

Digital to transform court filing system

To increase efficiencies, reduce costs and mitigate against the lost and stolen court documents in the South African legal system, Chief Justice Mogoeng Mogoeng called for the introduction of an electronic court filing system in 2014. The system could also benefit South Africa's legal profession by minimising the time and costs associated in filing litigation documents at court.



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Bruce Henderson, MD at Litigator, a group company of Metrofile Holdings says that the South African court rules have been amended to permit electronic service of litigation documents and attorneys must now embrace digital systems.

“The traditional manner of physically serving and filing documents remains costly, cumbersome and inefficient and adopting electronic methods is hugely beneficial to practitioners. Some misconceptions exist within the legal community regarding the security and compliance of electronic systems. which must be addressed to ensure greater buy-in from the profession.”

Henderson explains that the legal profession is keen to adopt digital practices. However there are concerns as to the manner in which the service of documents is verified. “Cloud-based systems however can confirm the serving of a document to all relevant parties and allow these parties to access these documents instantly anytime/anywhere.”

Another concern is that by storing the original documents in the cloud, one is increasing the chances of those documents being accessed, altered or manipulated by parties acting in bad faith, says Henderson. “There are however services and products available that protect the integrity of the documents and arguably make them more difficult to alter or destroy than physical documents.”

He points to an advanced electronic signature as a practical means to electronically sign a document, and thereby protect the integrity of the document. “In accordance with the Electronic Communication and Transaction Act (ECTA), the applicant for an advanced electronic signature (AES) is subject to a registration and validation process that includes a background check with Home Affairs, fingerprint verification and a face-to-face assessment meeting. Once this process has been completed, the applicant receives a unique advanced electronic signature.”

“When a document has been signed with an advanced electronic signature, its authenticity is deemed verified. The signature also serves as a security mechanism, whereby the signatory’s details are available by simply clicking on the signature. Information as to the identity of the signatory, time date and validity are then disclosed. Should the document have been altered in any way, the signature will be marked as invalid.

“Document integrity is thus guaranteed when signed with a valid and verified AES. The ECTA also stipulates that where a document has been signed with an AES, it will be deemed an original in its digital state.

“The magistrates court rules specifically define ‘signature’ as including advanced electronic signatures, so there should be no barrier to these courts accepting documents that have been signed in such a way,” concludes Henderson.

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