

E-Filing Policy Issue - # 21

Review of Local Orders and Rules Related to e-Filing

Issue:

Should COT's e-Court subcommittee be reviewing all proposed local rules and orders to ensure no provisions in them contravene decisions e-Court has previously made or the provisions of a statewide, unified electronic case filing system powered by AZTurboCourt?

Discussion:

A meeting with Pima County Superior Court judges about AZTurboCourt in 2010 revealed the presence of a local order pre-dating adoption of AZTurboCourt that contains numerous provisions that would undermine the fundamental principle of a single set of rules supporting a single method for e-filing statewide. Examples are included as illustrations rather than specific issues to be resolved in and of themselves. While AZTurboCourt may be able to fulfill some of these requirements, others will require custom programming unique to Pima Superior Court.

- Pima County Superior Court Local Rule 3.1 requires a copy of any motion submitted to be delivered to the judge and the original to reflect the delivery of the copy. Motions not in compliance are not considered to be submitted for decision.
- Pima County Superior Court Local Rule 3.7 specifies a motion may not exceed 15 pages and supporting memoranda shall not exceed 10 pages.
- Pima County Superior Court Local Rule 6 requires the plaintiff to file a locally defined face sheet on any civil action.
- Pima County Superior Court Local Rule 6.2 requires the clerk to sequentially number each document filed in a particular case and record that number on the first page of the document

At the time the Chief Justice reviewed the proposed order in 2008, no formal guidance was in place. With the subsequent reformulation of Rule 124 and creation of technical requirements for AZTurboCourt e-filing, much improved guidance will exist. In the interim, it makes sense to have the policy documenters closest to the project review local items for potential impact.

Authorities: The Article 6, Section 3, of the Arizona Constitution grants the chief justice administrative supervision over all courts in the state. Section 5, Item (5) specifically grants the Supreme Court power to make rules relative to all procedural matters in any court. In that capacity, the Chief Justice approves local orders before they can be filed and take effect.

This issue involves the potential degradation to the unified, statewide approach to e-filing when conflicts arise between local rules and the revised Supreme Court Rule 124.

Civil Rule 83 seems to indicate that the revised Rule 124, to become effective January 1, 2012, would overrule in the case of inconsistencies between itself and local rules or local orders

already approved by the Chief Justice. But no explicit requirement exists that current local orders be proactively reviewed to ensure no conflict exists between what they stipulate and what Rule 124 or AZTurboCourt technical specifications stipulate. The system relies upon presiding judges to identify inconsistencies themselves and resolve them in the spirit of Rule 83. Is that reliance going to be effective at addressing inconsistencies, or should a proactive approach be taken by e-Court?

To ensure no future inconsistencies, should e-Court recommend to the Chief Justice that it review proposed local orders to assess their impact to statewide e-filing prior to her approval?

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

- Allow presiding judges to continue to independently promulgate local orders that potentially impact e-filing in individual jurisdictions.
- Review local orders in existence today to identify conflict points or inconsistencies and suggest revised wording for the Chief Justice to require of the presiding judge to align with Rule 124.
- Require any proposed local orders or rules be reviewed by e-Court to ensure no conflicts in requirements or procedure with AZTurboCourt are introduced.

Position/Recommendation:

The AOC E-filing team recommends that a review be undertaken to determine present impacts and that future proposed orders be reviewed by e-Court. The risk and consequences to the statewide e-filing initiative will become costly if individual courts independently implement local varieties of e-filing, forcing perpetual customization of the AZTurboCourt software.

Decision:

Administrative orders of the Chief Justice and rules issued by the Supreme Court clearly supersede local rules in authority. Discrepancies do not have to be resolved in order for AZTurboCourt to be implemented, but should be examined when electronic filing enters a less developmental and more operational phase. Education about reviewing and removing conflicts in local rules is more appropriate for the Presiding Judges meeting than for e-Court.