

E-Filing Policy Issue - # 10 (Official Date & Time of Filing)

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

What is the official date and time of filing of an electronically-filed document?

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

The AZTurboCourt (Intresys) software, which interacts with the filer, will establish the date and time of *submission* of a pleading. After *submission*, the pleading will be *delivered* to the local court's server. At some point after *delivery* to the local court's server, a court clerk will "accept" (or reject) the filing and generate a *file stamp* on the pleading. Since the filer has completed his transaction at the time of *submission* of the pleading, and a technical problem could possibly occur with transmission of the document through AZTurboCourt to the court, arguably, when the clerk "accepts" the pleading the *file stamp* date & time should be "back-dated" to the *submission* date & time.

Example: Filer submits on 1/25/10 @ 11:58 p.m. The network is down for 3 minutes. The pleading is delivered to the local court on 1/26/10 @ 12:02 a.m. On 1/26/10 @ 8:05 a.m. a court clerk accepts the pleading and places a file stamp date and time on the pleading of 1/25/10 @ 11:58 p.m.

At least one statute may be in conflict with such a 24-hr. date and time stamp proposal. A.R.S. § 33-1377 (see below), pertaining to eviction actions, requires that a summons be issued "on the day the complaint is filed," and that a hearing be set on the matter within 3 – 6 days of the summons. Eviction Rule 3(a) (see below) seems to confirm that the time limit in which to schedule an eviction hearing is 3 – 5 calendar days.

Although Civil Rule 6(a) (see below) provides some relief regarding computation of time in certain circumstances, this rule does not apply to evictions actions (see Eviction Rule 1 below), and it is unclear whether Rule 6(a) extends relief only to actions by a party/attorney or to actions taken by the court as well.

There also may be garnishment statutes that require the court to act within a short period of time.

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

Rules of the Supreme Court of Arizona

XII. Miscellaneous Provisions

Rule 124. Electronic Filing, Delivery and Service of Documents

c) Date and Effect of Electronic Filing.

(1) An electronically filed document shall be deemed filed on the date and time that it is received by the court (or by its designee), unless the court later rejects the document for filing. Promptly upon receipt, the court (or its designee) shall transmit to the filing party an acknowledgment indicating the date and time of receipt. If the court later does not accept the document for filing, it shall promptly notify the filing party electronically and set forth the grounds for rejection.

A.R.S. § 33-1377. Special detainer actions; service; trial postponement (Excerpt)

A. Special detainer actions shall be instituted for remedies prescribed in section 33-1368. Except as provided in this section, the procedure and appeal rights prescribed in title 12, chapter 8, article 4 apply to special detainer actions.

B. The summons shall be issued on the day the complaint is filed and shall command the person against whom the complaint is made to appear and answer the complaint at the time and place named which shall be not more than six nor less than three days from the date of the summons. The tenant is deemed to have received the summons three days after the summons is mailed if personal service is attempted and within one day of issuance of the summons a copy of the summons is conspicuously posted on the main entrance of the tenant's residence and on the same day the summons is sent by certified mail, return receipt requested, to the tenant's last known address. The summons in a special detainer action shall be served at least two days before the return day and the return day made on the day assigned for trial. Service of process in this manner shall be deemed the equivalent of having served the tenant in person for the purposes of awarding a money judgment for all rent, damages, costs and attorney fees due.

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 6. Time

Rule 6(a). Computation

In computing any period of time prescribed or allowed by these rules, by any local rules, by order of court, or by any applicable statute, the day of the act, event or default from which the designated period of time begins to run shall not be included. When the period of time prescribed or allowed, exclusive of any additional time allowed under subdivision (e) of this rule, is less than 11 days, intermediate Saturdays, Sundays and legal holidays shall not be included in the computation. When that period of time is 11 days or more, intermediate Saturdays, Sundays and legal holidays shall be included in the computation. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday or a legal holiday.

A.R.S. § 1-243. Computation of time

A. Except as provided in subsection B, the time in which an act is required to be done shall be computed by excluding the first day and including the last day, unless the last day is a holiday, and then it is also excluded.

B. In cases in which notice of a decision by the state, any agency thereof or any political subdivision must be given to a petitioner and in which the petitioner must file a notice of appeal of such decision within a time certain of less than ten days, such time shall be computed starting with the day after the day during which the notice of decision is received by the petitioner by personal service or registered or certified mail.

A.R.S. § 1-302. Closing of offices and courts; transaction of certain judicial business

A. Public offices shall not be open, and no court of justice shall be open or any judicial business transacted on a legal holiday, except for the following purposes:

1. To give upon its request, instructions to a jury deliberating on its verdict.
2. To receive a verdict or discharge a jury.
3. For the exercise of the powers of a magistrate in a criminal action or in a proceeding of a criminal nature.

B. Injunctions, attachments, process for claim and delivery and writs of prohibition may be issued and served on any day.

Rules of Procedure for Eviction Actions

Rule 1. Title and Scope of Rules

These rules shall be known and cited as the Rules of Procedure for Eviction Actions ("RPEA"). These rules shall govern the procedure in the superior courts and justice courts involving forcible and special detainer actions, which are jointly referred to in these rules as "eviction actions." For purposes of these rules, there shall be only one form of action known as an "eviction action." The Arizona Rules of Civil Procedure apply only when incorporated by reference in these rules, except that Rule 80(i) shall apply in all courts and Rule 42(f) shall apply in the superior courts.

Rules of Procedure for Eviction Actions

Rule 3. Computation: Shortening or Extension of Time

a. Computation of Time. Unless otherwise stated in these Rules, or unless an applicable statute provides otherwise, the time limitations prescribed in these rules shall mean calendar days.

b. Shortening or Extension of Time. Except as specifically provided for by statute or these rules, the time for doing any of the acts provided for in these rules or by order of the court may be shortened or extended by the court upon stipulation or upon motion for good cause shown.

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

- Establish the official date and time of filing as the date and time of *submission* of a pleading through AZTurboCourt.
- Establish the official date and time of filing as the date and time of *delivery* of the pleading to the local court.
- Establish the official date and time of filing as the date and time of "acceptance" of the pleading by the court clerk.

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

The AOC E-filing team recommends that the date and time of *submission* of a pleading through AZTurboCourt be established as the official date and time of filing. If this approach is adopted, it most likely can be accomplished by Administrative Order. Supreme Court Rule 124 would need to be amended, and it is further likely that A.R.S. § 33-1377, and similar statutes would need to be amended as well.

Decision:

AZTurboCourt is the definitive source for determining filing date and time. Filers must not be penalized for the time taken by filing transmission and clerk review.