

E-Filing Policy Issue # 20

(Clerk Rejection of Pleadings)

Issue: (State the issue and whether it is specific to a certain level of court or case type.)

Under what conditions, if any, may a clerk reject a pleading submitted by a filer? Do these conditions vary by level of court?

Discussion: (Provide the factual setting or context for the issue.)

Presently, clerks reject or hold filings for a variety of reasons, including: an incorrect case number is used, a document is not signed, a time limit has expired, the filing fee is paid by personal check instead of money order or cashier's check, a party name/caption is incorrect, the filing fee is incorrect, etc. The AOC e-filing team would like to have input on the appropriate policy for clerk rejection of filings. Should clerks reject a document, for example, when the wrong fee is submitted based on the title of the document, when the wrong court name is provided in the caption, when a pleading is not accompanied by a cover sheet, when material is "filed" on CD instead of paper, when an ex-parte e-mail is e-filed in a case, etc.?

Some clerks have noted that judges tell them not to bring a filing before the judge when the filing does not comply with the requirements of Rule 10 (Form of Pleading) or Rule 11 (Signing of Pleadings), Rules of Civil Procedure. The clerk of the supreme court rejects filings pursuant to AO 2001-53, Items 17 – 22 set forth therein. (Copy attached) Maricopa County offers a cover document on which the reason that a document has been rejected is checked off. (Copy attached.) Pinal County has a local rule which provides in part: "The clerk may discretionarily refuse to file any pleading, document or paper which fails to conform to this rule." (See below.) In other instances, the rejection of a pleading is more subtle. An individual may approach the counter ready to file a document, but the clerk identifies a problem with the submission, so that the filer is then able to correct the problem and come back and file the revised document.

By comparison, Federal Rule 5(d)(4) prohibits the clerk from refusing to file a paper solely because it is not in the form prescribed by rule or local practice. Clerks at the U.S. District Court for the District of Arizona state that they accept all filings without rejection. In that court, if a document is filed by mistake, the document stays on the record of the incorrect case until someone files a motion to strike.

Two decisions from the Arizona Court of Appeals (one from Div. 1 and the other from Div. 2) have addressed the issue of rejection of pleadings, and under the facts presented in both those cases ruled that the pleading in question should not have been rejected. (Copies of both opinions are attached.)

The clerk review process in AZTurboCourt must present a unified, consistent, statewide approach to this issue, since a softer, personal approach from a clerk at the counter will not be

Date: May 12, 2010

A. Wood

M. Hardman

available. Therefore, it is necessary to identify the conditions, if any, upon which a clerk may reject a filing. This could be defined by level of court, if necessary.

Authorities: (Provide references to specific statutes, rules, codes or administrative orders you believe are pertinent to the issue.)

AO 2001-53, item #'s 17 – 22 therein, set forth reasons for which the Clerk of the Supreme Court may reject documents presented for filing. (Copy Attached)

Local Rules of Practice Superior Court

Pinal County

Rule 2. General Procedure

Rule 2.1. Form of Pleadings

a. Number Assignment and Designation of Division: The clerk of the court shall assign a chronological number to every case filed with the court and indicate to which division of the court the case has been assigned. Subsequent to preliminary assignment by the clerk, the party filing any pleading, motion, memorandum or other paper in the case shall indicate below the case number the division of the court and name of the judge to whom the case has been assigned.

b. Conformity with Rule 10(d)--Clerk's Stamp: All pleadings, civil, criminal or other, filed with the clerk of the court, shall comply with Arizona Rules of [Civil Procedure, Rule 10\(d\)](#). The space above the title of the court to the right of the center of the page shall be reserved for the filing marks of the clerk.

c. Signing of Pleadings: All pleadings shall be signed as provided in Rule 11 of the Rules of Civil Procedure.

d. Amended Pleadings: Any party filing an amended pleading shall retype and submit the entire pleading and may not incorporate any part of the preceding pleading, including the exhibits, by reference.

e. Sanctions: The clerk may discretionarily refuse to file any pleading, document or paper which fails to conform to this rule.

Rules of Civil Procedure for the Superior Courts of Arizona

II. Commencement of Action; Service of Process, Pleadings, Motions and Orders; Duties of Counsel

Rule 5. Service and Filing of Pleadings and Other Papers

Rule 5(i). Compulsory Arbitration

A complaint and an answer shall be accompanied by such certificate as may be required by Rule 72(e) of these Rules and such other certificates as may be required by local rule.

Rules of Civil Procedure for the Superior Courts of Arizona

IX. Compulsory Arbitration

Rule 72. Compulsory Arbitration; Arbitration by Reference; Alternative Dispute Resolution; Determination of Suitability for Arbitration

(e) Procedure for Determining Suitability for Arbitration .

Date: May 12, 2010

A. Wood

M. Hardman

(1) At the time of filing the complaint, the plaintiff shall also file a separate certificate on compulsory arbitration with the Clerk of the Superior Court in the following form:

* * * * *

Federal Rules of Civil Procedure

Rule 5. Service and Filing of Pleadings and Other Papers

(d) Filing

(4) Acceptance by the Clerk.

The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules or by a local rule or practice.

Whittaker Corporation v. Estate of Dan M. King, Deceased, 25 Ariz. App. 356, 543 P.2d 477 (1975) The Court of Appeals, Div. 1 held that “clerk of the Superior Court was not authorized to reject filing of plaintiff's complaint for failure to comply with rule requiring that counsel for plaintiff or petitioner describe in caption of each complaint or petition filed with court nature of civil action or proceeding; that complaint returned to plaintiff for such noncompliance was deemed constructively filed on date it was originally received by clerk; and that thus, such complaint was timely filed.” (Copy Attached)

Rowland v. Kellogg Brown & Root, 210 Ariz. 530, 115 P.3d 124, 454 Ariz. Adv. Rep. 10 (2005) Clerk refused to file document (letter) submitted by plaintiff a few days before the 2-year limitations period expired in plaintiff's injury claim, because the document (letter) was not an appropriate civil complaint. The Court of Appeals, Div. 2 held that “plaintiff's letter, although technically deficient, constituted [a] valid complaint, for purposes of two-year limitations period.” (Copy Attached)

Alternative Solutions: (List all identified alternative solutions for the issue.)

- Set forth a policy that clerks should accept all pleadings through AZTurboCourt, except for insufficient funds and all pleadings over the counter except for insufficient funds or incorrect method of payment. This would need to be clearly communicated to both judges and clerks.
- Set forth a policy that the presiding judge may establish local standards regarding which pleadings a clerk should/should not accept.

Position/Recommendation: (Does the AOC E-filing team have a recommendation on this issue?)

The AOC e-filing team does not take a position on this issue.

Date: May 12, 2010

A. Wood

M. Hardman

Decision:

While all e-Court GJ Subteam members agree that consistency across the courts is important, because of the far reaching scope of the decision, more discussion is required before consistent direction can be provided.

Court of Appeals of Arizona, Division 1, Department A.
WHITTAKER CORPORATION, a California Corporation, Appellant,
v.
ESTATE of Dan M. KING, Deceased, Appellee.
No. 1 CA-CIV 2758.

Dec. 9, 1975.

Suit was brought to recover on creditor's claim against estate of deceased. The Superior Court, Maricopa County, Cause No. C-285036, Fred J. Hyder, J., dismissed suit on ground complaint was not filed within three-month period following rejection of claim by estate in accordance with statute, and appeal was taken. The Court of Appeals, Froeb, J., held that clerk of the Superior Court was not authorized to reject filing of plaintiff's complaint for failure to comply with rule requiring that counsel for plaintiff or petitioner describe in caption of each complaint or petition filed with court nature of civil action or proceeding; that complaint returned to plaintiff for such noncompliance was deemed constructively filed on date it was originally received by clerk; and that thus, such complaint was timely filed.

Reversed.

[1] Pleading 302 ↗43

302 Pleading

302II Declaration, Complaint, Petition, or Statement

302k43 k. Title or Caption. Most Cited Cases

Purpose of rule requiring that counsel for plaintiff or petitioner described in caption of each complaint or petition filed with court nature of civil action or proceeding is to assist courts in assignment and record keeping of cases. 17A A.R.S. Super.Ct.Uniform Prac.Rules, rule 12(d).

[2] Pleading 302 ↗43

302 Pleading

302II Declaration, Complaint, Petition, or Statement

302k43 k. Title or Caption. Most Cited Cases

Rule requiring counsel for plaintiff or petitioner to describe in caption of each complaint or petition filed with court nature of civil action or proceeding does not authorize clerk of the superior court to reject filing of complaint if there is noncompliance with classification requirement; clerk may however, reject filing pursuant to order of court to that effect but such rejection will not be held to affect timeliness of filing if such issue later arises. A.R.S. § 14-579[A]; 17A A.R.S. Super.Ct.Uniform Prac.Rules, rules 12, 12(d).

[3] Pleading 302 ↗43

302 Pleading

Date: May 12, 2010

A. Wood

M. Hardman

302II Declaration, Complaint, Petition, or Statement

302k43 k. Title or Caption. Most Cited Cases

Complaint returned to plaintiff by clerk of the superior court, for plaintiff's noncompliance with rule requiring plaintiff's counsel to describe in caption of each complaint or petition filed with court nature of civil action or proceeding, was deemed constructively filed on date it was originally received by clerk, for purpose of determining that it was timely filed. A.R.S. § 14-579[A]; 17A A.R.S. Super.Ct.Uniform Prac.Rules, rules 12, 12(d).

***356**477** Law Offices of Gerald B. Hirsch, by Steven D. Hamilton, Tucson, for appellant.

Streich, Lang, Weeks, Cardon & French, by Louis A. Stahl, Phoenix, for appellee.

OPINION

FROEB, Judge.

A complaint was filed by Whittaker Corporation in the Maricopa County Superior ***357**478** Court to recover on a creditor's claim then due against the Estate of Dan M. King, deceased. It was thereafter dismissed on motion because it was not filed within the three-month period following rejection of the claim by the estate in accordance with Arizona Revised Statutes, s 14-579(A), then in effect. (The provision has since been repealed by the revision of Arizona probate laws effective January 1, 1974.)

The summons and complaint were prepared and mailed to the Clerk of the Superior Court for filing, together with the required filing fee. The Clerk received them on November 20, 1973, which was within the period of limitation in A.R.S. s 14-579(A). Instead of filing the complaint, as requested, a deputy clerk returned the summons and complaint to the sender because of failure to comply with Rule XII of the Uniform Rules of Practice. Thereafter, the sender complied with the rule and again mailed the complaint to the Clerk's office and it was filed. By this time, however, the three-month period had expired, subjecting the complaint to dismissal.

The Uniform Rules of Practice of the Superior Court were adopted by the Arizona Supreme Court pursuant to its rule-making authority found in Article 6, Section 5 of the Arizona Constitution. They are procedural in nature and generally relate to the management and expeditious handling of the cases on the Superior Court docket. Rule XII relates to the duties of counsel with respect to advising the court as to the status of cases, settlement, withdrawal and substitution of counsel, and the classification of civil actions. Paragraph (d) of the rule is involved here and states:

(d) Classification of civil actions. Counsel for plaintiff or petitioner shall describe in the caption of each complaint or petition filed with the court the nature of the civil action or proceeding, as follows: Tort Motor Vehicle, Tort Non-Motor Vehicle, Contract, Domestic Relations, Eminent Domain or Nonclassified Civil, Writ of Garnishment.

[1][2] It is plain that the purpose of the rule is to assist the courts in the assignment and recordkeeping of cases. The rule does not authorize the Clerk of the Superior Court to reject the filing of the complaint if there is noncompliance with the classification requirement. The Clerk may, however, reject the filing pursuant to an order of the court to that effect. However, the rejection will not be held to affect the timeliness of filing if such an issue later arises.

[3] In view of this, we hold the complaint was constructively filed on November 20, 1973, and that it should not have been dismissed. The Judgment ordering dismissal is therefore vacated and set aside.

Since we have decided the case on this ground, it is unnecessary to consider the other arguments raised by appellant.

Reversed.

OGG, P.J., and DONOFRIO, J., concurring.

Ariz.App. 1975.

Whittaker Corp. v. Estate of King

Date: May 12, 2010

A. Wood

M. Hardman

25 Ariz.App. 356, 543 P.2d 477

END OF DOCUMENT

Date: May 12, 2010

A. Wood

M. Hardman

Court of Appeals of Arizona,
Division 2, Department B.
James Dennis ROWLAND, Plaintiff/Appellant,
v.
KELLOGG BROWN AND ROOT, INC., and Kellogg Brown and Root Services, Inc., Defendants/Appellees.
No. 2 CA-CV 2004-0209.

June 20, 2005.

Background: Plaintiff brought negligence action against defendant for injuries sustained in forklift accident with defendant's employee. The Superior Court, Cochise County, No. CV-200400027, [Stephen M. Desens](#), J., granted summary judgment in favor of defendant on limitations grounds, and plaintiff appealed.

Holding: The Court of Appeals, [Espinosa](#), J., held that plaintiff's letter, although technically deficient, constituted valid complaint, for purposes of two-year limitations period.

Reversed.

[\[1\] Courts 106](#) ↴ 85(2)

[106 Courts](#)

[106II](#) Establishment, Organization, and Procedure

[106II\(F\)](#) Rules of Court and Conduct of Business

[106k85](#) Operation and Effect of Rules

[106k85\(2\)](#) k. Construction and Application of Rules in General. [Most Cited Cases](#)

Statutes 361 ↴ 176

[361 Statutes](#)

[361VI](#) Construction and Operation

[361VI\(A\)](#) General Rules of Construction

[361k176](#) k. Judicial Authority and Duty. [Most Cited Cases](#)

Issues concerning the interpretation of statutes and court rules present questions of law.

[\[2\] Limitation of Actions 241](#) ↴ 118(2)

[241 Limitation of Actions](#)

[241III](#) Computation of Period of Limitation

[241II\(H\)](#) Commencement of Proceeding; Relation Back

[241k117](#) Proceedings Constituting Commencement of Action

[241k118](#) In General

[241k118\(2\)](#) k. Filing Pleadings. [Most Cited Cases](#)

Injured plaintiff's letter, although technically deficient in many respects, constituted valid complaint, for purposes of two-year limitations period governing negligence actions; letter made sufficient statements conferring court's jurisdiction and that plaintiff was entitled to relief and demand for judgment by indicating site where accident occurred, and by asserting that he had been injured by one of defendant's employees and that defendant was liable for bodily injuries, down time, and medical expenses in amount of five million dollars. [A.R.S. § 12-542](#); 16 [A.R.S. Rules Civ.Proc., Rules 3](#), 8(a).

[3] Limitation of Actions 241 ↗118(2)

[241](#) Limitation of Actions

[241II](#) Computation of Period of Limitation

[241II\(H\)](#) Commencement of Proceeding; Relation Back

[241k117](#) Proceedings Constituting Commencement of Action

[241k118](#) In General

[241k118\(2\)](#) k. Filing Pleadings. [Most Cited Cases](#)

Failure to file a complaint within the two-year limitations period generally bars a negligence action. [A.R.S. § 12-542](#); 16 [A.R.S. Rules Civ.Proc., Rule 3](#).

[4] Limitation of Actions 241 ↗118(2)

[241](#) Limitation of Actions

[241II](#) Computation of Period of Limitation

[241II\(H\)](#) Commencement of Proceeding; Relation Back

[241k117](#) Proceedings Constituting Commencement of Action

[241k118](#) In General

[241k118\(2\)](#) k. Filing Pleadings. [Most Cited Cases](#)

Filing a complaint is critical for purposes of the statute of limitations. 16 [A.R.S. Rules Civ.Proc., Rule 3](#).

[5] Courts 106 ↗32

[106](#) Courts

[106I](#) Nature, Extent, and Exercise of Jurisdiction in General

[106k31](#) Jurisdiction to Be Shown by Record

[106k32](#) k. In General. [Most Cited Cases](#)

Pleading 302 ↗48

[302](#) Pleading

[302II](#) Declaration, Complaint, Petition, or Statement

[302k48](#) k. Statement of Cause of Action in General. [Most Cited Cases](#)

Pleading 302 ↗72

[302](#) Pleading

[302II](#) Declaration, Complaint, Petition, or Statement

[302k72](#) k. Prayer for Relief. [Most Cited Cases](#)

A complaint need only have a statement of the ground upon which the court's jurisdiction depends, a statement of the claim showing that the pleader is entitled to relief, and a demand for judgment.

[6] Limitation of Actions 241 ↗180(7)

[241](#) Limitation of Actions

[241IV](#) Pleading, Evidence, Trial, and Review

[241k180](#) Demurrer, Exception, or Motion Raising Defense

[241k180\(7\)](#) k. Motion. [Most Cited Cases](#)

Dismissal of an action based on expiration of the statute of limitations is generally disfavored, although claims that are clearly brought outside the relevant limitations period are conclusively barred. 16 [A.R.S. Rules Civ.Proc., Rule 3](#).

Date: May 12, 2010

A. Wood

M. Hardman

[7] Pretrial Procedure 307A 622

[307A](#) Pretrial Procedure

[307AIII](#) Dismissal

[307AIII\(B\)](#) Involuntary Dismissal

[307AIII\(B\)4](#) Pleading, Defects In, in General

[307Ak622](#) k. Insufficiency in General. [Most Cited Cases](#)

To survive a motion to dismiss for failure to state a claim, a complaint generally must satisfy only the minimal notice pleading requirements, which require only that the complaint include a short and plain statement of the claim showing that the pleader is entitled to relief. 16 A.R.S. Rules Civ.Proc., Rules 8(a), 12(b)(6).

[8] Pretrial Procedure 307A 624

[307A](#) Pretrial Procedure

[307AIII](#) Dismissal

[307AIII\(B\)](#) Involuntary Dismissal

[307AIII\(B\)4](#) Pleading, Defects In, in General

[307Ak623](#) Clear and Certain Nature of Insufficiency

[307Ak624](#) k. Availability of Relief Under Any State of Facts Provable. [Most Cited Cases](#)

Dismissal for failure to state a claim is appropriate only if as a matter of law plaintiffs would not be entitled to relief under any interpretation of the facts susceptible to proof. 16 A.R.S. Rules Civ.Proc., Rule 12(b)(6).

**125 McNamara, Goldsmith, Jackson & Macdonald, P.C., by [Bruce G. Macdonald](#) and [Sue Ann Welch](#), Tucson, for Plaintiff/Appellant.

Humphrey & Petersen, P.C., by [Elizabeth L. Warner](#) and [Andrew J. Petersen](#), Tucson, for Defendants/Appellees.

*531 OPINION

[ESPINOSA](#), J.

¶ 1 Appellant James Rowland contends the trial court erred by granting summary judgment in favor of appellee Kellogg, Brown and Root, Inc., and dismissing Rowland's personal injury action on the ground that the applicable limitations period had elapsed before he had filed a valid complaint. We agree and reverse.

Factual and Procedural Summary

¶ 2 In reviewing a grant of summary judgment, we view the evidence and all reasonable inferences therefrom in the light most favorable to the nonmoving party. [CDT, Inc. v. Addison, Roberts & Ludwig, C.P.A.](#), 198 Ariz. 173, 7 P.3d 979 (App.2000). On September 28, 2001, Rowland was apparently injured by an employee of Kellogg while working at Fort Huachuca. He obtained counsel, who later withdrew after advising him of the deadline for filing a complaint. Thereafter, Rowland sent a letter and filing fee to the Clerk of the Cochise County Superior Court a few days before the two-year limitations period, established by [A.R.S. § 12-542](#), was to elapse.

¶ 3 The letter stated:

On September 28th 2001, James D Rowland was injured by a forklift operator employed by Brown and Root. Accident took place at Fort Huachuca Arizona. Law suite [sic] would be for Liability damages, bodily injuries, down time, and medical**126*532 expenses, in the amount of Five million dollars.

Please call me with any questions.

The letter also included Rowland's name, address, and telephone numbers and a caption of "Re: Rowland VS Brown

And Root.” Finally, it was addressed “[t]o whom it may concern,” and was accompanied by the \$130 filing fee.

¶ 4 The Clerk refused to file this document, instead returning it and Rowland's filing fee to him “because the appropriate civil complaint was not sent to [their] office.” Rowland then obtained new counsel, who filed a complaint that was clearly outside the limitations period, but properly served the defendants within 120 days of both the filing of that complaint and the original attempt to file the letter, in compliance with Rule 4(i), Ariz. R. Civ. P., 16 A.R.S., Pt. 1. The trial court granted Kellogg's motion for summary judgment based on [§ 12-542](#). This appeal followed.

Standard of Review

[1] ¶ 5 Summary judgment is proper if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. Ariz. R. Civ. P. 56(c), 16 A.R.S., Pt. 2. We first determine if any genuine issue of material fact exists, and if there is none, we then determine whether the trial court correctly applied the law. [Aaron v. Fromkin, 196 Ariz. 224, 994 P.2d 1039 \(App.2000\)](#). Issues concerning the interpretation of statutes and court rules present questions of law. See [Powers v. Carpenter, 203 Ariz. 116, 51 P.3d 338 \(2002\)](#); [Fragoso v. Fell, 210 Ariz. 427, 111 P.3d 1027 \(App.2005\)](#); [Koller v. Ariz. Dep't of Transp., 195 Ariz. 343, 988 P.2d 128 \(App.1999\)](#); [Schwab Sales, Inc. v. GN Constr. Co., 196 Ariz. 33, 992 P.2d 1128 \(App.1998\)](#). Because the parties agree on most of the facts and all relevant dates in the case, we review *de novo* whether the trial court erred in applying the law. [Nelson v. Rice, 198 Ariz. 563, 12 P.3d 238 \(App.2000\)](#).

Discussion

[2][3][4] ¶ 6 [Section 12-542](#) requires a plaintiff to commence an “action” for negligence within two years “after the cause of action accrues.” [Rule 3, Ariz. R. Civ. P., 16 A.R.S., Pt. 1](#), provides that an “action” is commenced by the filing of a “complaint.” Failure to do so within the time limit generally bars a negligence action. See [Safeway Stores, Inc. v. Maricopa County Superior Court, 19 Ariz.App. 210, 505 P.2d 1383 \(1973\)](#). Thus, filing a complaint is critical for purposes of the statute of limitations.

¶ 7 Rowland initially argues that the superior court clerk's office did not have the authority to refuse to file his document, noting that no Arizona law provides such discretion to the clerk. Kellogg responds that “[a]ppellant's letter was not a complaint ... [and][t]he court was not required to treat it as a complaint.” Although this argument was presented below, the trial court did not address this issue in its order granting summary judgment.

¶ 8 [Whittaker Corp. v. Estate of King, 25 Ariz.App. 356, 543 P.2d 477 \(1975\)](#), appears to be the only Arizona case that addresses a similar issue. In [Whittaker](#), the plaintiff filed a complaint to recover on a creditor's claim against a probate estate within the ninety-day period prescribed by former A.R.S. § 14-579(A), but the Clerk of the Maricopa County Superior Court refused to accept it because it did not comply with [Rule XII of the Uniform Rules of Practice](#).^{FN1} Whittaker corrected the deficiency and returned the document, but the ninety-day period had elapsed and the complaint was dismissed. Division One of this court vacated the dismissal and held that the existing rule did not authorize the clerk to reject a filing for non-compliance, and Whittaker's complaint was held to have been “constructively filed” when it had submitted the first document.

^{FN1} The Uniform Rules of Practice of the Superior Court were abrogated as of December 1, 2000. 198 Ariz. XXXIX (2000).

¶ 9 Neither party has directed this court to an Arizona statute or rule that permits the clerk of the court to reject an improperly formatted or deficient pleading, and we have **127*533 found none. Although Kellogg cites Rule 4(a), Ariz. R. Civ. P., that rule only codifies the clerk's duties in issuing summonses. We need not dwell on this issue, however, because we find Rowland's letter constituted a valid complaint, which would have been filed within the limitations period had the clerk accepted it.^{FN2}

^{FN2} We do not fault the superior court clerk's office for its action in this case, given the close and novel

issue presented and the marginally adequate nature of Rowland's "complaint."

[5] ¶ 10 We agree with Rowland that his letter, although technically deficient, adequately fulfilled the requirements of notice pleading as it exists in Arizona for purposes of the statute of limitations. Kellogg points out the numerous technical deficiencies in the document and insists that it cannot be considered a complaint. But because Arizona is a notice pleading state, a complaint need only have "a statement of the ground upon which the court's jurisdiction depends, a statement of the claim showing that the pleader is entitled to relief and a demand for judgment." Morn v. City of Phoenix, 152 Ariz. 164, 166, 730 P.2d 873, 875 (App.1986); see also Ariz. R. Civ. P. 8(a), 16 A.R.S., Pt. 1.

¶ 11 As Kellogg points out and Rowland concedes, the letter did not comply with the requirements of Rules 8(g), 8(h), 10(a) and 10(b), Ariz. R. Civ. P., 16 A.R.S., Pt. 1. Rowland failed to comply with Rule 8(g) because he stated a specific dollar amount for his damages and did not recite that "the minimum jurisdictional amount established for filing the action has been satisfied." Additionally, Rowland did not include the classification of his action required by Rule 8(h). He also failed to comply with three subsections of Rule 10, Ariz. R. Civ. P., which govern the form of pleadings. Rowland did not comply with Rule 10(a) because he omitted a formal caption from his letter. He failed to follow Rule 10(b) by not numbering each paragraph and including only one claim "limited ... to a statement of a single set of circumstances." Finally, Rowland did not comply with the specific formatting requirements of Rule 10(d). ^{FN3}

FN3. Kellogg also contends that Rowland's letter does not comply with Rule 3, Ariz. R. Civ. P., 16 A.R.S., Pt. 1, which states that "[a] civil action is commenced by filing a complaint with the court." Because the central issue we address here is the sufficiency of Rowland's letter to serve as the complaint, we need not address this argument separately.

¶ 12 Despite all of these deficiencies, Rowland argues they were not fatal for purposes of the statute of limitations. We agree. Rule 8(a) specifies the information required in "[a] pleading which sets forth a claim for relief," but does not refer to a "complaint." Rowland asserted that the accident occurred in Fort Huachuca, Arizona. "Actions against ... corporations may be brought in any county in which the cause of action, or a part thereof, arose." A.R.S. § 12-401(18). Rowland also asserted that he had been injured by an employee of Brown and Root, and that the "accident" created "liability" for "damages, bodily injuries, down time and medical expenses." From that language, one may reasonably infer that Rowland made "a statement of the claim showing that the pleader is entitled to relief." Morn, 152 Ariz. at 166, 730 P.2d at 875. Rule 8(a)(3) requires that the pleading contain a demand for judgment. Rowland stated that he sought to hold Brown and Root liable for his damages, and specified the monetary relief he was seeking, which may be reasonably construed as a demand for judgment. Finally, the formatting requirements of Rule 10(d) may be waived by the court *sua sponte*, or at the request of any party.

[6] ¶ 13 Significantly, Rule 8(e)(1), Ariz. R. Civ. P., states: "Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleading ... are required." Rule 8(f), Ariz. R. Civ. P., requires that "[a]ll pleadings ... be so construed as to do substantial justice." And Rule 1, Ariz. R. Civ. P., 16 A.R.S., Pt. 1, states that "[these rules] shall be construed to secure the just, speedy, and inexpensive determination of every action." Rowland's letter conforms to the standard of Rule 8(e)(1), and construing it as a complaint for purposes of the statute of limitations provides Rowland an opportunity to have his claim determined on its merits. "[D]ismissal of an action based on **128*534 expiration of the statute of limitations is generally disfavored ... [although] claims that are clearly brought outside the relevant limitations period are conclusively barred." Montano v. Browning, 202 Ariz. 544, ¶ 4, 48 P.3d 494, 496 (App.2002).

¶ 14 In addition to challenging Rowland's letter for noncompliance with Rules 8 and 10, Ariz. R. Civ. P., Kellogg further asserts that the letter, which includes Rowland's typed name but not his signature, must be stricken under Rule 11(a), Ariz. R. Civ. P., 16 A.R.S., Pt. 1, relying on Safeway Stores. But the applicable version of Rule 11(a) only requires that an unsigned pleading be stricken "unless it is signed promptly after the omission is called to the attention of the pleader or movant." We find Kellogg's argument unavailing because there is no indication in the record that Rowland had ever been informed of this omission and refused to sign.

Date: May 12, 2010

A. Wood

M. Hardman

[7][8] ¶ 15 We note that both in its brief and at oral argument, Kellogg disputed Rowland's assertion that the letter adequately provided the notice required by the Rules because it "would survive a motion for failure to state a claim pursuant to Ariz. R. Civ. P. 12(b)(6), 16 A.R.S., Pt. 1." Kellogg asserted that the letter could not withstand such a motion. But as the Ninth Circuit Court of Appeals stated in [*Porter v. Jones*, 319 F.3d 483, 494 \(9th Cir. 2003\)](#):

To survive a motion to dismiss for failure to state a claim under Rule 12(b)(6), a complaint generally must satisfy only the minimal notice pleading requirements of Rule 8(a)(2). [That rule] requires only that the complaint include "a short and plain statement of the claim showing that the pleader is entitled to relief."

Dismissal for failure to state a claim is appropriate only if "as a matter of law ... plaintiffs would not be entitled to relief under any interpretation of the facts susceptible to proof." [*Fidelity Sec. Life Ins. Co. v. State Dep't of Ins.*, 191 Ariz. 222, ¶ 4, 954 P.2d 580, 582 \(1998\)](#); see also [*Southwestern Paint & Varnish Co. v. Ariz. Dep't of Envtl. Quality*, 191 Ariz. 40, 951 P.2d 1232 \(App. 1997\)](#), aff'd in part, [*194 Ariz. 22, 976 P.2d 872 \(1999\)*](#) (dismissal for failure to state a claim proper only when plaintiff cannot prove any set of facts justifying relief). Here, taking Rowland's assertions as true, [*Newman v. Maricopa County*, 167 Ariz. 501, 808 P.2d 1253 \(App. 1991\)](#), he seeks recovery for injuries resulting from an accident caused by a Kellogg employee. Rowland could recover if he proved that the accident was caused by the employee's negligence and that his injuries resulted from the accident. Thus, because the letter, albeit marginally, set forth facts that if proven would entitle Rowland to relief, dismissal under Rule 12(b)(6) would not have been appropriate. [*Fidelity*](#).

¶ 16 In light of our determination that Rowland's letter was sufficient to serve as a complaint under the applicable rules, it is deemed to have been constructively filed before the limitations period had elapsed. [*Whittaker*](#). We therefore need not address Rowland's additional arguments based on lack of prejudice to Kellogg and Arizona's "savings statute," [*A.R.S. § 12-504*](#).

Disposition

¶ 17 Based on the foregoing, the judgment in favor of Kellogg is reversed.

[PELANDER](#), C.J., and [FLÓREZ](#), P.J., concurring.

Ariz.App. Div. 2,2005.

Rowland v. Kellogg Brown and Root, Inc.

210 Ariz. 530, 115 P.3d 124, 454 Ariz. Adv. Rep. 10

END OF DOCUMENT

Date: May 12, 2010

A. Wood

M. Hardman

FILED

APR 25 2001

NOEL K. DESSAINT
CLERK SUPREME COURT
BY

IN THE SUPREME COURT OF THE STATE OF ARIZONA

RE: CLERK OF THE COURT)
) ADMINISTRATIVE ORDER
) NO. 2001 - 53
)
_____)

The Court having given consideration to the matter of the authority of the Clerk of the Supreme Court.

IT IS HEREBY ORDERED amending Administrative Order No. 2001-29 by inclusion of sub-paragraph No. 33 as set forth below.

IT IS HEREBY ORDERED that the Clerk of the Supreme Court is hereby authorized to take the following actions and to sign the following orders:

1. Orders referring miscellaneous Pro Se Special Actions and Habeas Corpus petitions to the Attorney General and/or County Attorney for response; setting due dates for response and reply on miscellaneous Special Actions and Habeas Corpus Petitions; and, setting date for consideration by the Court.
2. Orders setting Special Action hearing dates, oral argument dates and other Special Action processing dates; Orders granting or denying motions continuing Special Action hearings and other scheduling dates.
3. Orders granting or denying extended pagination on briefs and legal memoranda.
4. Orders granting or denying first extensions of time to file briefs and other pleadings, including delayed Petitions for Review.
5. Orders granting or denying second extensions of time on briefs and other pleadings (except for second extensions of time to file briefs in death penalty cases), but if the Clerk believes that the motion should be denied outright or that less time than that which is sought should be permitted, the matter may be referred to a Justice.

Date: May 12, 2010

A. Wood

M. Hardman

6. Orders releasing original trial court instruments and reporter's transcripts or copies to a judge or clerk of the superior court, a judge or clerk of a federal court and orders releasing court reporter's transcripts to a court reporter.
7. Orders granting or denying extensions of time for the return of court reporter's transcripts.
8. Orders denying defense counsel's motion to withdraw in Anders cases and permitting both appellant and appellee to file supplemental opening, answering and reply briefs.
9. Orders and/or notices granting and/or setting oral argument in death penalty cases and State Bar disciplinary cases, but specific dates for oral argument will be determined by the Court or designated justice on behalf of the Court.
10. Orders submitting cases on the record and/or briefs when oral argument is not requested.
11. Supervise the calendaring and care of Court records and the filing, distribution and publication of decisions and orders of the Supreme Court; keep such statistics and make such reports normally kept by the Clerk of the Supreme Court and keep and prepare monthly statistical reports as may be directed by the Chief Justice or pursuant to agreement between the Clerk and Administrative Director.
12. Orders waiving or refusing to waive filing fees.
13. Orders granting or denying first extensions of time to court reporters upon request for the filing of reporter's transcripts, but all subsequent requests for extensions of time are to be referred to the Chief Justice.
14. Require court reporters to serve copies of their requests for extensions of time to file transcripts on all parties and/or their attorneys and the Presiding Judge of the Superior Court.

Date: May 12, 2010

A. Wood

M. Hardman

15. Orders granting non-substantive uncontested procedural motions related to the processing of the case, but if the Clerk believes that the motion should be denied, the matter is to be referred to the Chief Justice.
16. Accept for filing in the Clerk's discretion, documents such as briefs, motions, responses, replies and other legal memoranda that are not later than five straight calendar days past the due date for filing. Filing of such documents is without prejudice to the filing of a motion to strike for untimeliness.
17. Reject for filing any document presented by any person or party, including those persons who are not represented by an attorney, that does not show service of the document on all other parties in the case, including opposing counsel.
18. Accept or reject documents presented for filing when the original and six copies are not presented for filing, but to be accepted, the original must have the original signature.
19. Reject all documents presented for filing which do not comply with Rules of Procedure or are not provided for by Rules of Procedure. If such documents are accompanied by a formal motion requesting permission of the Court to file documents not contemplated by the Rules of Procedure, such matters will be referred to a Justice.
20. Reject and return all Petitions for Review initially presented to the Supreme Court for original filing after the time for filing a Petition for Review has expired unless a Court order provides for delayed filing.
21. Reject and return all documents requesting relief over which the Supreme Court clearly has no original jurisdiction such as money damage claims.
22. Advise persons who present informal letter requests that the Court cannot take action based on letters and the Clerk is further authorized, in his discretion, to advise persons making requests of the Supreme Court that such requests cannot be handled unless properly filed in pending litigation over which the Court has jurisdiction.

Date: May 12, 2010

A. Wood

M. Hardman

23. Orders to Clerk of the Superior Court directing transmittal of exhibits, sealed documents, papers, books, photographs and all documents in the file related to any case pending in the Arizona Supreme Court including, but not limited to, the trial court record in post-conviction relief cases.
24. Cost and filing fee assessment orders described in A.R.S. §§ 12-302(B) and 12-306(C) as amended and added by Laws 1994, Ch. 358, Sections 1 and 2.
25. Orders granting stipulations or unopposed motions of petitioner to dismiss a petition for review in cases where the subject of the petition is a memorandum decision or order rendered by the Court of Appeals.
26. Orders granting unopposed motions or requests for substitution of attorneys unless to do so might adversely affect the processing of the case, in which event the motion shall be referred to a Supreme Court Justice.
27. Orders granting costs in civil cases, pursuant to Rule 21(a), Rules of Civil Appellate Procedure.
28. Orders granting attorney's fees in civil cases pursuant to Rule 21(a), Rules of Civil Appellate Procedure, where the Court has awarded attorney's fees and the party to whom fees has been awarded has complied with Rule 21, Rules of Civil Appellate Procedure.
29. At the recommendation of the Supreme Court's Chief Staff Attorney or Assistant Chief Staff Attorney, the Clerk of the Supreme Court may order any party to file a response to a petition for review.
30. Orders granting the motion to file an amicus curiae brief in any case and the motion of a party desiring to respond when such motions are in compliance with Rule 16, Rules of Civil Appellate Procedure. If a motion to file an amicus brief is filed after a case has been submitted to the Court, or after a request for oral argument has been granted or, after a case has been scheduled for an agenda or court calendar of any type, it shall be referred to the duty justice or other

Date: May 12, 2010

A. Wood

M. Hardman

appropriate justice. Any motion by amicus curiae to participate in oral argument shall be referred by the Clerk of this Court to the chief justice, vice-chief justice or duty justice.

31. Orders in conformity with the requirements of Rule 37(b), Rules of the Supreme Court, authorizing the oath of admission outside Arizona. The authority of the Chief Justice as set forth in Rule 37(b) is delegated to the Clerk of the Arizona Supreme Court.
32. Sign and issue certificates of good standing on behalf of the Arizona Supreme Court pursuant to Rule 74(b) Rules of the Supreme Court.
33. Orders on behalf of the Arizona Supreme Court accepting resignations in good standing from members of the State Bar of Arizona.

IT IS FURTHER ORDERED that any party or person dissatisfied with the decision of the Clerk may petition the Court for relief.

IT IS FURTHER ORDERED that the Clerk of the Court may provide procedural suggestions to parties or their attorneys in regard to Supreme Court practice.

IT IS FURTHER ORDERED that the Clerk of the Court and staff of the Clerk shall publish and distribute the Supreme Court's opinions, memorandum decisions and orders according to procedures and directions established by the Supreme Court or the Chief Justice on behalf of the Supreme Court.

DATED this 25th day of April, 2001.

FOR THE COURT:

THOMAS A. ZLAKET
Chief Justice

Date: May 12, 2010

A. Wood

M. Hardman

**CLERK OF THE COURT
SUPERIOR COURT OF ARIZONA**

Michael K. Jeanes
Clerk

MARICOPA COUNTY
201 West Jefferson
Phoenix, Arizona 85003

(602) 506-3676
Fax - (602) 506-7684
TDD - (602) 506-3211

**THE ATTACHED DOCUMENTS ARE BEING RETURNED TO YOU FOR THE FOLLOWING
REASON (S):**

<input type="checkbox"/>	Cover sheet is missing.
<input type="checkbox"/>	Deferral granted. <input type="checkbox"/> Deferral denied. <input type="checkbox"/> No filing fees will be due until further notice. Filing fee of \$ _____ must be paid prior to filing, with monthly payments of \$ _____. Please make check or money order payable to the Clerk of Superior Court.
<input type="checkbox"/>	If you cannot afford the fee, enclosed is an application for a Deferral/Waiver
<input type="checkbox"/>	Pursuant to the Clerk's Office Procedure, any money presented for a bond must be certified funds, i.e. cashier's check, cash, or a local attorney's trust account check. <i>Money orders and operating account check are not acceptable</i>
<input type="checkbox"/>	Pursuant to Rule 5(G) or 10 of the Arizona Rules of Civil Procedure, your document cannot be filed
<input type="checkbox"/>	Pursuant to Rule 2.15, 2.15 A, 2.17, 2.18, or 3.2(i), of the Local Rules of Practice of Superior Court, your document cannot be filed
<input type="checkbox"/>	\$26.00 handling fee is missing.
<input type="checkbox"/>	If you would like your conformed copies returned to you, please include a self-addressed, stamped envelope.
<input type="checkbox"/>	Documents are not signed and/or notarized
<input type="checkbox"/>	Affidavit setting forth last known address for both the judgment creditor and the judgment debtor is missing (A.R.S. 12-1703).
<input type="checkbox"/>	Authenticated copy of the judgment from the foreign jurisdiction is missing (A.R.S. 12-1702).
<input type="checkbox"/>	Certified/Original Notice of Deposition from the Foreign Jurisdiction is missing
<input type="checkbox"/>	Subpoena format does not meet requirements of AZ Rules of Civil Procedure
<input type="checkbox"/>	Certificate of Compulsory Arbitration is missing
<input type="checkbox"/>	Praecipe is missing
<input type="checkbox"/>	Fee for certified copies are \$26 plus .50 per page.
<input type="checkbox"/>	Certified/Original Order, Commission or letters _____ from the Foreign Jurisdiction are missing
<input type="checkbox"/>	Other:

2/22/2010

DATE

DEPUTY CLERK

Visit us at our website: www.clerkofcourt.maricopa.gov