

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
POLICIES FOR E-FILING IN) Administrative Order
PROBATE CASES IN THE SUPERIOR) No. 2020 - 126
COURT OF ARIZONA IN)
LOCATIONS OTHER THAN)
MARICOPA AND PIMA COUNTIES)

To assist the Superior Court of in Arizona in conducting business in a manner that reduces the risk associated with the current public health emergency, the Arizona Supreme Court has accelerated the availability of the electronic filing of non-case-initiating documents in cases governed by the Arizona Rules of Probate Procedure (referred to herein as “probate cases”) using an approved electronic filing service provider (“EFSP”) that has been approved for probate cases.

Therefore, pursuant to Article VI, Section 3 of the Arizona Constitution,

IT IS ORDERED adopting the following updated definitions, fees, and procedures for e-filing documents in probate cases in all counties, other than Maricopa and Pima Counties, through any approved EFSP. Provisions of this order that are inconsistent with the Arizona Rules of Court shall supersede procedural requirements of the rules. Self-represented litigants may, but are not required to, file documents through an EFSP. A self-represented litigant who chooses to e-file documents shall pay all applicable fees and follow the requirements set forth in this order.

1. Definitions

- a. “Application Fee” means the fee assessed when a filer performs various functions using any EFSP.
- b. “Attached Document” means a document prepared outside of an EFSP and then filed with a court through an EFSP.
- c. “Clerk” means the Clerk of the Superior Court or designated staff thereof.
- d. “Court” means the Superior Court of Arizona
- e. “Document” means any pleading, motion, exhibit (other than a courtroom exhibit), declaration, affidavit, memorandum, paper, order, notice and any other filing submitted by a filer or by the court.

- f. “Electronic Document Management System” (“EDMS”) means a collection of computer software application programs and hardware devices that provide a means of storing, organizing and controlling the creation, management, and retrieval of electronic documents through their life cycle.
- g. “Electronic Filing Service Provider” (“EFSP”) means a private or public entity authorized by the Administrative Director of the Administrative Office of the Courts (Administrative Director) to provide e-filing services.
- h. “Judicial Officer” means any person who is authorized to perform judicial functions within the court.
- i. “Electronic Service” means the method of formally notifying opposing parties using a computerized web-based method such as email or an EFSP rather than by paper.
- j. “Filer” means the individual who electronically submits case documents and information to the superior court.
- k. “Subsequent Submission” means any filing into a case that has previously been initiated in the court, either electronically or in paper.

2. Probate Filings Excluded

- a. E-filing of the following shall not be permitted:
 - i. Any document(s) that requires the signature and seal of the clerk such as letters, writs, including supporting documentation or any summonses or subpoenas that are not generated by the EFSP.
 - ii. Documents filed under seal, including any portion of a document and exhibits, or a motion to file documents under seal.
 - iii. Any documents into restricted or sealed cases.
 - iv. Applications or supplemental applications for waiver or deferral of a filing fee, application fee, or any other fee or cost.
 - v. Documents that are intended to be used specifically as hearing or trial exhibits.
 - vi. Wills
 - vii. Any document used to initiate a probate case.
- b. The clerk of a court in which probate case e-filing is mandatory shall accept a paper filing if it requests an injunction, a restraining order, or other order of the court requiring immediate judicial review, and if e-filing the document would cause a delay in presenting the request to a judicial officer.

3. Application Fee and Filing Fees

- a. An application fee shall be assessed to support the e-filing and document access services offered by an EFSP, as follows:
 - \$6.50 to efile an attached document
 - \$3.80 if the filer elects to use optional electronic service

- b. The application fee shall not be assessed to e-file a document submitted on behalf of a public entity or official identified in A.R.S. § 12-304.
- c. All filing fees, local court fees, and application fees shall be paid through the EFSP at the time of filing. If filing fees are not automatically assessed within the EFSP, they must be paid directly to the clerk's office, no later than 5:00 pm on the next business day.
- d. The application fee shall be nonrefundable.
- e. A judicial officer shall not waive or suspend the application fee.
- f. No application fee shall be charged in any case in which a fee waiver or deferral has been granted.
- g. The clerk shall not prohibit e-filing of documents in which a waiver or deferral has been granted.

4. Official Record

- a. An electronic document that resides within the clerk's EDMS is the original document and satisfies the requirements of Rule 1002, Arizona Rules of Evidence.
- b. 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.
- c. 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 in sections 4(a) and (b) above.
- d. All documents in the EDMS of the clerk that are not e-filed through services provided by an approved EFSP remain subject to §§ 1-504 and 1-506 of the Arizona Code of Judicial Administration.

5. Signature Standards

- a. *Document Displaying Symbol /S/*. Any document displaying the symbol “/s/” with the printed name of the filer 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.
- 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 e-file documents using services provided by an EFSP.
- c. *Signature of Judicial Officer or Clerk*. Documents filed electronically under the registered login ID or password of a judicial officer or clerk shall be deemed to have been filed by that judicial officer or clerk.

- d. *Signature of Self-Represented Litigant.* Documents filed through services provided by an EFSP 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.
- e. *Multiple-Party Signatures Not Required.* A document 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.

6. *Date and Time of Electronic Filing.* The submission shall be deemed filed on the date and time it is received by the EFSP. If the clerk determines that 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.

7. *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.

8. *Format of Documents.* All e-filed documents shall be formatted in accordance with the applicable rules governing formatting of paper documents, including Rule 5.2, Rules of Civil Procedure, and shall conform to such other format requirements as the supreme court may require.

9. *Electronic Format and Size.* All text-based documents shall be in .pdf, .odt, or .docx format, except that a proposed order or judgment shall only 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.

10. *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.

11. *National Courier Service, Return Receipt.* When establishing proof of service by a national courier service, the filer may scan and e-file the required documentation.

12. *Notary Requirement.* A notarization requirement may be satisfied by scanning and e-filing the document that contains the notary's original signature and seal.

13. *Copy for Court.* 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 EFSP. If required by the receiving court, a filer must identify individual documents necessary for a judicial ruling.

14. *Responsibility for Filing and Service.* A person who e-files a document shall be responsible 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 to the same extent as a person who files a document on paper.

15. Distribution of Notices, Orders, and Other Documents by the Court. The clerk or court may electronically distribute notices, orders, and other documents to a party or attorney in any case in which the attorney has entered an appearance. The electronic delivery of documents by the court is complete upon transmission.

16. Hyperlinks and Bookmarks. 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.

17. 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 or ESPS's automation 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 e-filed documents.

18. Additional e-Filing Policies. The presiding judge of the court and the clerk, in consultation with the Administrative Director, may establish additional policies to implement e-filing. Any such policies shall be posted online at <http://www.azcourts.gov/efilinginformation> and on the websites of the court and the clerk.

19. Destruction of Paper Records. All documents in the clerk's EDMS are subject to the provisions of Rules 94 and 29(C), Rules of the Supreme Court, and § 1-507 of the Arizona Code of Judicial Administration with regard to destruction of paper records.

20. Confidential Documents. The clerk of the court must ensure that any documents filed pursuant to Rule 8 of the Rules of Probate Procedure is properly marked as confidential (restricted) within the case management system.

IT IS FURTHER ORDERED that any e-filed document that meets the requirements described herein shall be accepted by the clerk, and any court rule in conflict with these provisions is suspended in regard to such filings.

IT IS FURTHER ORDERED that the presiding judge and the clerk, in consultation with the Administrative Director, may make modifications to these procedures not inconsistent with rules or orders of this Court.

IT IS FURTHER ORDERED that attorneys filing within all counties governed by this order will be mandated to e-file probate case documents on a schedule to be determined by the Administrative Director.

Dated this 5th day of August, 2020.

FOR THE COURT:

ROBERT BRUTINEL
Chief Justice