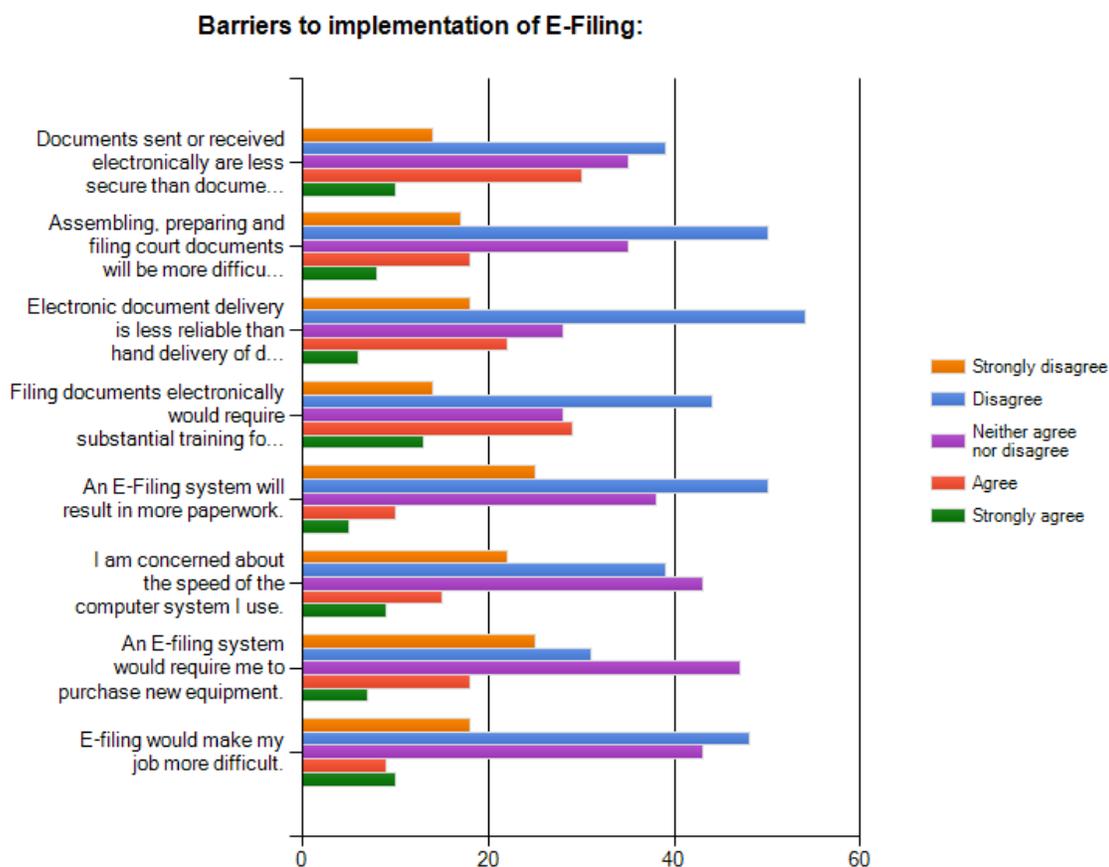
Figure 11



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When asked about barriers to implementation of e-filing (see Figure 12), participants generally disagreed that there were barriers. Feedback revealed concerns about the county’s e-mail server size, security of the process, handling of confidential information, and the time it would take to e-file. A self-represented litigant thought that the help of a facilitator would be needed for e-filing. Another participant commented, “Won’t the court still continue to maintain paper files for all Superior Court case filings?”

**Figure 12**

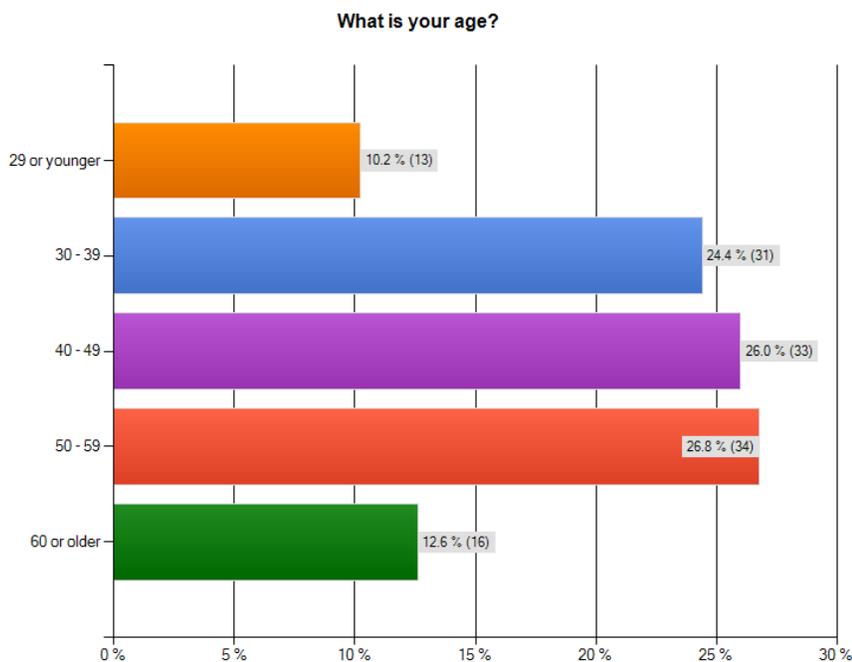


### Age

The last question asked participants to identify their age range in an effort to determine whether or not this was a factor in their perspective of a paperless system (see Figure 13). A cross filter was applied to those who responded “no”, that they did not believe a digital system

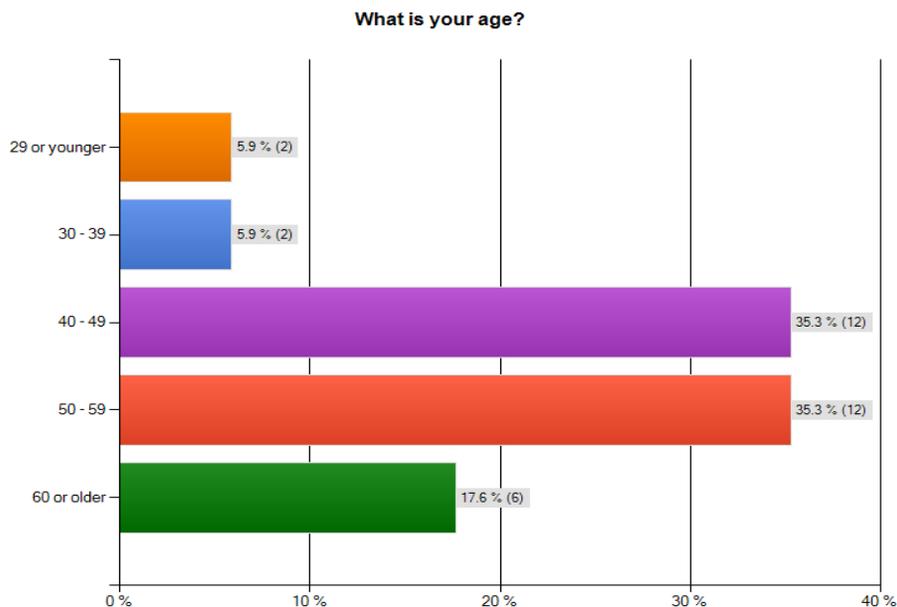
would be more effective than a paper records system (see Figure 14). This revealed that for the age categories of 29 or younger and 30-39 that participants were more likely to be in favor of a digital system. For the other age categories, one’s age did not appear to be a factor in whether or not survey participants were supportive of a paperless system with one exception: the judiciary. There were no judicial officers who were in an age category younger than 40, and the largest number of judges/commissioners were in the age category of 50 – 59 (46% of the judicial officers), which is where the majority of dissent to a paperless system occurred. The majority of judicial officers in support of a paperless system were in the age category of 60 and older.

**Figure 13: Age of all survey participants**



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**Figure 14: Survey participants responding negatively to a paper records system**



The last item on the survey allowed for additional comments, and twelve participants shared feedback. The primary concerns and opinions expressed were impact on the participants' job, confidentiality of information, lack of access for those without equipment or an attorney, pace of implementation, logistical handling of in-court distribution of copies, difficulty of e-filing, potential implementation of extra fees, and the need for some documents to continue to be filed in paper form, such as an Order to Show Cause signed by a judicial officer.

One judicial officer contacted the researcher directly, indicating that the questions were “clearly skewed for a specific result and don’t address the impact on the court and our time/staffing.” Conversely, several participants felt a paperless system was a great idea including one who indicated “can’t wait to get this started.”

## **Workflows**

The updated civil workflows showed that there are multiple areas in which automation could occur. When developing future workflows, e-filing proved to be a critical component. When assuming the implementation of a paperless system without e-filing, four of the twelve

workflows could be eliminated. While the remaining eight workflows benefited from some reduction in manual processes if assuming the implementation of internal electronic processing, it was only when assuming e-filing by the litigant or attorney that the most savings and streamlining of processes realized. However, this cost benefit was not directly measured.

### Current Workflows

From a technical standpoint, the workflow review revealed that e-filing and a paperless court records process could be accomplished and would save resources, although that was not quantified from a budgetary standpoint. The majority of any presumed savings from the perspective of the Clerk's Office would be directly attributable to staff savings. A clear example of that is for civil originating cases/documents. In today's environment, initiating a civil lawsuit requires a minimum of 18 steps, and most of those are performed by the Clerk's Office and other county staff (see Appendix G1). Initially documents are created and printed at an attorney's office or by a pro se litigant. Next, they are hand delivered to the Clerk's Office for filing where staff assigns a case number, receipt the initiating document along with the filing fee, affix a barcode label and time stamp, and then place the documents into a file bin to await processing.

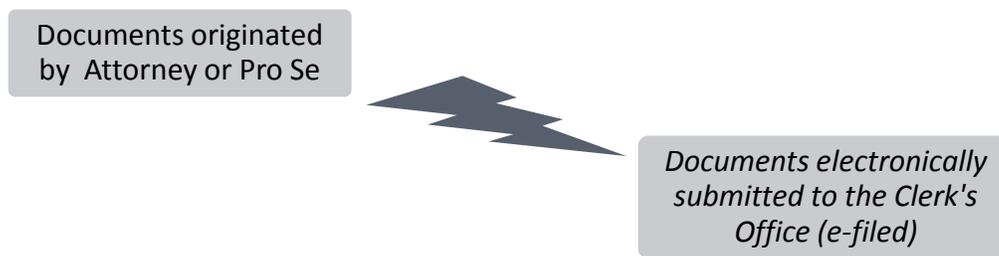
Once the documents have been transported to the Case Management division, they are placed into case number order, indexed into the statewide database, an index number (also referred to as a "sub" number) is handwritten on the document, and a link is created within the imaging system. Next, the documents are retrieved by county's scanning center staff, staples are removed, and documents are scanned, re-assembled/re-stapled, and returned to Case Management. Upon completion of this portion of the process, multiple stacks of documents are intermingled, organized in case number order, and placed in a bin to await transportation to the Records division of the Clerk's Office. Upon arrival there, documents are placed into file folders, auto-generated case labels are printed and placed on the file folder, and the file folder is

placed on shelf. This process is labor intensive, expensive (due to the staff time expended), and may take up to 72 hours from the time documents reach the Clerk's Office until they are available for viewing in any form.

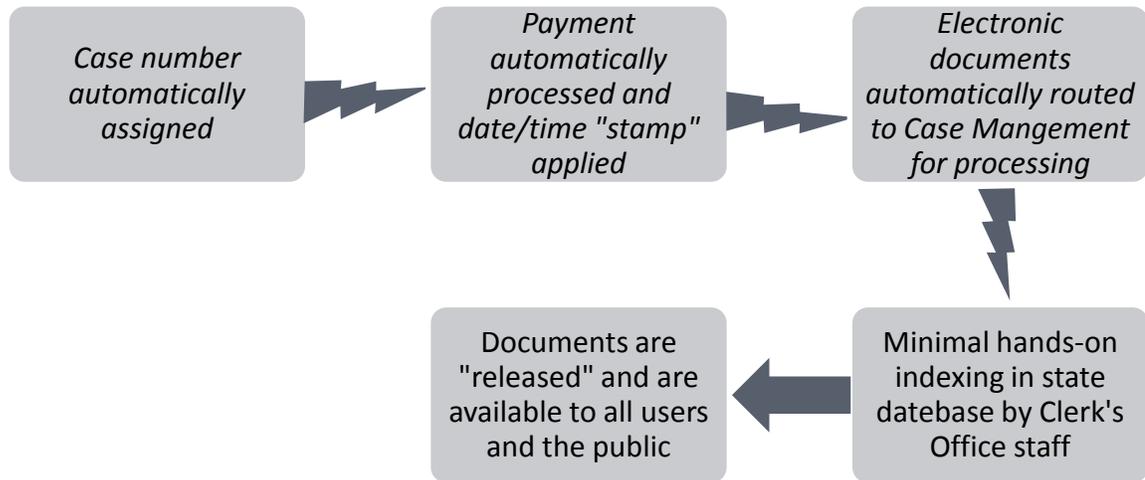
### Future Paperless Workflows

The purely paperless process would eliminate manual handling of documents, and the most labor intensive portion remaining would occur at the point of indexing performed by the Case Management division. As illustrated in Figure 15 the process would begin with the creation of documents by the initiating party. These documents would never be printed and there would not be a need for hand delivery to the Clerk's Office. Rather, the initiating party would e-file them.

**Figure 15: Origination and submission of new case**



The receipt and acceptance at the Clerk's Office would be automated including the assignment of a case number, receipting of the appropriate filing fee, application of the time stamp, and electronic routing to the Case Management division for minimal indexing within the state database (see Figure 16). Once these few steps were completed, the document would be "released" for availability.

**Figure 16: Receipt and processing of new case**

This entire process from the time of receipt within the Clerk's Office could easily be completed within just a few hours, allowing documents to be available simultaneously to all users. While the electronic process may not be feasible or possible for all court users (such as self-represented litigants), the majority of cases could be handled in this manner and would save staff time and financial resources, not only for the court but for customers as well.

## CONCLUSIONS AND RECOMMENDATIONS

**Conclusion 1: The majority of civil workflows and related processes in the Clerk's Office could be adapted to a paperless system.**

Discontinuing the use of paper files and partially implementing paper processes without e-filing would allow for the elimination of 33% of current civil workflow processes and streamlining of the remaining 66% of civil workflows.

***Recommendation 1: Refine workflows further before implementing a paperless system.***

In reviewing the civil case workflows, the greatest streamlining of business processes occurred when assuming implementation of e-filing. Without e-filing the Clerk's Office would be placed in the position of continuing to handle paper documents and any potential efficiencies would be minimized. Processes should be reviewed at their very beginning stages, which is outside of the Clerk's Office. Since presumably this review would occur prior to the implementation of a paperless system, some assumptions must be made in order to define a clear vision for paperless processing and must include all stakeholders.

**Conclusion 2: Implementation of a paperless system would result in both monetary and environmental savings.**

It is clear that a paperless system would bring savings to customers and the Clerk's Office based on the information on savings that other courts have experienced when a paperless system was implemented, the workflow review, and information regarding environmental savings when documents are not printed.

***Recommendation 2: The cost of processing documents should be measured based on current workflows and future revised workflows.***

If costs were calculated for the cost of processing documents and cases based on current processes, future assumed costs and actual costs could be calculated. This would allow the

Clerk's Office to establish baseline costs and clearly measure a monetary return on investment. Additionally, baseline costs and future costs for stakeholders and customers should be measured. Unquestionably, the Superior Court would experience the least amount of savings because the handling of files and documents is primarily done by Clerk's Office staff. However, since the law and justice departments consume more than 70% of Snohomish County's general fund budget, any savings would free up budgetary resources. There would also be other savings due to a reduction in environmental impacts, although this would not be a hard cost. Both the monetary savings and the environmental savings would benefit Snohomish County taxpayers.

**Conclusion 3: Clerk's Office customers would be willing to pay a filing fee surcharge in order to support enhanced technology.**

Ongoing funding of technology is critical. While the majority of survey participants indicated they would be unwilling to pay a surcharge, those customers who actually pay filing fees (attorneys, attorneys' staff, and pro se litigants) indicated they would be willing to pay a filing fee surcharge.

***Recommendation 3A: The possibility of implementing a technology surcharge on filing fees should be explored.***

The majority of those customers who pay filing fees (such as attorneys, attorneys' staff and pro se litigants) indicated they would be willing to pay a surcharge, ranging from \$1-4 per case to in excess of \$10 per case. This would require legislative action, and it would have a better chance of success if it were supported by the Superior Court Judges' Association, the Washington State Association of County Clerks (WSACC), and key legislators. However, in considering a surcharge, the savings that a paperless system would bring should also be taken into account. If the monetary savings are such that the cost of a paperless system is less than

what it currently costs the Clerk's Office and Snohomish County, perhaps a surcharge would not be necessary.

***Recommendation 3B: Washington State filing fees should be reviewed.***

Although Washington State has the 16<sup>th</sup> highest filing fee in the nation, it should be carefully reviewed and compared in totality with other courts. Many states have tiered fees, e.g., fees for additional defendants or an answer fee, while Washington State does not have any of those fees. This issue should be addressed at the state level, and any review should ensure that the filing fee is comparable with other general jurisdiction courts while ensuring that the fee is not cost-prohibitive for litigants.

**Conclusion 4: The majority of Clerk's Office stakeholders and customers are supportive of a digital system.**

With the exception of judges and court commissioners, the majority of Clerk's Office customers and staff indicated a paperless system would be beneficial.

***Recommendation 4: An extensive outreach and education program concerning digital processes should be implemented prior to implementation of a paperless system.***

While it is important to provide education and information to all stakeholders, special focus should be given to those who responded negatively regarding a paperless court records system. Winning over those individuals and having their buy-in would significantly improve the likelihood of success of a paperless system. Based on the survey responses it is clear that many of those responding do not understand what a paperless system is, how such a system would operate, and related technological advances such as digital signatures. Education for all users and stakeholders should be tailored to the audience (Judicial officers, attorneys, Clerk's Office staff, etc.) and should be provided both in a structured setting and informally. The outreach should include distribution of information electronically, posted notices, and a limited amount of

mailed information. Education should be made available via a web page, question and answer sessions, and formal trainings that would allow hands-on training for users.

**Conclusion 5: The Judiciary may not be willing to utilize the paperless system.**

This was the only group that responded negatively to a paperless system. Responses from judicial officers indicated that it would be difficult for them to work with a paperless system due to time constraints, paperwork volume, and necessity to reference materials during court hearings.

***Recommendation 5: Adequate equipment and support must be provided to the bench when a paperless system is implemented.***

Special attention must be given to the needs of the bench to ensure that they have the tools needed to perform their job such as adequate equipment, system speed, and remote access. For those judicial officers who still require the paper file, printing out court documents would still be more efficient than the process and the manpower it requires to manage paper court documents. Any implementation should not be mandated but, rather, should be a gradual approach. The goal should be to win over judicial officers through the functionality of the system.

**Conclusion 6: It will be necessary to always maintain some manual paper processes.**

There are some individuals, such as pro se litigants, who do not have access to the equipment and tools necessary to utilize e-filing.

***Recommendation 6: Provide a choice of manual paper processes or e-filing for pro se litigants.***

Ensuring that pro se litigants have access to justice is critical. Any new technology must take that into account and processes cannot be implemented that hinder an individual's access to the court. The Clerk's Office should provide on-site equipment and hands-on support to those

individuals desiring to utilize e-filing. There must always be an accommodation provided for those individuals who are unable to utilize a paperless system.

**Conclusion 7: A paperless court could be successful in Snohomish County.**

Based on successful implementations in other jurisdictions in Washington State and elsewhere, it has been demonstrated that a paperless court can be successful. The Snohomish County Clerk's Office has already laid the foundation for that with implementation of digital imaging five years ago. The benefits far outweigh the liabilities. Benefits include the elimination of duplicate data entry, high production quotas, faster access to court documents, and reduction in environmental impacts. Concern about security of court documents has already been addressed with the implementation of digital scanning. Elimination of paper court files would free up nearly 5,000 square feet, which would provide an added benefit of allowing the Clerk's Office to centralize the location of staff and expand customer service facilities.

***Recommendation 7: A paperless technology plan should be developed that includes e-filing.***

In implementing a paperless court, lack of success has occurred when courts have been unable to move out of maintaining a duplicate system because there has been no vision to create a new work environment. This plan should take into account potential liabilities (such as system crashes) and a definitive plan for addressing those.

Additionally, a detailed cost analysis should be conducted based on refined workflows that provide projected salary savings as well as potential cost savings for customers, e.g., courier services, printing costs, etc.

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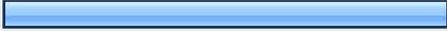
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## APPENDICES

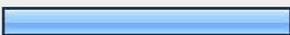
## APPENDIX A

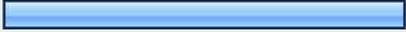
## Snohomish County Clerk's Office Electronic Records Survey

1. Which of the following most closely describes your involvement in the Snohomish County Superior Court system:				
			Response Percent	Response Count
I am a Judge or Court Commissioner.			9.9%	14
I am an attorney.			28.4%	40
I am a staff member in an attorney's office.			2.8%	4
I am a member of the Clerk's Office.			46.8%	66
I am a party to a court case and do not have an attorney.			7.8%	11
I am a party to a court case and am represented by an attorney.			0.0%	0
I am not a party to a court case.			2.1%	3
I am a member of an organization or group not described above:			2.1%	3
		Name of Organization or Group:		14
			<i>answered question</i>	141
			<i>skipped question</i>	0

2. Do you believe that a digital system would be more effective than a paper records system?				
			Response Percent	Response Count
Yes			71.5%	98
No			28.5%	39
			<i>answered question</i>	137
			<i>skipped question</i>	4

3. How often do you view Snohomish County Superior Court documents (either electronically or in paper form):			Response Percent	Response Count
Regularly (5 times per week or more)			65.7%	90
Semi-regularly (Up to 5 times per month)			10.2%	14
Occasionally (One time per month or less)			8.8%	12
Seldom (Less than 5 times per year)			13.1%	18
Never			2.2%	3
			<i>answered question</i>	137
			<i>skipped question</i>	4

4. How often do you file court documents with the Snohomish County Clerk's Office:			Response Percent	Response Count
Regularly (5 times per week or more)			45.3%	62
Semi-regularly (Up to 5 times per month)			11.7%	16
Occasionally (One time per month or less)			8.0%	11
Seldom (Less than 5 times per year)			16.1%	22
Never			19.0%	26
			<i>answered question</i>	137
			<i>skipped question</i>	4

5. How often do you use the internet for business purposes:				
			Response Percent	Response Count
Regularly (5 times per week or more)		63.0%	85	
Semi-regularly (Up to 5 times per month)		17.8%	24	
Occasionally (One time per month or less)		6.7%	9	
Seldom (Less than 5 times per year)		10.4%	14	
Never		2.2%	3	
			<i>answered question</i>	135
			<i>skipped question</i>	6

6. If available, would you view court records online:				
			Response Percent	Response Count
Regularly (5 times per week or more)		60.7%	82	
Semi-regularly (Up to 5 times per month)		14.8%	20	
Occasionally (One time per month or less)		14.1%	19	
Seldom (Less than 5 times per year)		6.7%	9	
Never		3.7%	5	
			<i>answered question</i>	135
			<i>skipped question</i>	6

7. Do you complete financial transactions online:			Response Percent	Response Count
Regularly (5 times per week or more)			25.9%	35
Semi-regularly (Up to 5 times per month)			28.1%	38
Occasionally (One time per month or less)			10.4%	14
Seldom (Less than 5 times per year)			11.1%	15
Never			24.4%	33
			<i>answered question</i>	135
			<i>skipped question</i>	6

8. If a surcharge was added to filing fees in order to support enhanced technology (paperless filing system), would you be willing to pay:			Response Percent	Response Count
More than \$10 per case			6.7%	9
\$6 - \$10 per case			11.1%	15
\$5 per case			12.6%	17
\$1 - 4 per case			17.0%	23
\$0			52.6%	71
			<i>answered question</i>	135
			<i>skipped question</i>	6

<b>9. What do you believe would be the benefits of E-Filing:</b>				
	<b>Significant benefit</b>	<b>Some benefit</b>	<b>No benefit</b>	<b>Response Count</b>
The ability to file documents electronically, 24 hours per day, 7 days a week.	<b>72.7% (93)</b>	23.4% (30)	3.9% (5)	128
E-mail notification that a document has been filed electronically in a case where I have direct involvement.	<b>72.7% (93)</b>	24.2% (31)	3.1% (4)	128
E-mail confirmation for all documents filed.	<b>73.4% (94)</b>	21.9% (28)	4.7% (6)	128
The ability to initiate proceedings and file documents electronically.	<b>69.5% (89)</b>	25.0% (32)	5.5% (7)	128
Monetary savings.	<b>53.9% (69)</b>	31.3% (40)	14.8% (19)	128
Time savings.	<b>64.8% (83)</b>	25.0% (32)	10.2% (13)	128
Reduction of environmental impacts.	<b>61.7% (79)</b>	28.9% (37)	9.4% (12)	128
			Other (please specify)	3
			<b><i>answered question</i></b>	<b>128</b>
			<b><i>skipped question</i></b>	<b>13</b>

10. Barriers to implementation of E-Filing:						
	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree	Response Count
Documents sent or received electronically are less secure than documents sent or received by courier or hand delivery.	10.9% (14)	<b>30.5% (39)</b>	27.3% (35)	23.4% (30)	7.8% (10)	128
Assembling, preparing and filing court documents will be more difficult than it is now.	13.3% (17)	<b>39.1% (50)</b>	27.3% (35)	14.1% (18)	6.3% (8)	128
Electronic document delivery is less reliable than hand delivery of documents.	14.1% (18)	<b>42.2% (54)</b>	21.9% (28)	17.2% (22)	4.7% (6)	128
Filing documents electronically would require substantial training for my staff or for me.	10.9% (14)	<b>34.4% (44)</b>	21.9% (28)	22.7% (29)	10.2% (13)	128
An E-Filing system will result in more paperwork.	19.5% (25)	<b>39.1% (50)</b>	29.7% (38)	7.8% (10)	3.9% (5)	128
I am concerned about the speed of the computer system I use.	17.2% (22)	30.5% (39)	<b>33.6% (43)</b>	11.7% (15)	7.0% (9)	128
An E-filing system would require me to purchase new equipment.	19.5% (25)	24.2% (31)	<b>36.7% (47)</b>	14.1% (18)	5.5% (7)	128
E-filing would make my job more difficult.	14.1% (18)	<b>37.5% (48)</b>	33.6% (43)	7.0% (9)	7.8% (10)	128
					Other (please specify)	15
					<b>answered question</b>	<b>128</b>
					<b>skipped question</b>	<b>13</b>

11. What is your age?			Response Percent	Response Count
29 or younger			10.2%	13
30 - 39			24.4%	31
40 - 49			26.0%	33
50 - 59			26.8%	34
60 or older			12.6%	16
			<i>answered question</i>	127
			<i>skipped question</i>	14

12. Additional comments:			Response Count
			12
			<i>answered question</i>
			12
			<i>skipped question</i>
			129

**APPENDIX B-1: LETTER TO ATTORNEYS WITHOUT E-MAIL**

December 29, 2009

(Address)

RE: Paperless system

Dear :

The Snohomish County Clerk's Office is researching whether or not a paperless system could be successful in Snohomish County. As a member of the Snohomish County Bar Association, you are one of 79 attorneys that been randomly selected to participate in a survey.

Your response is critical in ensuring that the Clerk's Office receives objective feedback on this topic. Please fill out and return the enclosed paper survey or access the survey electronically by visiting (link) by **close of business on Tuesday, January 5, 2010**. If you are unable to participate in the survey, please give the survey to your paralegal for his/her responses. Thank you in advance for your participation.

Best regards,

Sonya Kraski  
Snohomish County Clerk

**APPENDIX B-2: COVER E-MAIL TO ATTORNEYS**

**From:** Kraski, Sonya  
**Sent:** Monday, January 04, 2010 10:36 AM  
**To:** Members of the Snohomish County Bar Association  
**Subject:** Snohomish County Clerk's Office survey

The Snohomish County Clerk's Office is researching whether a paperless system could be successful in Snohomish County. As a member of the Snohomish County Bar Association, you are one of 79 attorneys that have been randomly selected to participate in a survey. Your response is critical in ensuring that the Clerk's Office receives objective feedback on this topic.

You may access the survey by clicking on the link below. Please complete the survey **by close of business on Friday, January 8, 2010**. If you are unable to participate in the survey, please give the survey to your paralegal for his/her response. Thank you in advance for your participation and support.

<http://www.surveymonkey.com/s/ZDXFPDQ>

Best regards,

*Sonya Kraski*  
*Snohomish County Clerk*  
3000 Rockefeller Avenue, MS 605  
Everett, WA 98201  
425-388-343000  
Fax 425-388-3806  
[Sonya.Kraski@snoco.org](mailto:Sonya.Kraski@snoco.org)

**APPENDIX B-3: COVER E-MAIL TO JUDICIAL OFFICERS**

**From:** Kraski, Sonya  
**Sent:** Monday, January 04, 2010 11:46 AM  
**To:** SSC-Judges/Commissioners  
**Subject:** Survey from Clerk's Office

The Snohomish County Clerk's Office is researching whether a paperless system could be successful in Snohomish County. I am currently participating in the Fellow program at the National Center for State Courts, and this research is part of my completion requirements.

Your response is critical in ensuring that the Clerk's Office receives objective feedback on this topic; the survey is also being distributed to a random group of SCBA members as well as Clerk's Office staff. You may access the survey by clicking on the link below. Please complete the survey **by close of business on Friday, January 8, 2010.**

<http://www.surveymonkey.com/s/ZDXFPDQ>

Thank you in advance for your participation and support. If you have any questions, please do not hesitate to contact me.

Best regards,

Sonya

*Sonya Kraski*  
*Snohomish County Clerk*  
3000 Rockefeller Avenue, MS 605  
Everett, WA 98201  
425-388-3583  
Fax 425-388-3806  
[Sonya.Kraski@snoco.org](mailto:Sonya.Kraski@snoco.org)

**APPENDIX B-4: COVER E-MAIL TO CLERK'S OFFICE STAFF**

**From:** Kraski, Sonya  
**Sent:** Monday, January 04, 2010 11:49 AM  
**To:** SCL - All Hands  
**Subject:** Paperless Court

As part of my participation in the Fellow program at the National Center for State Courts, I am researching whether a paperless system could be successful in Snohomish County. Your response is critical in ensuring that objective feedback is received on this topic; the survey is also being distributed to a random group of bar members as well as the Judges and Commissioners. You may access the survey by clicking on the link below. Please complete the survey **by close of business on Friday, January 8, 2010**.

<http://www.surveymonkey.com/s/ZDXFPDQ>

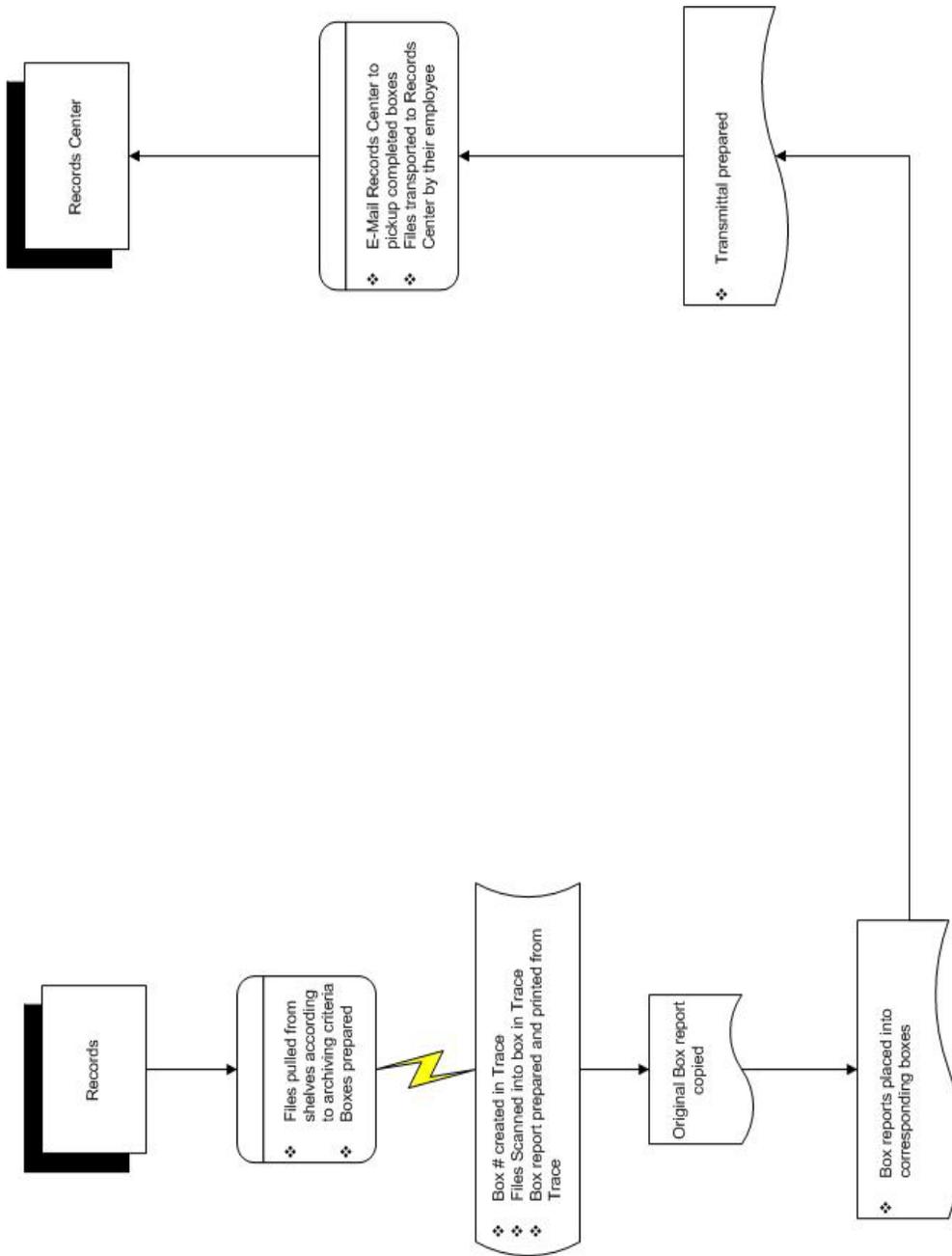
Thank you in advance for your participation and support. If you have any questions, please do not hesitate to contact me.

Best regards,

Sonya

*Sonya Kraski*  
*Snohomish County Clerk*  
3000 Rockefeller Avenue, MS 605  
Everett, WA 98201  
425-388-3583  
Fax 425-388-3806  
[Sonya.Kraski@snoco.org](mailto:Sonya.Kraski@snoco.org)

### APPENDIX C1

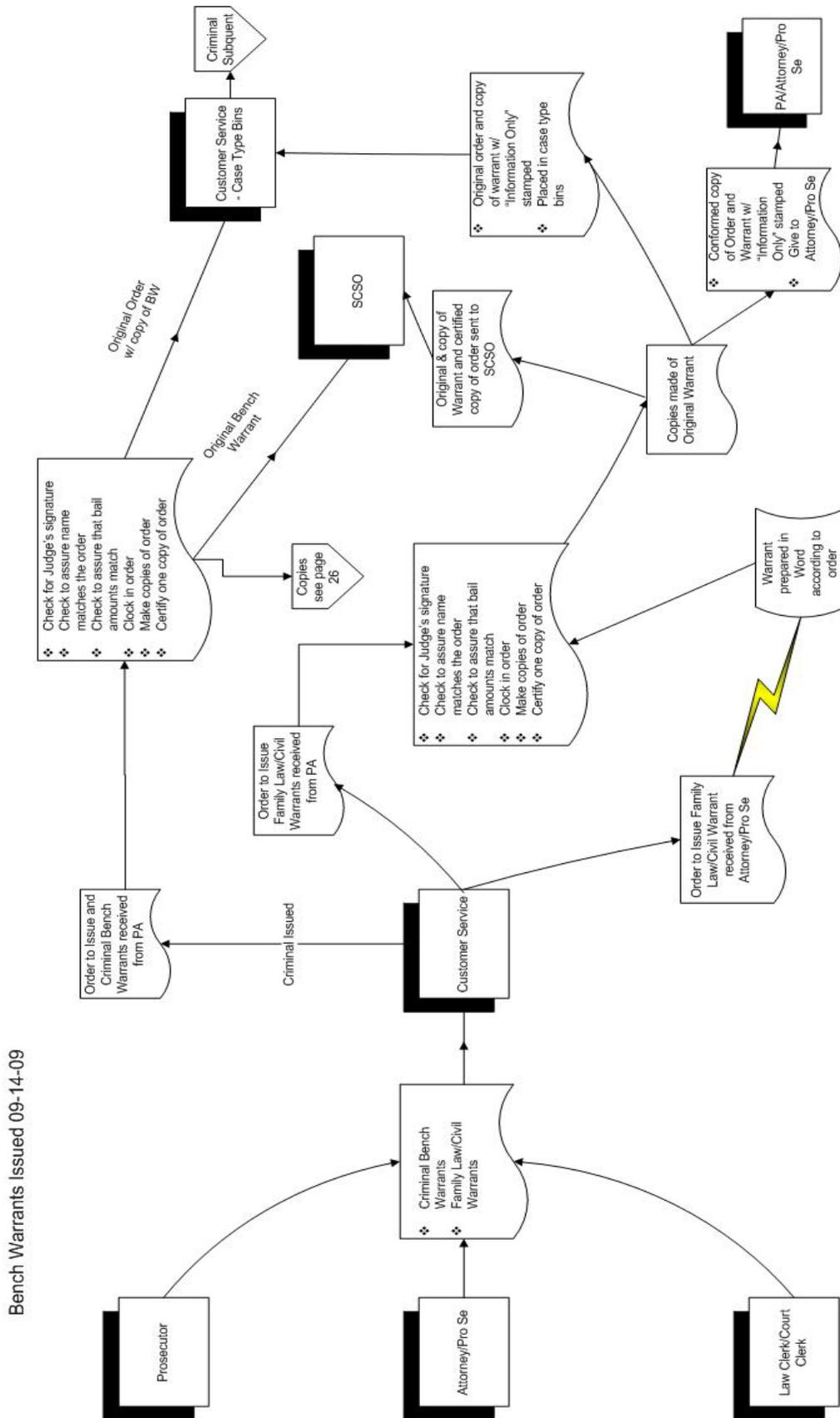


## APPENDIX C2

### Archiving Files (Paperless)

**Note: This workflow is eliminated as the physical court record will no longer be maintained. Long-term preservation of the electronic court record will be accomplished through the current redundant back-up tape system in place for the Clerk's Electronic Document Management System (EDMS), with tapes stored in a separate geographic location. Additionally, as a further safeguard to ensure permanent preservation, ALL existing electronic court records will be transferred to the State Digital Archives (DA) for permanent preservation as well as for public access for a fee. In connection with transferring electronic court records to the DA, there is also an application in development that will transmit daily court record updates from the Clerk's EDMS to the DA. Finally, the potential to archive electronic court records using a records management component of the EDMS will be explored in connection with the paperless court record project.**

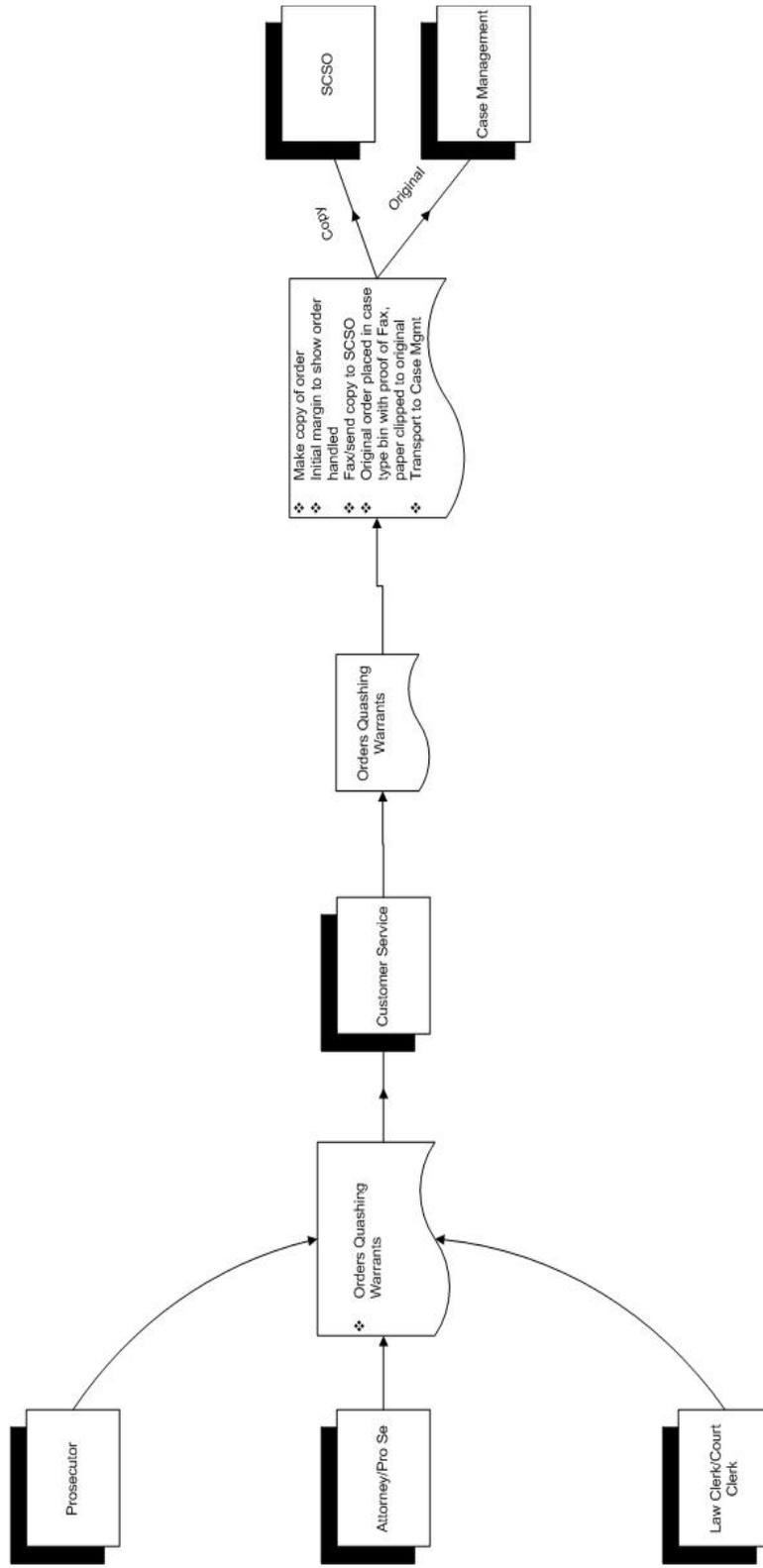
### APPENDIX D1





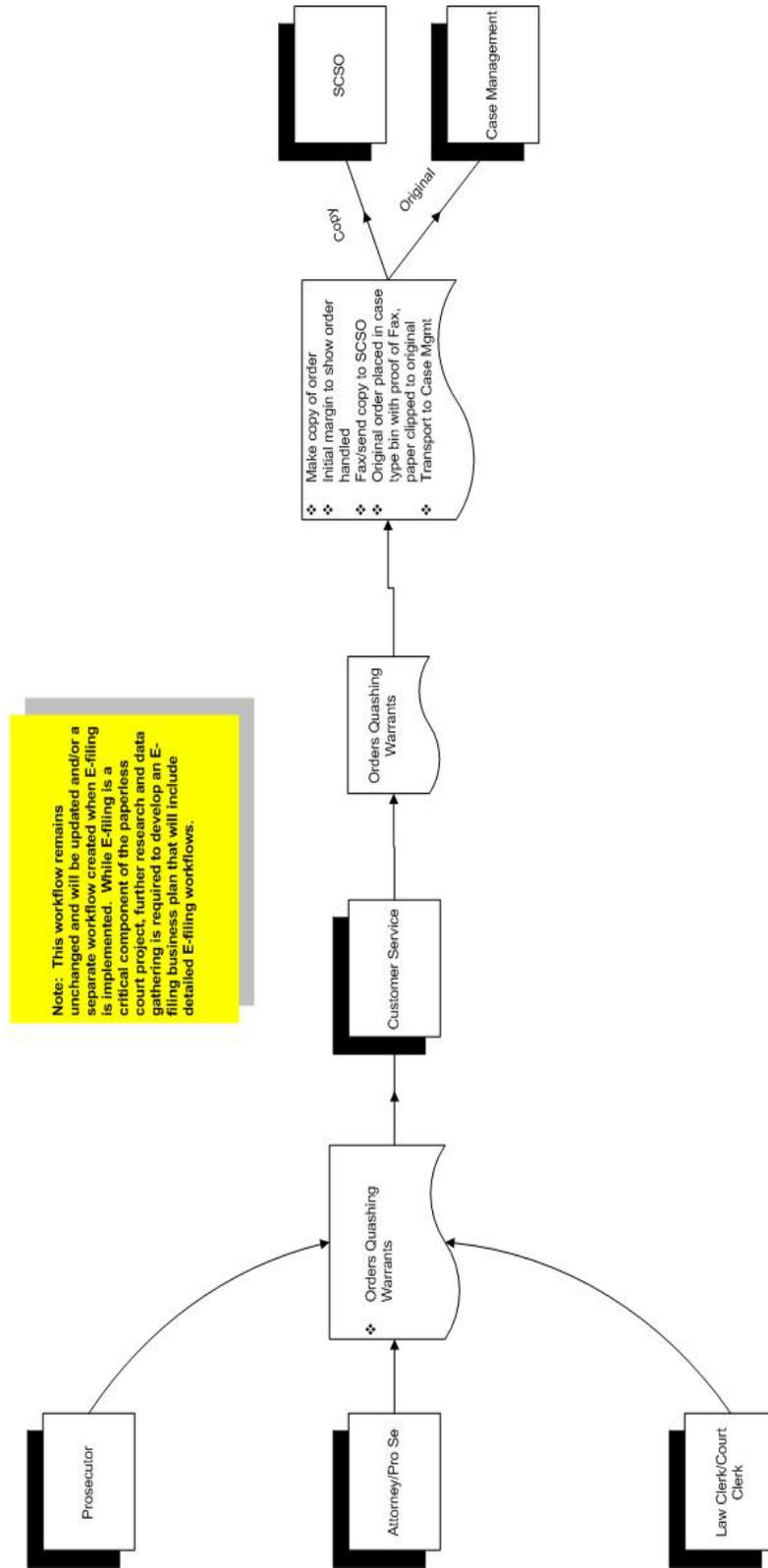
### APPENDIX E1

Bench Warrants Quashed 09-14-09



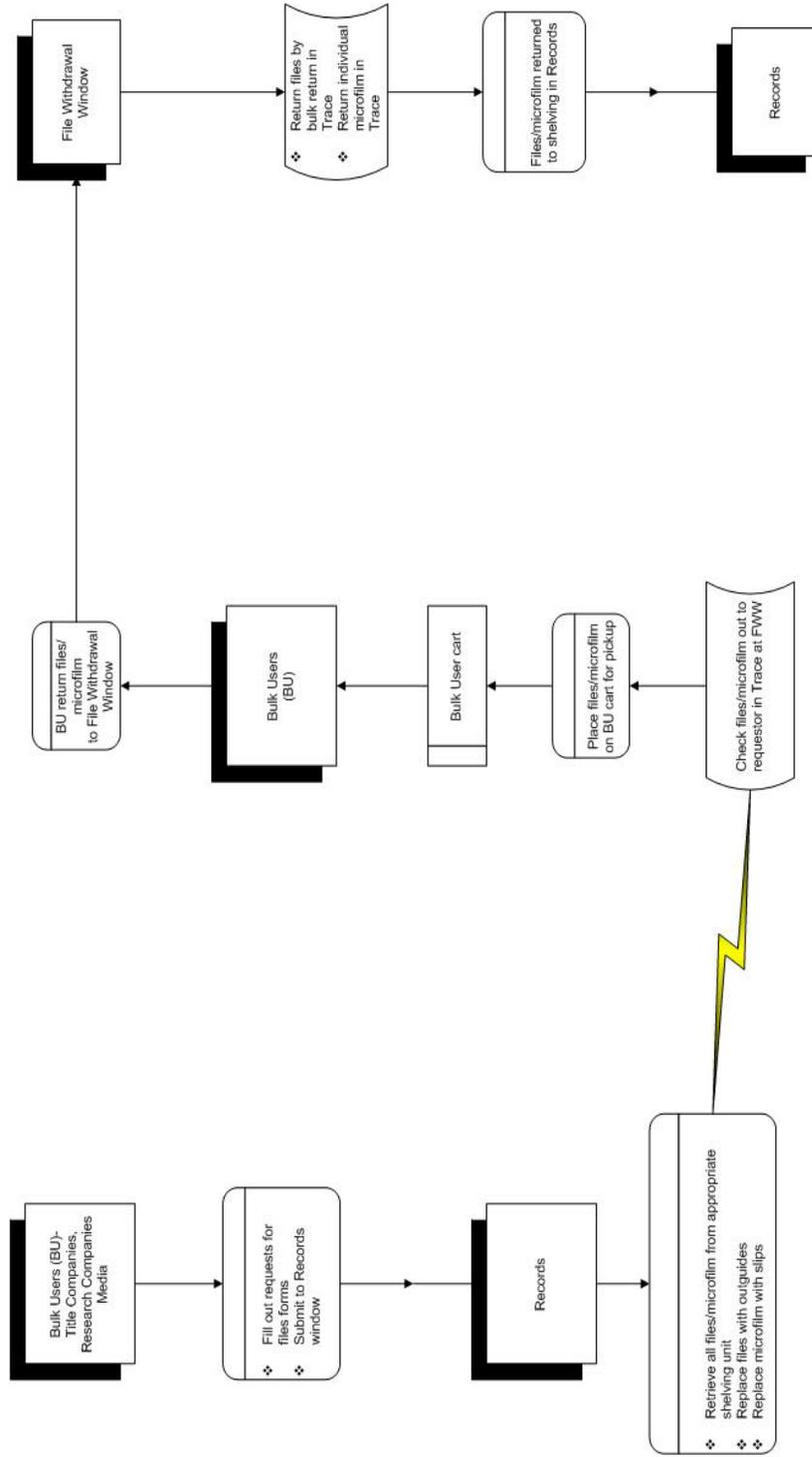
### APPENDIX E2

#### Bench Warrants Quashed (Paperless)



# APPENDIX F1

Bulk User-Checkout-Checkin 09-14-09

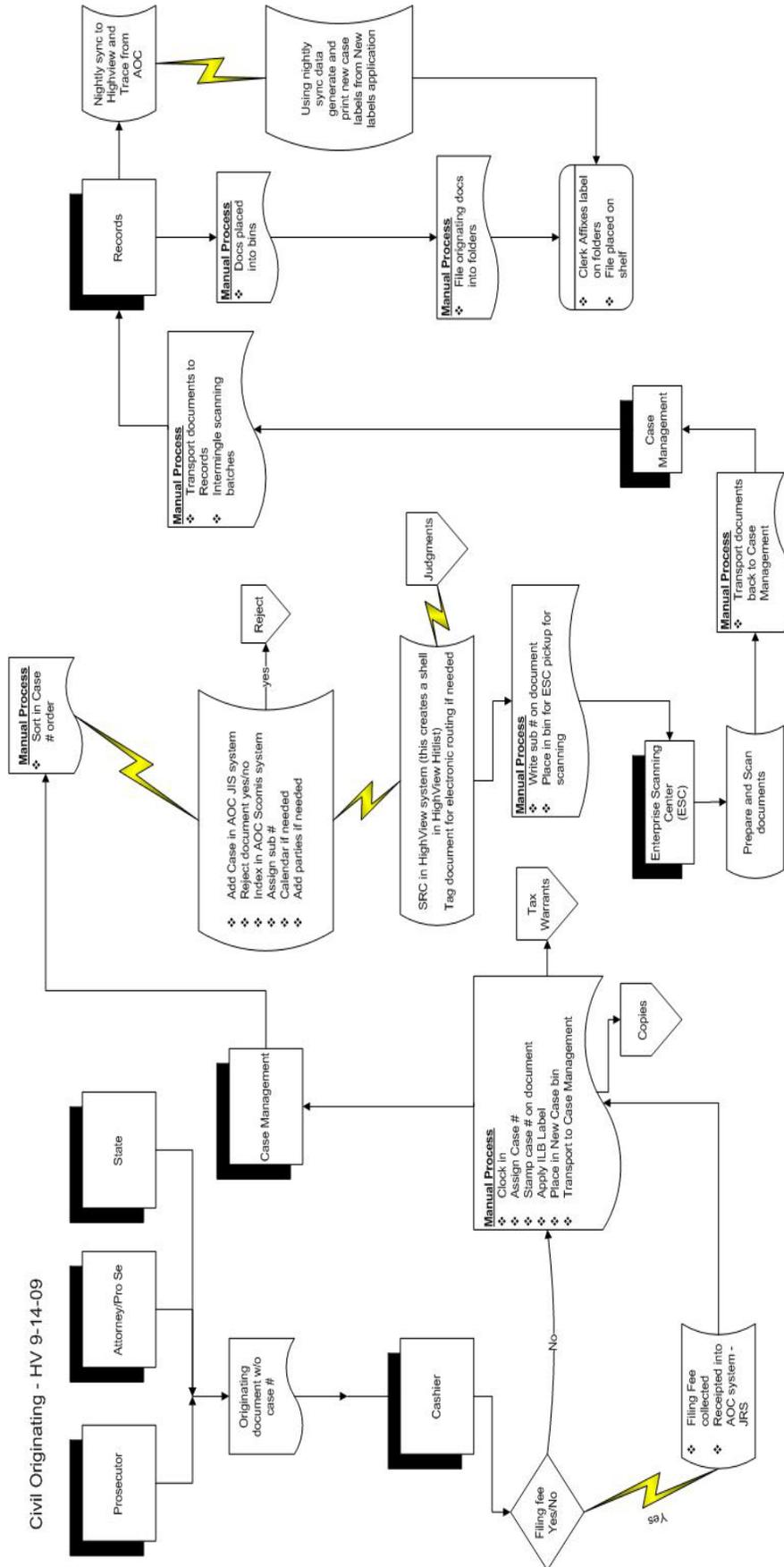


## APPENDIX F2

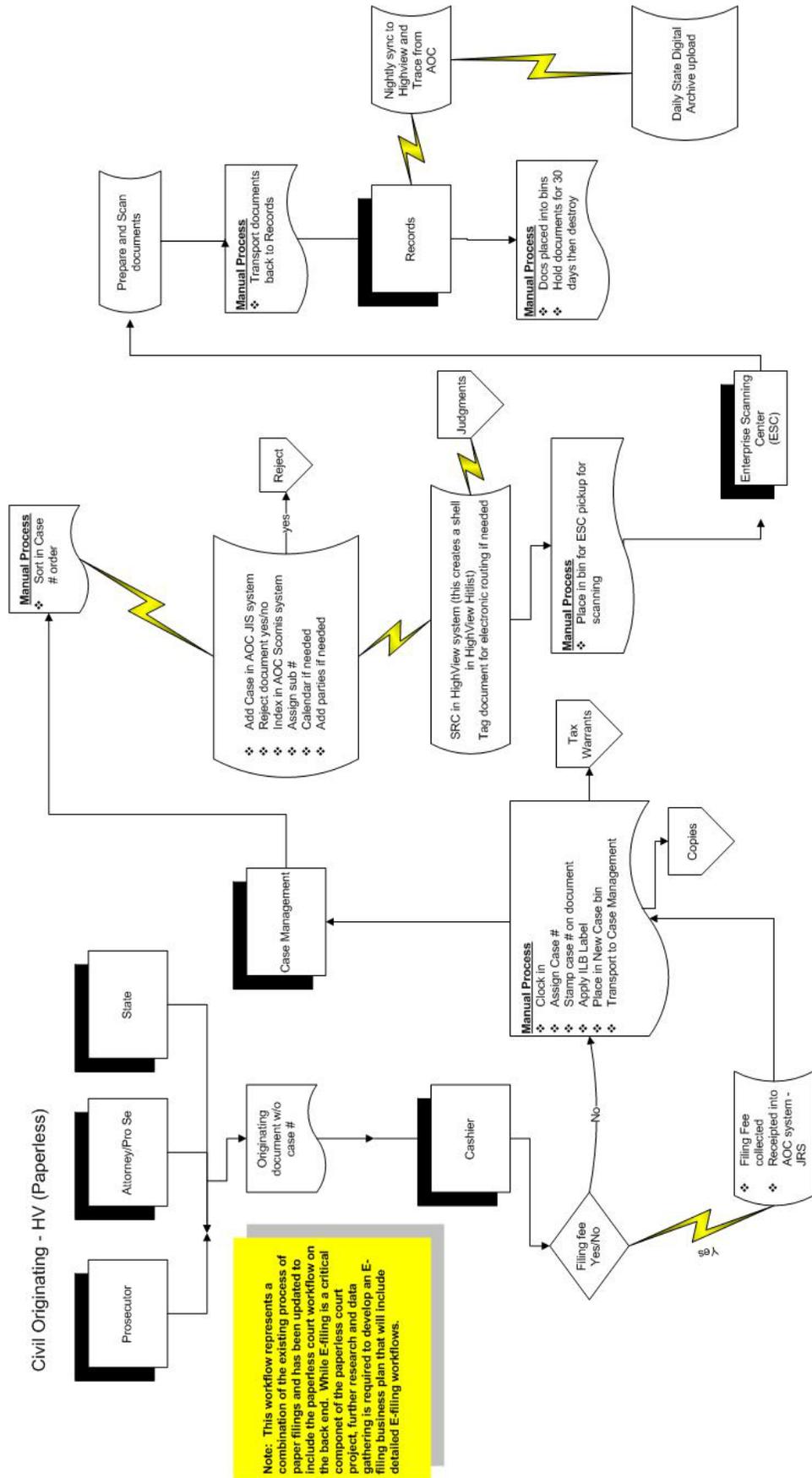
Bulk User-Checkout-Checkin  
(Paperless)

**Note:** This workflow is eliminated as the physical court record will no longer be maintained. See Microfilm Check Out/Check In workflow for additional information.

APPENDIX G1



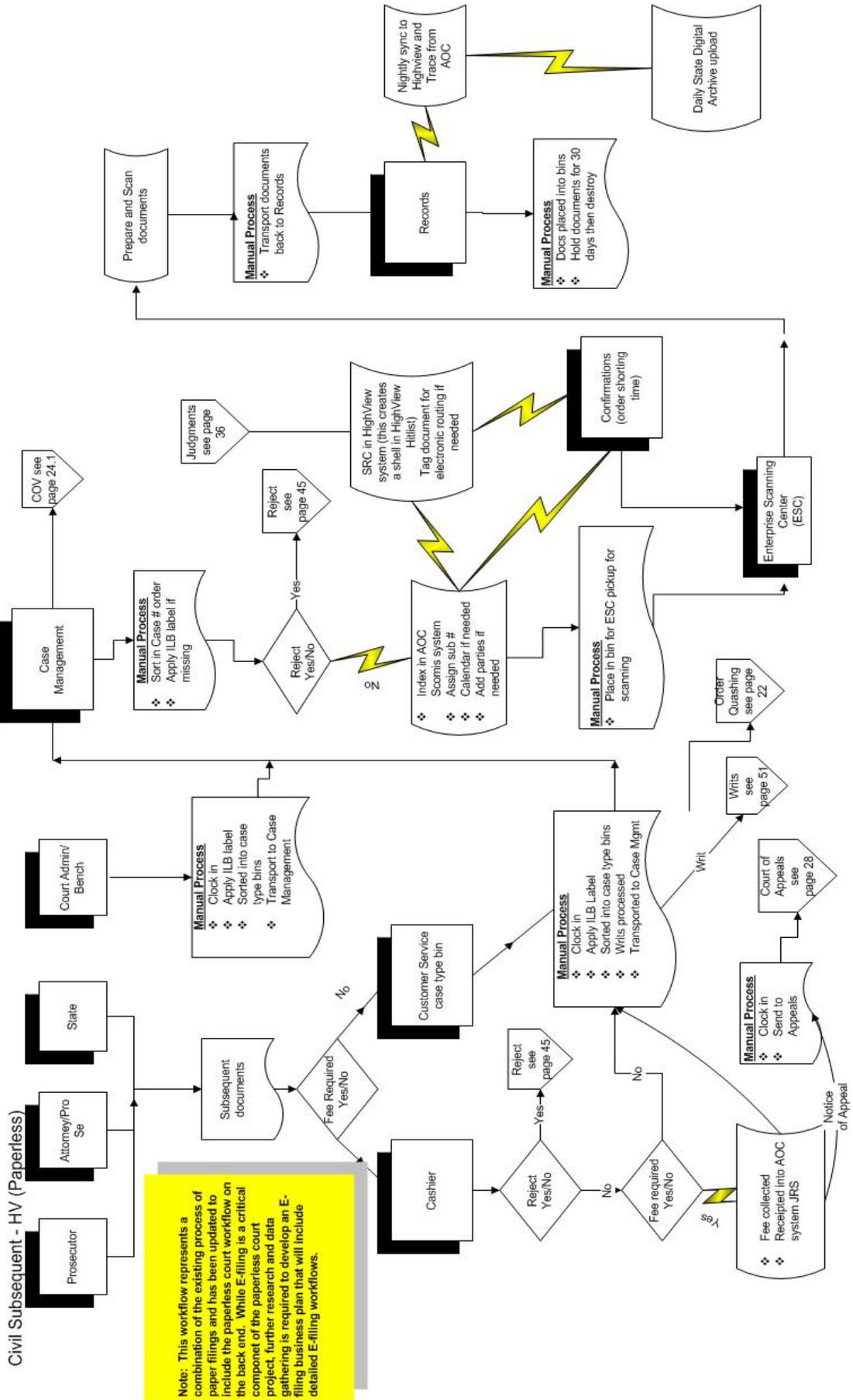
### APPENDIX G2



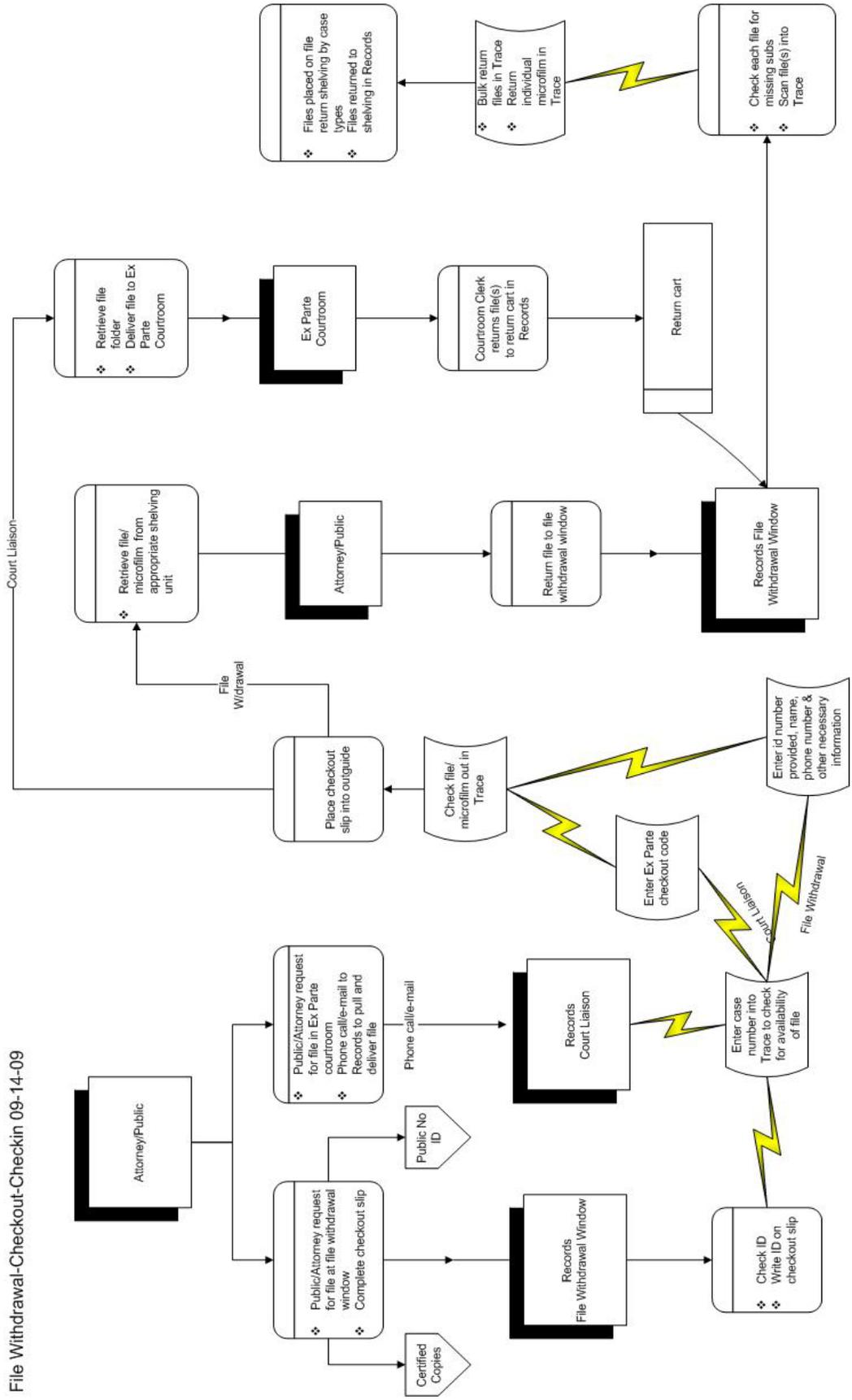




### APPENDIX H2



APPENDIX I1

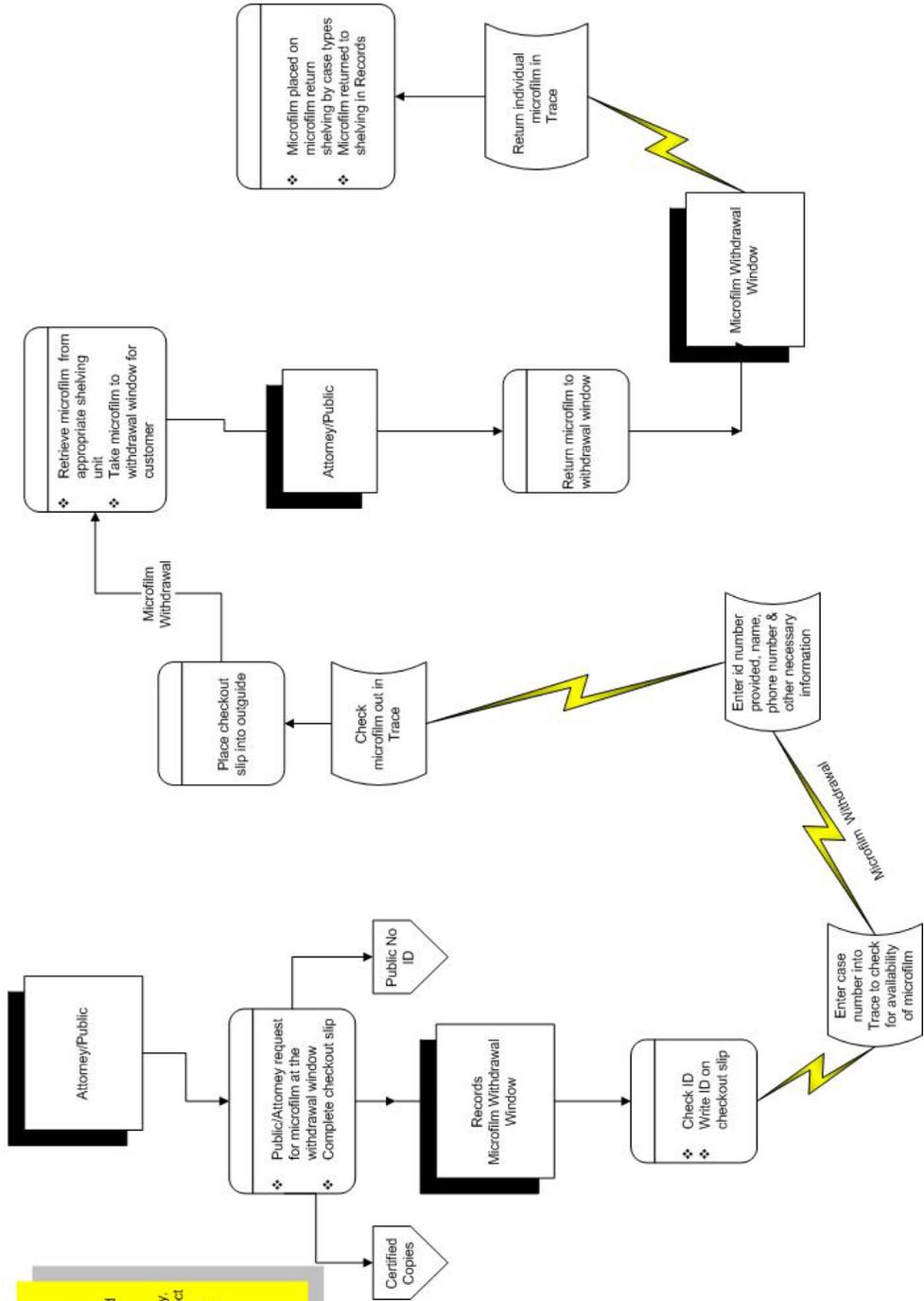


File Withdrawal-Checkout-Checkin 09-14-09

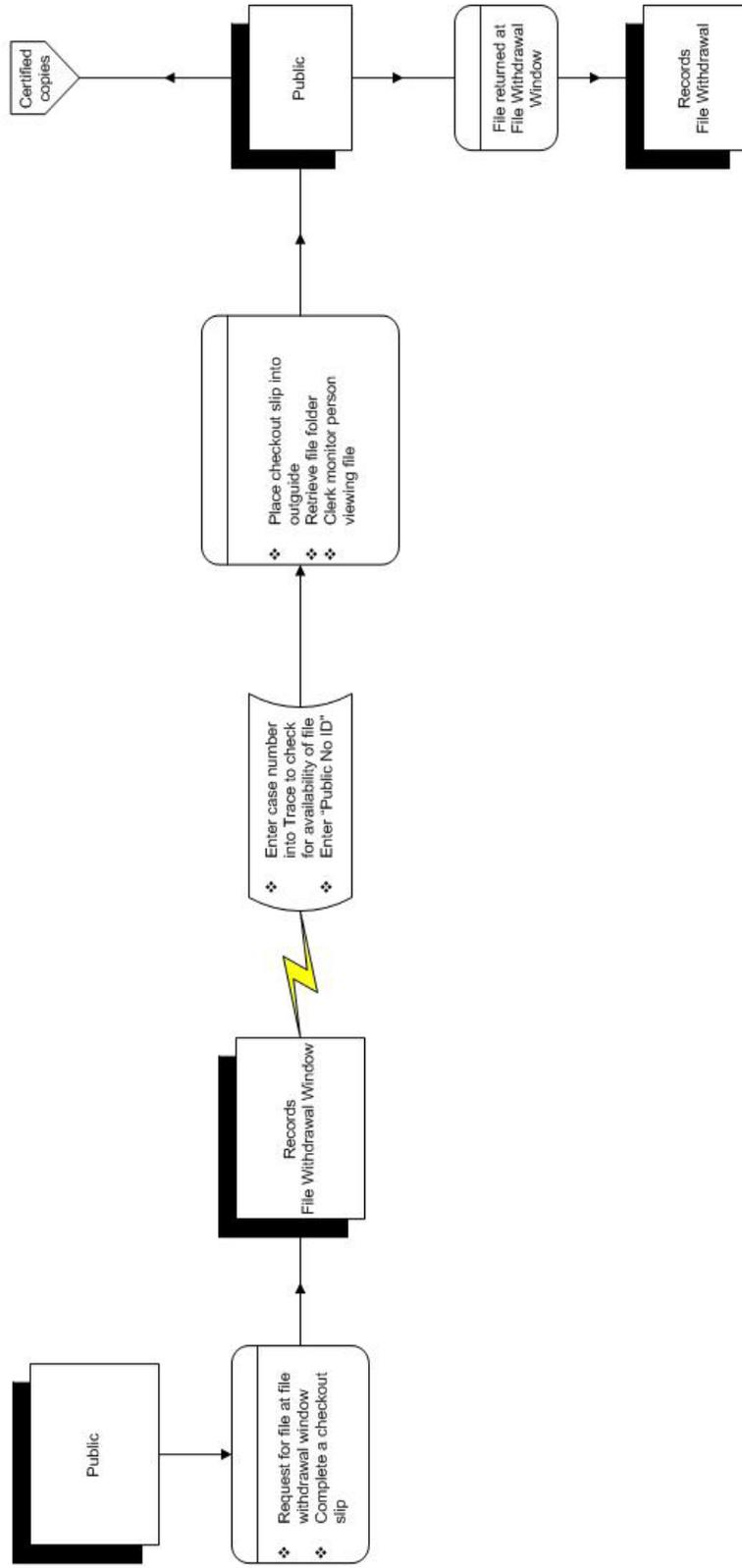
APPENDIX I2

(OLD)File Withdrawal-Checkout-Checkin  
(NEW)Microfilm Withdrawal-Checkout-Checkin  
(Paperless)

**Note:** This workflow was changed to eliminate the check out/check in of paper court records and was updated to address check out/check in of court records currently stored on microfilm. Customers will continue to use the EDMS computers located in the Clerk's lobby to access the court record, and additional computers will be added. Additionally, the DA will provide electronic public access for a fee to select court records as designated by the Clerk. Also being reviewed and considered is converting select court records (i.e. highly accessed) from microfilm to digital format to populate the Clerk's existing EDMS.

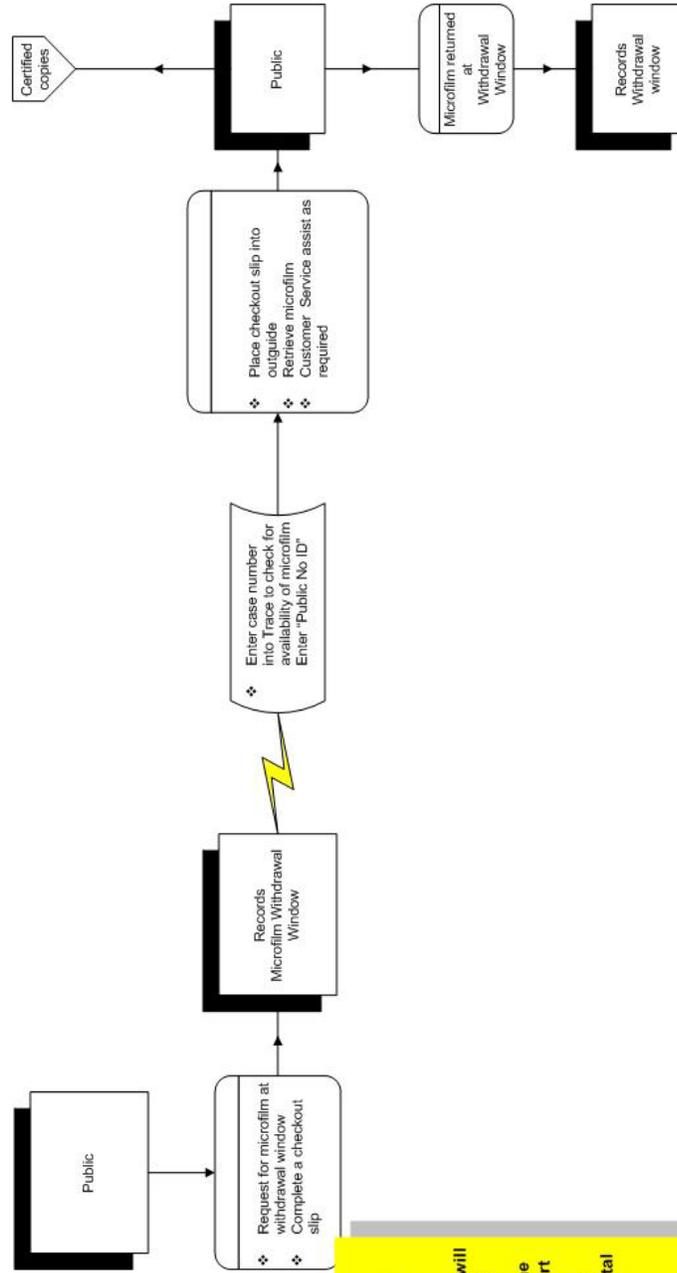


### APPENDIX J1



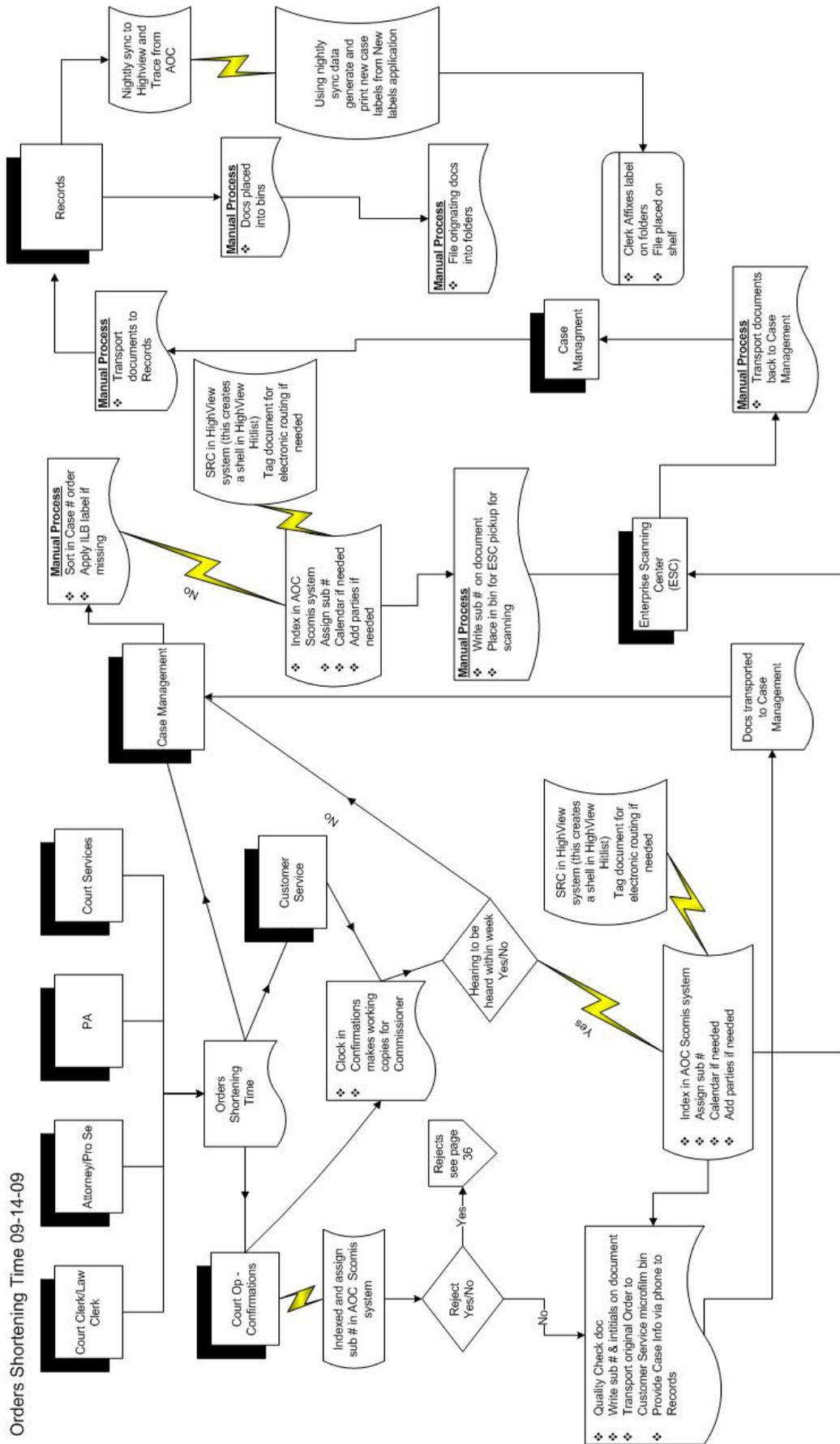
APPENDIX J2

(OLD)File Withdrawal-Public No ID  
 (NEW)Microfilm Check out/Check in  
 (Paperless)



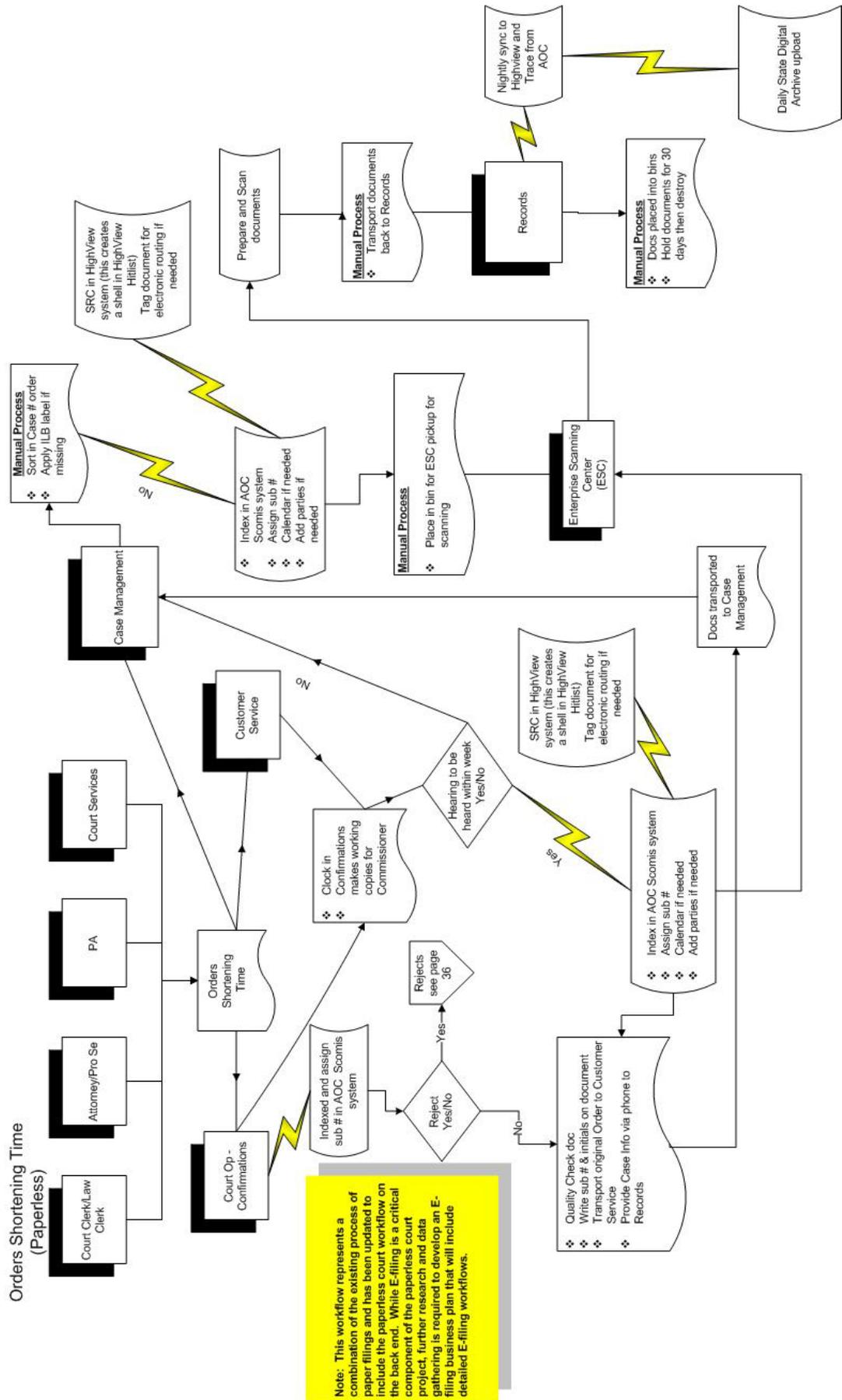
**Note:** This workflow was changed to eliminate the check out/check in of paper court records and was updated to address check out/check in of court records currently stored on microfilm. Customers will continue to use the EDMS computers located in the Clerk's lobby to access the court record, and additional computers will be added. Additionally, the DA will provide public access for a fee to select court records as designated by the Clerk. Also being reviewed and considered is converting select court records (i.e. highly accessed) from microfilm to digital format to populate the Clerk's existing EDMS.

### APPENDIX K1



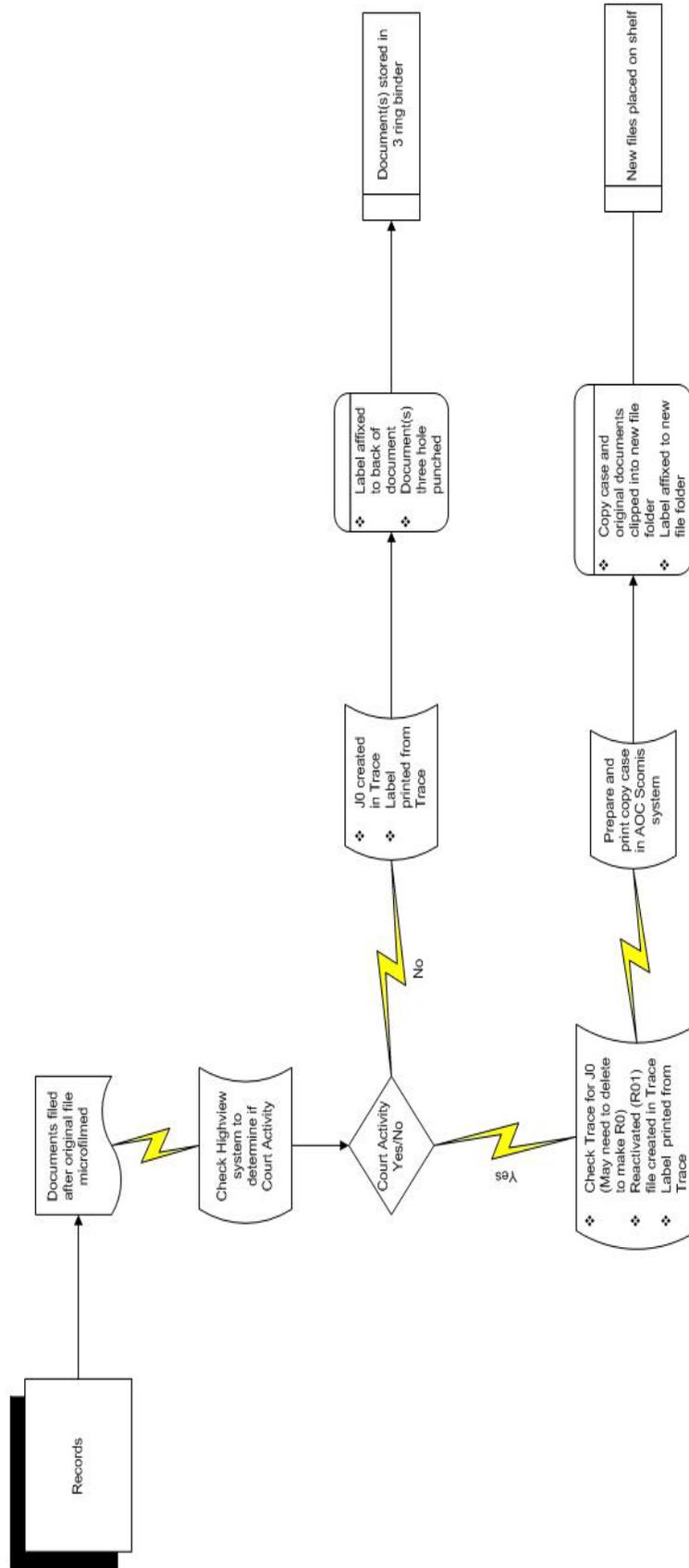
Orders Shortening Time 09-14-09

APPENDIX K2



### APPENDIX L1

Reactivate Files 09-14-09



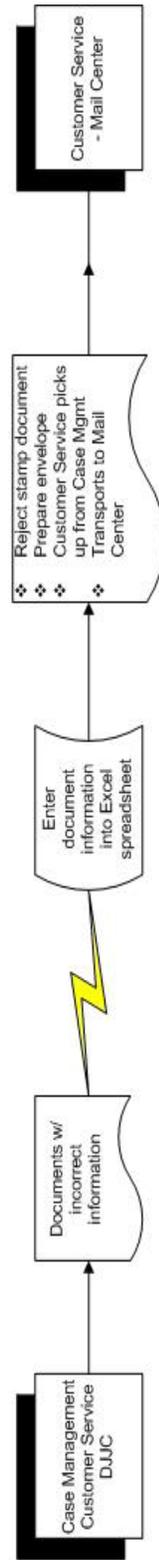
## APPENDIX L2

### Reactivate Files (Paperless)

**NOTE:** This workflow is eliminated as the physical court record will no longer be maintained. See Archiving Files workflow for additional information.

# APPENDIX M1

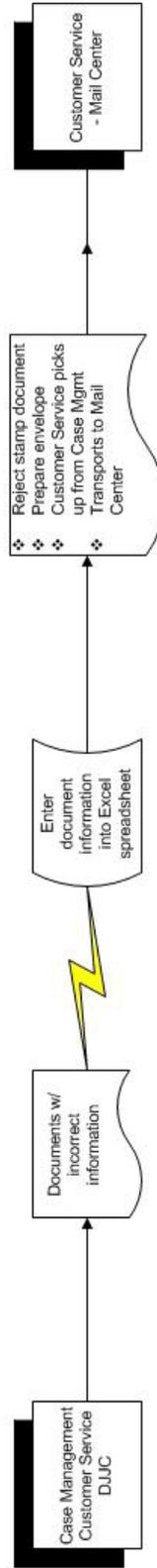
Reject Documents - External 09-14-09



## APPENDIX M2

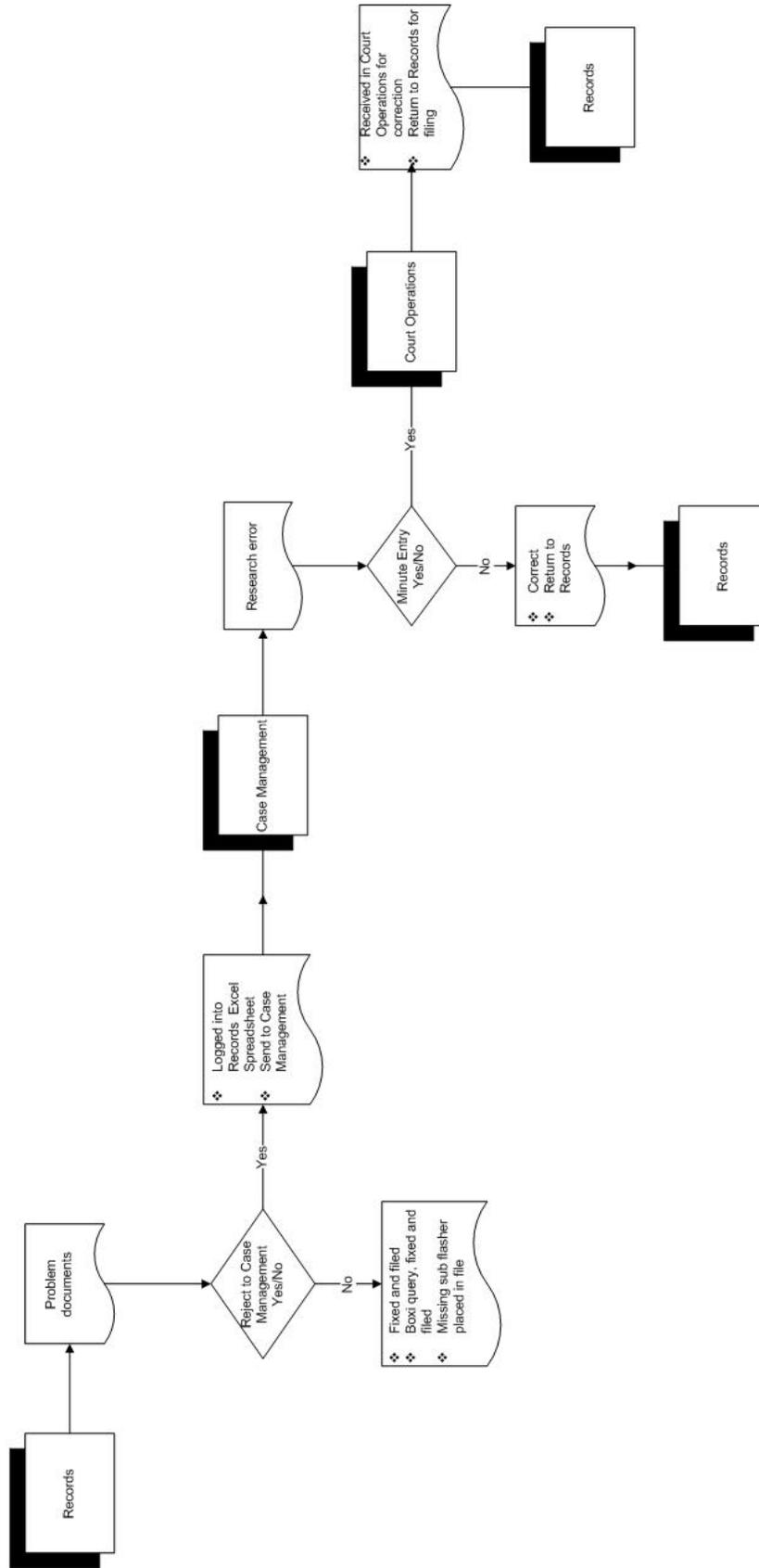
### Reject Documents - External (Paperless)

Note: This workflow remains unchanged and will be updated and/or a separate workflow created when E-filing is implemented. While E-filing is a critical component of the paperless court project, further research and data gathering is required to develop an E-filing business plan that will include detailed E-filing workflows.



### APPENDIX N1

Reject Documents - Internal 09-14-09



APPENDIX N2

Reject Documents - Internal  
(Paperless)

Note: This workflow remains unchanged and will be updated in a separate document when E-filing is implemented. While E-filing is a critical component of the paperless court project, further research and data gathering is required to develop an E-filing business plan that will include detailed E-filing workflows.

