

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
MODIFICATION OF ARCAP 5(a)) Administrative Order
FOR DIVISION TWO, COURT OF) No. 2016 - 19
APPEALS, REGARDING ELECTRONIC)
SERVICE OF DOCUMENTS)
)

ARCAP 5(a), by incorporating Rule 6(e) of the Arizona Rules of Civil Procedure, permits parties to add five calendar days in calculating the deadline for responding to an appellate filing that is served electronically. This Court, however, recently learned that Division Two has “suspended” Rule 6(e) and does not allow parties to add these days in calculating the deadline for responding to an appellate brief served electronically through Division Two’s electronic “e-filer” system.

Rule 6(e), which ARCAP 5(a) incorporates, was originally part of a former Supreme Court Rule that was adopted in 2000. Some of the concerns prompting the rule’s adoption—including fears of transmission errors and delays—may no longer be justified in light of technological advances, which has led some to question whether the rule is still needed. For example, the United States Supreme Court is currently considering federal rule amendments that would eliminate provisions in all the federal rules—including the federal appellate rules—allowing the addition of three calendar days to respond to electronically served briefs, motions and other filings.

A petition to amend ARCAP 5(a) was filed recently that proposes to eliminate the addition of five calendar days when calculating the deadline for responding to an appellate filing that is served electronically. Division Two desires to continue following its current policy, which conforms to the proposed amendment, while this Court considers that rule petition. Therefore,

IT IS ORDERED that ARCAP 5(a) is modified to provide that the rule’s reference to Rule 6(e) of the Arizona Rules of Civil Procedure does not apply to documents served electronically through Division Two’s “e-filer” system. This modification will remain in place pending further order of this Court.

Dated this 14th day of March, 2016

SCOTT BALES
Chief Justice