FILED
DEC 22 2011
RACHELLE M. RESNICK
CLERK SUPREME COURT
BY

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
ADMINISTRATIVE ORDER GOVERNING E-FILING IN THE SUPERIOR COURT IN MARICOPA COUNTY	)	Administrative Order No. 2011 - 140 (Replacing Administrative Order Nos. 2010-117, 2011-10, and 2011-87)

Since November 2010, this Court has entered three administrative orders related to electronic filing (e-filing) of post-initiation civil case documents in the Superior Court in Maricopa County through AZTurboCourt. Each order was necessary to authorize e-filing of certain documents and to provide direction to attorneys, judges, self-represented litigants, and court employees making the transition from a mostly paper filing system to e-filing. For ease of use, we now combine these three previous administrative orders into one administrative order.

Therefore, pursuant to Article VI, Section 3 of the Arizona Constitution and A.R.S. § 12-119.02,

IT IS ORDERED that the following definitions, fees, and procedures for e-filing certain post-initiation civil case documents through AZTurboCourt in the Superior Court in Maricopa County are adopted. Provisions of this Order that are inconsistent with the Arizona Rules of Court shall supersede procedural requirements of the rules.

1. Definitions

   a. "Application Fee" means the fee assessed when a filer performs various functions using AZTurboCourt.

   b. "AZTurboCourt" means the supreme court-approved Internet-based system for filing of documents in the trial and appellate courts of Arizona. AZTurboCourt is supported by the application fees associated with its use.

   c. "Attached Document" means a document prepared outside of AZTurboCourt and then filed in AZTurboCourt.

   d. "Clerk" means the Clerk of the Superior Court in Maricopa County.

   e. "Court" means the Superior Court in Maricopa County.

   f. "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.

g. "Electronic Document Management System" ("EDMS") means a collection of computer software application programs and hardware devices that provide a means of organizing and controlling the creation, management, and retrieval of electronic documents through their life cycle.

h. "Judicial Officer" means any person who is authorized to perform judicial functions within the Court, including a judge, court commissioner, referee, or pro tempore judge.

2. Applicability

a. Attorneys shall file post-initiation civil case documents electronically through AZTurboCourt in accordance with this Order.

b. Self-represented litigants may, but are not required to, file documents through AZTurboCourt. A self-represented litigant who chooses to file documents using AZTurboCourt shall pay all applicable fees and follow the requirements set forth in this Order.

c. This Order does not apply to documents filed in any of the following case types: criminal, family law, probate, juvenile, mental health and related case types, tax, special actions, transcript of judgment, lower court appeals, and the Gila River General Stream Adjudication case.

3. Exceptions to Mandatory E-Filing

a. The Clerk shall not accept civil case documents from attorneys on paper unless the document qualifies for one of the following exceptions:

i. Case initiation documents, including a civil complaint or petition or any other document that may initiate a new case with the Court as well as any accompanying documents for issuance or service. Attorneys may electronically file a proof of service document upon completion of service.

ii. Any document that requires issuance by the Clerk as well as any accompanying document that requests the issuance. Attorneys may electronically file the issued document as well as any proof of service document upon completion of service.

iii. Default judgment packets. Attorneys shall electronically file the documents to request a default judgment, such as the Application for Entry of Default but shall submit the subsequent default judgment packet required by the Court, including the proposed order, on paper.

iv. Petitions for injunctions against harassment and injunctions against workplace harassment. Attorneys may electronically file a subsequent

document in an injunction against harassment and injunction against workplace harassment case.

v. Documents, any portion of a document, and exhibits filed under seal or a motion to file documents under seal.

vi. An application or supplemental application for waiver or deferral of a filing fee, application fee, or any other fee or cost.

vii. Earnings/continuing lien garnishment packets, except that attorneys shall electronically file the documents that make up a coversheet and earnings/continuing lien garnishment packet.

viii. Any documents in a civil case assigned to a probate division.

b. Any written motion requesting an exception from compliance with e-filing through AZTurboCourt may be filed on paper by the attorney requesting the exception using a form approved by the Court and provided by the Clerk. The provisions of Rule 5(j) of the Rules of Civil Procedure and Rule 3.2(i) of the Local Rules of Practice for the Superior Court in Maricopa County that require a proposed order be a separate document from a motion or other document shall not apply to these motions.

c. Rules 5(a), 5(g), and 7.1 of the Rules of Civil Procedure, which require that a written motion be served upon all opposing parties and that opposing parties be granted an opportunity to file and serve a response to the motion, shall not apply to motions filed requesting an exception to the mandatory e-filing requirements.

d. A judicial officer may initiate, permit, or consider ex parte communications with the attorney requesting an exception for the limited purpose of determining why an exception is necessary, and shall not involve the substance of the impending matter. Such ex parte communication shall be considered an exception to the prohibition against ex parte communication pursuant to Rule 81 of the Rules of the Supreme Court, Canon 2, Rule 2.9 (A)(5).

e. A copy of the order granting the electronic filing exception must be provided to the Clerk at the time of filing the paper document(s).

f. Filings on behalf of a litigant who a judge has found eligible for a deferral or waiver of court fees and costs pursuant to the requirements of A.R.S. § 12-302 are exempt from mandatory e-filing requirements. A copy of the order granting the deferral or waiver of court fees and costs must be provided to the Clerk at the time of filing the paper documents.

g. Any attorney, when working as an employee of an approved legal service organization and representing litigants who are unable to pay the application fee for filing a document in a civil case using AZTurboCourt, is exempt from e-filing and may file documents either on paper or, at the option of the attorney and after paying

the application fee, except as provided in (4)(b) below, using AZTurboCourt. The Administrative Office of the Courts shall provide the Presiding Judge of the Court and the Clerk a list of legal services organizations that have been approved pursuant to the provision of Rule 38 of the Rules of the Supreme Court and shall provide an updated list as organizations are added or removed from the list.

4. Application Fee and Filing Fees

   a. An application fee shall be assessed to support the electronic filing and document access services offered by AZTurboCourt, as follows:

      $ 6.00 to e-file an attached document

      $ 2.00 to e-file a stand-alone proposed order for signature

   b. The application fee shall not be assessed to e-file a document submitted on behalf of a person or entity identified in A.R.S. § 12-304, whenever a filing fee is not charged.

   c. All filing fees, local court fees, and application fees shall be paid through AZTurboCourt at the time of filing.

   d. The application fee shall be nonrefundable.

5. General Policy

   a. Signatures.

      i. 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 in AZTurboCourt. Any document displaying the symbol "/s/" with the attorney's printed name shall be deemed signed by that attorney 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.

      ii. Signature of Judicial Officer. Documents filed in AZTurboCourt under a judicial officer's or clerk's registered login ID and password shall be deemed filed by that judicial officer or clerk. Any judgment or order displaying the symbol "/s/" or a facsimile signature with the judicial officer's printed name, shall be deemed signed by that judicial officer for purposes of the rules and statutes governing practice and procedure in the courts of this state, including, but not limited to, Rule 58(a) of the Rules of Civil Procedure.

      iii. Signature of Self-Represented Litigant. Documents filed in AZTurboCourt 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.

iv. Multiple Self-Represented Parties' Signatures not Required. A document being filed for 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 parties' actual participation in any filing is subject to judicial determination.

b. Document Format. All documents filed through AZTurboCourt shall be formatted in accordance with the applicable rules governing formatting of paper documents, including Rule 2.17 of the Superior Court of Maricopa County Local Rules and Rule 10(d) of the Rules of Civil Procedure, and shall conform to such other format requirements as the Court may from time to time require. The Clerk shall not reject documents that do not comply with formats not required in a specific rule of procedure or statute.

i. Technical Format and Size. Any document submitted through AZTurboCourt shall be in Portable Document Format (.pdf), except that a proposed order shall be submitted in Microsoft Word 2003 (.doc) or a prior version thereof. A document shall not be password protected and shall not exceed the size limitation of AZTurboCourt.

ii. Certified Mail, Return Receipt Card. When establishing proof of service by U.S. Postal Service certified mail, the filer may file the proof of service on paper or scan and file both sides of the signed return receipt card.

iii. National Courier Service, Return Receipt. When establishing proof of service by a national courier service, the filer may scan and file the required documentation or file it on paper.

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

c. Required Exhibits and Attachments to Pleadings. 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.

d. Hyperlinks. 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.

e. Date and Effect of Electronic Filing.

i. An electronically submitted document shall be deemed filed on the date and time it is received by AZTurboCourt as reflected on the subsequent email notification or the filing details displayed within AZTurboCourt, unless payment is not made and/or the Court later rejects the document for filing. The Clerk shall provide the filer an explanation of any deficiency identified.

ii. The electronic delivery of documents by the Court through AZTurboCourt is complete upon transmission.

f. Responsibility for Filing and Service. A person who files a document electronically shall have the same responsibility as a person who files a document conventionally for ensuring that the document is properly filed and is complete and readable, and that a copy has been provided to other parties in the case. Electronic service is not available through AZTurboCourt at this time. It remains the responsibility of the filing party to serve other parties with the filing as would be done when filing a document on paper.

g. Paper 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 AZTurboCourt.

h. Official Record.

i. An electronic document that resides within the Clerk's or Court's EDMS is the original document and satisfies the requirements of Rule 1002, Arizona Rules of Evidence.

ii. An electronic transmission or print-out from the Clerk's or Court'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.

iii. 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 section 5(h)(i) above.

6. <u>Extension of Time Due to Interruption in Service</u>

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.

b. The Court and Clerk shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed documents.

7. Additional E-Filing Policies. The Presiding Judge of the Court and the Clerk, in consultation with the Administrative Director of the Administrative Office of the Courts, may create additional e-filing administrative policies for implementing this Order. Any such e-filing administrative policies shall be posted online at AZTurboCourt.gov and on the websites of the Clerk of the Court and the Superior Court.

Dated this 22nd day of December, 2011.

FOR THE COURT:

REBECCA WHITE BERCH
Chief Justice