

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

3:30 FILED
O'Clock P.M.
SEP - 6 2017
DONNA McQUALITY, Clerk
By: *Xaver Wilkes*

IN THE MATTER OF:)
)
ELECTRONIC FILING IN)
DESIGNATED CIVIL MATTERS)
_____)

ADMINISTRATIVE ORDER
No. 2017-17

This Administrative Order amends Administrative Order 2016-04.

As permitted by Section 1-506, Filing and Management of Electronic Court Documents, of the Code of Judicial Administration electronic filing is permitted in the Superior Court in Yavapai County and shall be governed by Superior Court Administrative Order 2017-17 and Arizona Supreme Court Administrative Order 2016-20 and future Supreme Court Administrative Orders regarding electronically filed documents.

Unless otherwise amended by this Court, this Administrative Order shall be effective for the electronic filing pilot program scheduled to begin in April 2016, the optional electronic filing period that will start after the pilot program is completed and the mandatory electronic filing program that will be implemented in the future. During the pilot program a limited number of designated law firms will be authorized to electronically file pursuant to this Administrative Order. After the pilot program, the Court will authorize general usage of electronic filing pursuant to this Administrative Order. After the optional electronic filing period, the Court contemplates the implementation of mandatory electronic filing pursuant to this Administrative Order. Authorization for electronic filing during the pilot and optional electronic filing periods will be approved by the Presiding Judge after consultation with the Clerk of Court. Progression from the pilot phase, general phase and mandatory phase will be authorized by the Clerk of Court after consultation with the Presiding Judge.

IT IS THEREFORE ORDERED:

1. Application of Administrative Order

The Clerk of the Superior Court in and for the County of Yavapai, pursuant to a plan and schedule to be established by the Administrative Director, shall establish and maintain an electronic filing system for select civil case types. The Clerk of the Superior Court shall make the system available to those parties involved with cases that have been designated for e-filing. Where documents are not filed in an electronic format, the Clerk of the Court shall scan or otherwise convert those paper documents to an electronic format.

2. Definition of Terms

"Civil Case" - an Arizona case filed in the Superior Court involving disputes between individuals or businesses. Exclusions from civil case electronic filing are described in Section 3 of this Order.

(✓) Clerk of Court
(✓) Chief Deputy
(✓) Court Admin

“Electronic Document Management System” (“EDMS”) – computer software application programs and hardware devices used to create, manage, and retrieve electronic documents.

“Electronic Filing Service Provider” – a private or public entity authorized by the Administrative Director to provide e-filing services to Arizona court Filers.

“Filer” – the individual who electronically submits case documents and information to the Superior Court.

“Statewide E-Filing Portal” - a system that facilitates the exchange of case information between an Electronic Filing Service Provider and a court’s case management system.

3. Documents Not Permitted to be Filed Electronically

- a. E-Filing of the following shall not be permitted:
 - i. Any document that requires the signature and seal of the Clerk such as writs, summonses, and subpoenas that are not generated by the e-filing system
 - ii. Petitions for injunctions against harassment and injunctions against workplace harassment. Filers may electronically file subsequent documents in these cases
 - iii. Documents filed under seal, including any portion of a document and exhibits, or a motion to file documents under seal
 - iv. Applications or supplemental applications for waiver or deferral of a filing fee, application fee, or any other fee or cost
 - v. Any document used to initiate a forfeiture case
 - vi. Amicus briefs
 - vii. All documents in the following case types:
 - Family law
 - Juvenile
 - Probate
 - Mental health or mental health-related case types
 - Eviction actions
 - Special actions
 - Transcripts of judgment
 - Foreign judgments
 - Minor abortion
 - Lower court appeals
 - Habeas corpus
 - Corporate power of attorney
 - Delayed birth certificates (A.R.S. § 33-333.03)
 - Restoration of civil rights
- b. Courtroom exhibits are governed by order of the Court and the Clerk’s Office Notice of Exhibit Deadline. Exhibits to be used in a Court hearing shall not be electronically filed with the Court.

- c. A plaintiff or petitioner shall serve a summons on each defendant or respondent on paper, as required by rule or statute.

4. Payment of Application and Filing Fees

- a. An application fee shall be assessed to support the electronic filing services offered by any Electronic Filing Service Provider as set by the Administrative Office of the Courts.
- b. The application fee shall not be assessed to e-file a document submitted on behalf of an exempt entity as identified in A.R.S. § 12-304, whenever a filing fee is not charged.
- c. The Administrative Director is authorized to waive application fees during the pilot phase.
- d. All filing fees, local court fees, and application fees shall be paid through any Electronic Filing Service Provider at the time of filing.
- e. The application fee shall be nonrefundable, unless waived by the Administrative Director in the pilot phase.
- f. A judicial officer shall not reduce, waive, or suspend the application fee.
- g. No application fee shall be charged in any case in which a fee waiver or deferral has been granted.

5. Official Record

- a. Documents electronically filed in a civil matter designated for e-filing shall be maintained in electronic format by the Clerk of the Superior Court and will be maintained as the original and official record of the Court.
- b. An electronic document that resides within the Clerk's electronic document management system (EDMS) is the original document and satisfies the requirements of Rule 1002, Arizona Rules of Evidence.
- c. An electronic transmission or print-out from the Clerk's EDMS that shows the Clerk's or Court's seal attesting to the document's authenticity shall be considered an official record or certified copy of the original.
- d. Any court rule requiring that a document be an original, be on paper or other tangible medium, or be in writing, is satisfied by the electronic image defined as the original document in section 5(b)(c) above.

- e. All documents in the EDMS of the Clerk of the Superior Court that are not e-filed through services provided by an authorized Electronic Service Provider remain subject to the provisions of Arizona Code of Judicial Administration §§ 1-504 and 1-506.

6. Signature Standards

- a. Document displaying symbol /s/. Any document displaying the symbol “/s/” followed by the printed name of a self-represented litigant, attorney, or judge shall be deemed signed by the named person for purposes of the rules and statutes governing practice and procedure in the courts of this state including, but not limited to, Rule 11 of the Rules of Civil Procedure.
- b. Signature of Attorney. An attorney is responsible for all documents filed under the attorney’s registered login ID and password and under the registered login ID and password of any person the attorney has authorized to file using services provided by an Electronic Filing Service Provider.
- c. Signature of Judicial Officer. Documents filed electronically under the registered login ID or password of a Judicial Officer or Clerk shall be deemed filed by that Judicial Officer or Clerk.
- d. Signature of Self-Represented Litigant. Documents filed through services provided by an Electronic Filing Service Provider by a self-represented litigant shall be filed under the self-represented litigant’s registered login ID and password and shall be deemed signed by that self-represented litigant for purposes of the rules and statutes governing practice and procedure in the courts of this state including, but not limited to, Rule 11 of the Rules of Civil Procedure.
- e. Multiple-Party Signatures Not Required. A document being filed by more than one self-represented litigant need only be signed by one of the self-represented litigants. The signer of the document shall ensure that all parties named in the document agree with the contents of the document. The standing of all parties is subject to judicial determination during the proceedings.
- f. Where a Clerk is required to endorse a document, the typed name of the Clerk shall be deemed to be the Clerk’s signature on an electronic document.

7. Confirmation of Receipt and Filing or Rejection of Documents Submitted for Filing

The submission shall be deemed filed on the date and time it is received by the Statewide E-Filing Portal. If the Clerk determines the electronically submitted document is deficient pursuant to local rule or order, the Clerk may reject the submission and shall provide the filer an explanation of the reason for the rejection.

Deficiencies include, but are not limited to:

- i. Unsigned documents
- ii. No notarization if required
- iii. Documents requiring certification for filing
- iv. Required fee is not provided
- v. Incorrect fee is provided
- vi. Filer is not a party to the case in which they are filing
- vii. Case number is incorrect or missing from the document
- viii. Documents filed in an incorrect jurisdiction
- ix. Case was previously dismissed
- x. Case initiating document (e.g. Complaint) is not submitted
- xi. Documents not in proper legal format

8. Required Exhibits, Attachments to Pleadings and Proposed Orders

Any court rule that requires a copy of a document be attached as an exhibit to a document is satisfied by electronically attaching either a scanned image of the exhibit or a copy of the exhibit in an approved format.

Documents to be lodged with the Court and proposed orders will be transmitted electronically to the Court via the provided electronic filing system.

9. Format of Documents

All documents filed through services provided by an Electronic Filing Service Provider shall be formatted in accordance with the applicable rules governing formatting of paper documents, including Rule 10(d), Rules of Civil Procedure, and shall conform to such other format requirements as the court may from time to time require.

Any electronically filed document must be printable with the same contents and formats as if printed from its authorizing program.

10. Electronic Format and Size

All text-based documents shall be in .pdf, .odt, or .docx format, except that a proposed order shall be in .odt or .docx format. A proposed order or judgment shall not be password protected and shall be modifiable by a Judicial Officer. Documents shall not exceed the size limitation permitted by the Arizona Supreme Court.

11. Certified Mail, Return Receipt Card

When establishing proof of service by U.S. Postal Service certified mail, the Filer may scan and file both sides of the signed return receipt card.

12. National Courier Service, Return Receipt

When establishing proof of service by a national courier service, the Filer may scan and file the required documentation.

13. Notary Requirement

A notary requirement may be satisfied by scanning and filing the document that contains the notary's original signature and seal.

14. Civil Cover Sheet

Initiating a case through services provided by an Electronic Filing Service Provider meets the requirement to file a civil cover sheet.

15. Copy for Court

- a. Except as provided by local rule, a Judicial Officer shall not require a Filer to provide a paper copy of any document submitted through services provided by an Electronic Filing Service Provider.
- b. If required by the receiving Court, a Filer must identify individual documents necessary for a judicial ruling.

16. Responsibility for Filing and Service

A person who files a document electronically shall have the same responsibility as a person who files a paper document for ensuring that the document is properly filed, that it is complete and readable, and that a copy has been provided to the other parties in the case.

Electronic service is currently not available through eFiling. If electronic service by other means is utilized, it shall comply with all applicable state and local court rules. It will remain, however, the responsibility of the filing party to establish that other parties have received a copy of the filing. Computation of time is determined as set forth in Rules 5(c) and 6(e), Ariz. R. Civ. P. as well as Rule 4, Ariz. R. Civ. App.

17. Distribution of Notices, Orders and Other Documents by the Court.

The Clerk or Court may electronically distribute notices, orders and other documents to an attorney in any case in which the attorney has entered an appearance and in which a document has been filed through services provided by an Electronic Filing Service Provider. The electronic delivery of documents by the court is complete upon transmission.

18. Hyperlinks, Bookmarks and Other Electronic Navigational Aids

A Filer may include a hyperlink only to static textual information or documents. Materials accessed via hyperlinks are not part of the official court record. A Filer may include a bookmark to another page within the same document.

19. Extension of Time Due to Interruption in Service

- a. If a Filer fails to meet a filing deadline imposed by court order, rule, or statute because of a failure at any point in the electronic transmission and receipt of a document, and the matter cannot be resolved to the satisfaction of the Filer and the Clerk, the Filer may file the document on paper or electronically as soon thereafter as practicable and accompany the filing with a motion to accept the document as timely filed. For good cause shown, the court may enter an order permitting the document to be filed *nunc pro tunc* to the date the Filer originally sought to transmit the document electronically. When an interruption of service is caused solely by a technical malfunction of the court's system, the court may, *sua sponte*, enter an order documenting the interruption and allowing an alternative manner of filing or extension of filing deadlines.
- b. The Court and Clerk shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed documents.

20. Additional eFiling Policies

The Presiding Judge of the Court and the Clerk of Court, in consultation with the Administrative Director, may establish additional policies to implement e-filing. Any such policies shall be posted online at AZCourts.gov/eFile and on the websites of the Court and the Clerk. The Presiding Judge and the Clerk may adopt policies to implement the provisions of this Order in consultation with each other and without further consultation with the Administrative Director.

Each document accepted for filing by the Clerk of the Court shall be electronically file stamped with the time and date of filing, the names of the Clerk of Court and the deputy clerk accepting the filing. This file stamp shall be merged with the electronic document and shall be visible when the document is printed and viewed on-line. Electronically filed documents are not complete without the electronic file stamp. Efilings file stamped in this manner shall have the same force and effect as documents filed in the conventional manner.

If the statute requires a pleading or affidavit to be sworn to, then the original signed affidavit or pleading must be maintained by the attorney or self-represented litigant and produced in its original form within five (5) days at the demand of another party or order of the Court.

The Clerk of the Court shall make electronically filed and scanned documents available to case participants, the Court and the public. The public may access electronically filed and scanned documents of public record through public access terminals located in all the Superior Court Clerk's offices or the Prescott Courthouse Self Service Center/Law Library. Paper copies of any publicly filed electronic or scanned documents shall be provided at the same rate charged for copies of paper documents.

21. Destruction of Paper Records

All documents in the EDMS are subject to the provisions of Rules 94 and 29(C), Rules of the Supreme Court and Section 1-507 of the Arizona Code of Judicial Administration with regard to destruction of paper records.

22. Amendments to Administrative Order and Rules of the Arizona Supreme Court

The Superior Court in Yavapai County may amend this Administrative Order and the Arizona Supreme Court may amend Administrative Order 2016-20, the Code of Judicial Administration and Court Rules from time to time. All parties in cases subject to this Order must comply with current and future provisions of this Administrative Order, the Supreme Court Administrative Order, the Arizona Code of Judicial Administration and the Rules of the Arizona Supreme Court.

IT IS FURTHER ORDERED:

Any e-filed document that meets the requirements described herein shall be accepted for processing by the Clerk of Court, and any court rule in conflict with these provisions is suspended in regard to such filings.

Dated this 6th day of Sept, 2017.


Hon. David L. Mackey, Presiding Judge