

E-Filing Policy Issue # 22

Paper Courtesy Copies

Issue:

If an existing local rule, policy, or practice requires a paper courtesy copy, will that requirement apply to AZTurboCourt filings?

Discussion:

One scenario that emanates from this issue is as follows.

Courts have expressed an interest in requiring filers to provide a courtesy paper copy to the judge of certain e-filed documents. Presently, most counties have a local rule that requires a copy of a motion or other document necessary for a judicial ruling or decision to be delivered to the assigned judge, presumably by the filer. (See copy of each rule below.)

In another twist of this scenario, some judges have noted that the AO 2010-117, which implements mandatory e-filing of civil subsequent documents through AZTurboCourt, in the Superior Court in Maricopa County, provides in Appendix B (Procedures for E-Filing), Section 2.5(e), *“Courtesy Copy for Court.* Notwithstanding any other rules of court, a filer who submits any document through AZTurboCourt shall not submit a courtesy paper copy of the document to the Court.” Judges have suggested that this provision may preclude a judge from asking/requiring a litigant to provide a paper copy of a filing to the judge, such that the clerk of court will be required to provide a paper copy to the judge, at the county’s cost. These judges have identified motions for summary judgment, with extensive exhibits attached, as an example of the type of document for which they need a paper copy. The judges indicate that these motions are nearly impossible to review electronically.

A number of sub-issues arise from the above scenario, including:

- 1) Should a paper copy of an e-filed document ever be provided to the judge?
- 2) If so, who must provide the paper copy – the clerk or the filer – or could it be printed in judicial chambers?
- 3) What are the parameters by which a paper copy should be provided to the judge e.g. all documents, documents of more than 50 pages; proposed orders; pre-trial statements, upon order of the judge in a particular case, etc.?
 - a. What is the cost to the filer if the filer is required to e-file a document then provide a paper copy to the judge?
 - b. What is the cost to the court if the court prints large volumes of e-filed documents?
- 4) Should the answer to these questions be different depending on the level of court?

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

Local Rules of Practice Superior Court

Apache County

General Procedure

Rule 10. Briefs, Memoranda and Argument *(in part)*

a. Filing, Copies and Service. When any matter is submitted to the Court for decision and the filing of briefs or memoranda is requested or allowed, the original of each such brief or memorandum shall be filed with the clerk of the court and a duplicate thereof shall be lodged with the Court and service shall be made on counsel or parties not represented by counsel as provided in the applicable parts of [Rule 5, Rules of Civil Procedure](#).

b. Additional Duties of Counsel--Case Assigned to Visiting Judge. When a matter is assigned to a visiting judge, in addition to the above, counsel shall mail copies of all applicable pleadings, motions, affidavits and exhibits to the assigned judge.

Pretrial and Trial Procedures *(in part)*

Rule 20. Pretrial Statements and Conferences--Discovery

a. Civil Pretrial Statements. Thorough pretrial statements containing all the information required by [Rule 16\(d\), Rules of Civil Procedure](#), shall be filed with the Court no later than fifteen (15) days prior to the date of trial.

Local Rules of Practice Superior Court

Cochise County

C. Miscellany

Rule 18. Papers and Documents to be Provided to Judge

(a) On Filing Motions. Copies of all motions, oppositions and replies, together with supporting memoranda, only if exceeding five (5) pages, shall be provided to the judge unless otherwise directed.

(b) Post Trial Briefs and Memoranda. On filing the original post trial briefs or memoranda, copies thereof shall be delivered or mailed to the judge considering the matter unless otherwise directed by the court.

Rule 22. Civil Pretrial Statements

Pretrial statements shall be filed at least ten (10) working days before the trial date except as otherwise directed or permitted by the judge, and a copy thereof shall be provided the judge. No pretrial statement shall be required in domestic relations or child custody matters unless otherwise directed by the court.

Local Rules of Practice Superior Court

Coconino County

Rule 4. Procedure: Civil Motions, Trial Settings, and Pretrial Conferences *(in part)*

(E) Except as provided, when a party files a motion, notice, objection, exception, or memorandum, the party will deliver a copy to the assigned division and state on the original that a copy was delivered to the assigned division.

Rule 7. Briefs and Jury Instructions (*in part*)

(A) **Briefs.** When any matter is submitted to a trial judge for decision, and the filing of briefs is allowed by the Judge, the original of each such brief shall be filed with the Clerk of the court and a duplicate thereof shall be delivered to the trial judge.

Local Rules of Practice Superior Court

Gila County

Rule 16. Briefs, Memoranda, Argument, and Court Reporter Services (*in part*)

A. Filing, Copies, and Service. Whenever a matter is submitted to the court for consideration upon briefs or memoranda, a duplicate of the brief or memorandum shall be lodged with the assigned judge, including any visiting judge. If the pleading requires setting of matters on the court calendar, a copy shall also be sent to the court administrator.

Local Rules of Practice Superior Court

Graham County

Rule 1. Administration and General Procedure

Rule 1.13. Motions, Objections, Briefs, Memoranda and Argument (*in part*)

A. Filing, Copies and Service. Whenever a matter is submitted to the court for consideration upon motions, objections, briefs, memoranda or any other matter requiring judicial action or attention, a duplicate of the motion, objection, brief or memoranda shall be lodged directly with the assigned judge.

Local Rules of Practice Superior Court

Maricopa County

Rule 3. Civil Cases

Rule 3.2. Civil Motions (*in part*)

a. Copies to Trial Judge. At the time of the filing of the original with the Clerk of the Superior Court, a copy of each motion, objection, exception and memorandum shall be presented to the judge of the division to which the case has been assigned or with the court administrator if the case has not been assigned. The original of all motions and notices shall show the presentation of a copy to the division to which the case has been assigned.

Rule 3. Civil Cases

Rule 3.7. Judgment and Findings (*in part*)

a. Original Lodged with Trial Judge. The original of every judgment which is subject to the requirements of [Rule 58\(d\), Rules of Civil Procedure](#), shall be lodged with the trial judge or, if the case was tried by a visiting judge, retired judge or judge pro tempore, with the court administrator.

b. Judgment Filed with the Clerk. Upon the approval and signing of a final written judgment that has been lodged with the court under this rule, the court shall transmit it to the clerk for filing. When a certified copy of a judgment is requested, a copy of the original shall also be lodged with the trial judge. Original orders, judgments or decrees will not be released to counsel

or the parties.

c. Findings of Fact and Conclusions of Law. When findings of fact and conclusions of law are required by [Rule 52\(a\), Rules of Civil Procedure](#), the prevailing party shall, within five (5) days after the court has announced its decision or within such further time as the court may direct, serve upon opposing counsel and lodge with the trial judge proposed findings and conclusions. Opposing counsel shall have five (5) days thereafter to file and serve written objections to the proposed findings and conclusions.

Local Rules of Practice Superior Court

Mohave County

Administrative Rules

Rule AD-7. Papers and Documents to be Provided to Judge

After filing originals with the Clerk, copies of the following papers and documents shall be provided to the assigned judge, and indicated as a **COPY**: excluding initial petitions, any motion or initial case petitions, opposition thereto, reply to the opposition, and all supporting memoranda of points and authorities. No other papers or documents shall be provided unless directed by the judge. The copy may be provided by fax or email to the assigned judicial division if arrangements are made in advance. Violations hereof may result in the imposition of sanctions at the discretion of the assigned judge.

Civil Rules

Rule CV-5. Briefs, Instructions and Interrogatories to Juries (*in part*)

A. Briefs. Any party may file a trial brief. When any matter is submitted to a trial judge for decision, and the filing of briefs is requested by the judge, the original of each brief shall be filed with the Clerk of the Court and a duplicate thereof shall be provided to the trial judge.

Local Rules of Practice Superior Court

Pima County

Local Rules in General

Rule 3. Procedure: Civil Motions, Proposed Orders, Oral Argument, Notice of Hearing, Telephone Conferences, and Discovery (*in part*)

(3.1) Copies to Trial Judge. At the time of the filing of the original with the Clerk of the Superior Court, a copy of all motions or other papers necessary for a judicial ruling or decision shall be delivered to the judge of the division to which the case has been assigned or to the Court Administrator if the case has not been assigned. The original of all such motions and other papers shall show the delivery of a copy to the division to which the case has been assigned. Motions not in compliance with this subsection will not be considered to be submitted for decision.

Rule 5. Pretrial Statements and Trials (*in part*)

(5.1) Pretrial Statements.

(a) All trial settings and pretrial conferences shall be in accordance with [Rules 38.1, 16, and 16.1, A.R.C.P.](#)

(b) If counsel have been unable to confer on such matters because of fault or claimed fault on the part of either counsel, such fact shall be brought to the attention of the Court as provided by [Rule 16\(d\), A.R.C.P.](#), as soon as practicable following discovery of the claimed fault.

(c) A copy of the pretrial statement shall be delivered to the division to which the case is assigned at the time the original is filed with the Clerk.

Rule 7. Filing Requirements for Orders, Writs, Papers, and Ex Parte Presentations

(7.2) Preparation, Submission, and Signing of Orders and Writs. All such orders and writs shall be prepared by the party seeking the same and be submitted for signature to the division to which the case is assigned. If the judge assigned is unavailable, any judge may sign the same.

Local Rules of Practice Superior Court

Pinal County

Rule 2. General Procedure

Rule 2.6. Briefs and Memoranda

a. Filing, Copies and Service: When any matter is submitted to a trial judge for decision and the filing of briefs or memoranda is requested and allowed, the original of each such brief or memoranda shall be filed with the clerk of the court and a duplicate thereof shall be lodged with the trial judge and service shall be made on counsel or parties not represented by counsel as provided in the applicable parts of [Rule 5, Rules of Civil Procedure](#).

b. Additional Duties of Counsel--Case Assigned to Visiting Judge: When a matter is assigned to a Visiting Judge, in addition to the above, counsel shall mail copies of all applicable pleadings, motions, affidavits and exhibits to the assigned judge.

Rule 2. General Procedure

Rule 2.16. Judgments and Findings

a. Lodging of Judgments: The original of every judgment which is subject to the requirements of [Rule 58\(d\) of the Rules of Civil Procedure](#) shall be lodged with the clerk of the court. A duplicate copy thereof shall be provided to the trial judge. The attorney or party submitting the judgment shall give notice of the lodging to counsel of record and to parties not represented by counsel.

b. Representations as to Lodging: The lodging with the clerk of the court of a final written judgment as provided in this rule, constitutes a representation by the attorney or party lodging the same that upon approval and signing of the judgment by the court, the judgment will forthwith be filed with the clerk and entered of record. The court may impose penalties or sanctions against those who fail or refuse, without good cause, to comply with this rule.

c. Findings of Fact and Conclusions of Law: When findings of fact and conclusions of law are requested, the prevailing party shall, within ten days after the court has announced its decision or within such further time as the court may direct, serve upon opposing counsel and lodge with the clerk of the court, proposed findings and conclusions. A duplicate copy thereof shall be provided to the trial judge. Opposing counsel shall have five days thereafter to file and serve written objections to such proposed findings and conclusions. No reply to the objections shall be submitted unless by permission of the trial judge.

Local Rules of Practice Superior Court

Santa Cruz County

Rule 15. Findings and Judgments

When findings of fact and conclusions of law are requested pursuant to [Rule 52\(A\), Rules of Civil Procedure](#), the prevailing party shall, within five (5) days after the Court has announced its

decision or within such time as the Court may direct, serve upon opposing counsel and lodge with the trial Judge proposed findings and conclusions. Opposing counsel shall have five (5) days thereafter to file and serve written objections to the proposed findings and conclusions.

**ELECTRONIC CASE FILING ADMINISTRATIVE POLICIES AND PROCEDURES
MANUAL: IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF
ARIZONA** (*Excerpts*)

(ver. 1/26/11)

[http://www.azd.uscourts.gov/azd/cm-ecf.nsf/files/\\$file/adm+manual.pdf](http://www.azd.uscourts.gov/azd/cm-ecf.nsf/files/$file/adm+manual.pdf)

(Excerpts)

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Policy on Courtesy Copies for Chambers:

A paper courtesy copy of an electronically filed document must be submitted directly to the assigned judge for certain document types, as follows:

- a. complaints;
- b. notices of removal;
- c. motions to dismiss and responses and replies thereto;
- d. motions for summary judgment and responses and replies thereto;
- e. motions for temporary restraining order and supporting documents;
- f. sealed documents, including *ex parte* documents;
- g. documents exceeding 10 pages in length, including exhibits and attachments.

To verify electronic filing, a courtesy copy of the filing, referencing the specific document number shall be printed directly from CM/ECF. Printing the copy directly from CM/ECF yields the same document properties as the filed document. The next business day after the
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electronic filing, the courtesy copy must be either post-marked and mailed directly to the judge or hand-delivered to the judge's mail box located in the courthouse. If the nature of the filing is such that the need for a judge's immediate attention is anticipated or desired, a courtesy copy shall be delivered on the same day as the filing. Paper courtesy copies must also comply with all requirements in LRCiv 7.1. Courtesy copies are to be addressed to the assigned judicial officer and not the Clerk's Office. **Mailing addresses for the judicial officers may be found at www.azd.uscourts.gov.**

Policy on Courtesy Copies Relating to Settlement and Discovery Referrals:

In cases wherein a district judge has referred a settlement, discovery or other matter to a magistrate judge, but not the entire case, a

courtesy copy of any filed document relating to the referred matter must be sent to the magistrate judge under separate cover. An electronic copy of such document must be sent to the chambers e-mail box for the magistrate judge to whom the matter is referred. (See Section II.G.c. for e-mail addresses.)

Policy on Courtesy Copies in Death Penalty Habeas Corpus Cases:

In death penalty habeas corpus cases, the paper courtesy copy of an electronically filed document that would normally be sent to the assigned judge, must be directed to the "Capital Case Staff Attorney Section" in the appropriate division.

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G. PROPOSED ORDERS AND ORDERS

1. Proposed Orders

a. Except as provided in this section, electronically submitted proposed orders must be included as an *attachment* to the motion or stipulation. Additionally, following the filing of the motion or stipulation, a proposed order in WordPerfect or MS Word format and .pdf version of the motion or stipulation must be sent to the court in a separate, non-ECF generated e-mail message addressed to the appropriate chambers as set forth under subpart c of this section. The sender must not copy any other counsel or party on the e-mail message. The proposed order must not contain any form of signature line or block for the judge. **(NOTE: In Tucson criminal cases, counsel must not submit proposed orders to continue trial, sentencing or disposition hearing.)**

b. The proposed order, as well as a .pdf version of the related motion or stipulation, should be attached to an Internet e-mail message and sent to the e-mail address of the assigned judge. The subject line of the message should contain the case number and title of the case, and the text of the message should reference the document number assigned to the motion or stipulation assigned by the ECF system when it was electronically filed. A typical e-mail message subject line would appear as follows: "Proposed Order in 2:05cv12345 Smith vs. Jones, et al."

c. All proposed orders must comply with LRCiv 7.1 and must be submitted in either WordPerfect 6.x or above (.wpd) or Microsoft Word 97 or above (.doc) file format. Submission of documents in WordPerfect file format is preferred. Proposed orders submitted to the judge in PDF or any other file formats other than WordPerfect or MS Word will not be accepted. E-mail addresses are to be used only for sending proposed

orders to the judges and are as follows: *[addresses deleted]*

If a proposed order is to be directed to a visiting judge whose address does not appear above, it is the attorneys' responsibility to make inquiry of the presiding judge or his/her staff to confirm the manner in which such documents are to be transmitted to chambers.

d. In death penalty habeas corpus cases, proposed orders must be sent to the Capital Case Staff Attorneys instead of the assigned judge. The e-mail address for the Capital Case Staff Attorney section is:

capitalcase@azd.uscourts.gov

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For a party requesting an immediate hearing on a motion for temporary restraining order, they may call Customer Service AFTER submitting the case opening documents. The Clerk's Office will open the case immediately and provide the judge assignment and case number. Counsel should bring courtesy copies of all documents for the judge.

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

- Permit courts to establish ancillary, administrative policies regarding submittal of paper courtesy copies of documents filed through AZTurboCourt.
- Establish in policies and procedures for e-filing by statewide court rule, possibly complemented by a unified procedure manual (or temporarily by Administrative Order), clear direction regarding paper courtesy copies that supersedes any local rules.

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

The AOC e-filing team has not taken a position on this issue.

Decision:

A workgroup is being convened to consider whether limited categories of filings should be exempted from the general ban on requiring courtesy copies, and to consider whether, if allowed, such copies should only be required to be submitted after oral argument is scheduled on a motion.