

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
AUTHORIZING AN ELECTRONIC)
FILING PILOT PROGRAM FOR) Administrative Order
PETITIONS FOR REVIEW FROM THE) No. 2009 - 36
COURT OF APPEALS, DIVISION TWO)
TO THE SUPREME COURT)

The first enumerated goal of the 2005-2010 Strategic Agenda for Arizona’s courts is to provide access to swift and fair justice. The ability to provide for electronic filing of documents and an electronic court record improves access and reduces court delay and reflects a national trend that is enhancing business models for courts throughout the country. Implementing electronic case processing will ensure that Arizona fulfills its commitment to improved efficiency and the reduction of delay for its citizens. This pilot project will employ modern technology to benefit the courts in Arizona and will further the courts’ goal of moving toward e-filing in all case types.

This Administrative Order addresses those rules of procedure that must be suspended to allow this electronic filing and electronic record pilot to succeed to its full potential.

Now, therefore, pursuant to Article VI, Section 3 of the Arizona Constitution,

IT IS ORDERED that the Clerk of the Arizona Supreme Court and the Clerk of the Arizona Court of Appeals, Division Two, are hereby authorized to conduct an Electronic Filing Pilot Project for petitions for review and the accompanying appendices filed in the Court of Appeals, Division Two, and the Arizona Supreme Court. The following procedures are adopted to implement the project:

1. Official Record.
 - a. For the purposes of this pilot project, all electronic documents accepted for filing by the Arizona Supreme Court Clerk’s Office and the scanned images of any documents filed in paper form which are maintained in the Clerk’s electronic document management system (EDMS) shall be considered the original documents of record in and for the Arizona Supreme Court.
 - b. A document printed from the Arizona Supreme Court Clerk’s EDMS that is file-stamped by that Clerk’s Office, or a document that is electronically transmitted from that Clerk’s EDMS, shall be considered an official record. A

document printed from the Arizona Supreme Court Clerk's EDMS upon which that Clerk's Office has placed its seal attesting to the document's authenticity shall be considered a certified copy of the original.

- c. A printout from the Arizona Supreme Court Clerk's EDMS that indicates the date the document was filed shall be sufficient to prove authenticity.

2. Document Format.

- a. Any court rule requiring that a document be an original, be on paper or another tangible medium, or be in writing, is satisfied by the electronic image defined as the original document herein.
- b. Those portions of Rule 31.9, Arizona Rules of Criminal Procedure, and Rule 23, Arizona Rules of Civil Appellate Procedure, which refer to the original record on appeal as paper are suspended for the Arizona Supreme Court, thus allowing the court to provide original electronic records to other courts in electronic format, and allowing other courts access to the Supreme Court's electronic court records, if those courts are able to accept a record in electronic format.
- c. The Clerk of the Arizona Supreme Court shall provide paper documents to other courts as needed, unless those courts are able and have made arrangements with the Clerk to receive electronic documents in lieu of paper.

3. Signatures.

- a. Any court rule requiring that a document be signed by an attorney is satisfied by inserting "/s/" on the document's signature line, typing the signatory's name under that line, and successfully registering and submitting filings with the Court of Appeals, Division Two's, electronic filing system.
- b. Any court rule requiring that a certificate of service be signed is satisfied by the following:
 - (i) Inserting "/s/" on the document signature line and typing the signatory's name under that line, if the certificate of service is attached to a document and the server is acting at the direction of the submitting party; or
 - (ii) Inserting "/s/" on the document's signature line, typing the signatory's name under that line, and successfully registering and submitting filings with the Court of Appeals, Division Two's, electronic filing system, if the certificate of service is a separate document.

- 4. Destruction of Paper Records. The restrictions on destruction of case records imposed by Rule 28.1(d) Arizona Rules of Criminal Procedure, and Rule 29(B), Rules of the Supreme Court are suspended for petition for review case records transmitted

between the Court of Appeals, Division Two, and the Supreme Court, thus allowing the appellate Clerks to dispose of paper records that are converted to electronic records during the pilot project, and/or not require parties or lower courts to file documents in paper format.

5. Filing Copies. Those portions of Rules 31.12, 31.19, 31.21, and 32.9 of the Arizona Rules of Criminal Procedure and Rule 4, Arizona Rules of Civil Appellate Procedure, which refer to the number of copies to be submitted to the Clerk are suspended for documents that are filed electronically in this pilot. As a quality assurance measure, upon the request of the Clerk of the Supreme Court, parties who electronically file a document shall also submit a single corresponding paper document directly to the Arizona Supreme Court.
6. Bindings. The requirement in Rule 31.19 of the Arizona Rules of Criminal Procedure and Rules 4 and 23 of the Arizona Rules of Civil Appellate Procedure which refer to binding of documents is modified so that a document submitted in paper shall be bound in the top margin by a two-pronged fastener. No adhesive bindings or bindings using numerous holes shall be used.
7. Confidential and Sealed Documents. Section 1-506(E)(4) of the Arizona Code of Judicial Administration, which prohibits the electronic filing of confidential and sealed documents, is suspended for electronic filings in this pilot.

IT IS FURTHER ORDERED that the Administrative Office of the Courts shall:

1. Employ procedures that ensure the availability of at least one other copy of electronically filed or transmitted documents at all times;
2. Perform systems backups at least daily;
3. Maintain multiple backups, at least one of which will be off-site in an area that would not be affected should a catastrophic event impact the court's primary data center;
4. Use recording media for storing all electronic records filed in the pilot program in a manner that will ensure their continuing integrity and availability;
5. Ensure that any electronic case file records which must be maintained permanently are maintained in a place and manner as will reasonably assure their permanent preservation, as required by Rule 29(B), Rules of the Supreme Court.

IT IS FURTHER ORDERED that Court of Appeals, Division Two maintain backups of any electronically filed petitions for review and appendices in accordance with its current business process and make electronic copies of electronic petitions for review and appendices available upon request of the Clerk of the Arizona Supreme Court.

Dated this 8th day of April, 2009.

RUTH V. McGREGOR
Chief Justice