

E-Filing Policy Issue # 19
(Preparation of Documents in AZTurboCourt)

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

Is it appropriate to enable users to complete web-based court pleadings through AZTurboCourt by answering a series of questions or by filling in blanks? Does that activity constitute the practice of law or legal document preparation?

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

There is some advantage to generating routine documents such as summonses, subpoenas, or certificates of compulsory arbitration through AZTurboCourt because the information provided on the form can flow directly into the court's case management system, thereby saving data entry time and reducing transcription errors. However, some courts have expressed concern that a certificate of compulsory arbitration is being "created" by AZTurboCourt when a filer fills in the blanks of a template which generates the certificate in the system. These courts have argued that creation of the certificate must be attorney-driven but that AZTurboCourt, with the aid of a template, is inappropriately making this action court-driven.

Does a legal/ethical problem arise when a certificate of compulsory arbitration (or other document) is *created* in AZTurboCourt by a filer filling in blanks on a template and then the certificate is later *file-stamped* by the court? Is the answer the same when a filer fills in the blanks of a summons template in AZTurboCourt and the court then *issues* the summons? Does the answer to this question hold true for all AZTurboCourt templates?

The draft A.O. implementing AZTurboCourt in the Superior Court in Maricopa County (e-filing) provides:

E-filing will benefit attorneys, the general public, and court staff. Users who complete web-based court pleadings through AZTurboCourt by answering a series of questions or by filling in blanks will now be able to e-file these same documents through AZTurboCourt. Users who do not need assistance completing court pleadings and prefer to prepare and file their own pleadings will be able to do so by completing an electronic case information form and e-filing this case information with their own pleadings through AZTurboCourt. Court staff will benefit from e-filing by reduced time spent on data entry and document processing.

A User Fee shall be assessed in order to provide the enhanced services offered by AZTurboCourt when a user either e-files a court pleading the user prepares through AZTurboCourt or e-files a pleading the user prepares independently of AZTurboCourt.

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

V. Regulation of the Practice of Law

A. Supreme Court Jurisdiction Over the Practice of Law

Rule 31. Regulation of the Practice of Law

(a) Supreme Court Jurisdiction Over the Practice of Law

1. *Jurisdiction.* Any person or entity engaged in the practice of law or unauthorized practice of law in this state, as defined by these rules, is subject to this court's jurisdiction.

2. *Definitions.*

A. "Practice of law" means providing legal advice or services to or for another by:

(1) preparing any document in any medium intended to affect or secure legal rights for a specific person or entity;

(2) preparing or expressing legal opinions;

(3) representing another in a judicial, quasi-judicial, or administrative proceeding, or other formal dispute resolution process such as arbitration and mediation;

(4) preparing any document through any medium for filing in any court, administrative agency or tribunal for a specific person or entity; or

(5) negotiating legal rights or responsibilities for a specific person or entity.

B. "Unauthorized practice of law" includes but is not limited to:

(1) engaging in the practice of law by persons or entities not authorized to practice pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d); or

(2) using the designations "lawyer," "attorney at law," "counselor at law," "law," "law office," "J.D.," "Esq.," or other equivalent words by any person or entity who is not authorized to practice law in this state pursuant to paragraphs (b) or (c) or specially admitted to practice pursuant to Rule 33(d), the use of which is reasonably likely to induce others to believe that the person or entity is authorized to engage in the practice of law in this state.

C. "Legal assistant/paralegal" means a person qualified by education and training who performs substantive legal work requiring a sufficient knowledge of and expertise in legal concepts and procedures, who is supervised by an active member of the State Bar of Arizona, and for whom an active member of the state bar is responsible, unless otherwise authorized by supreme court rule.

D. "Mediator" means an impartial individual who is appointed by a court or government entity or engaged by disputants through written agreement, signed by all disputants, to mediate a dispute.

E. "Unprofessional conduct" means substantial or repeated violations of the Oath of Admission to the Bar or the Lawyer's Creed of Professionalism of the State Bar of Arizona.

(b) Authority to Practice. Except as hereinafter provided in section (d), no person shall practice law in this state or represent in any way that he or she may practice law in this state unless the person is an active member of the state bar.

Arizona Code of Judicial Administration
Section 7-208: Legal Document Preparer

A. Definitions. In addition to ACJA § 7-201(A), the following definitions apply:

“Legal document preparer” means an individual or business entity certified pursuant to this section to prepare or provide legal documents, without the supervision of an attorney, for an entity or a member of the public who is engaging in self representation in any legal matter. An individual or business entity whose assistance consists merely of secretarial or receptionist services is not a legal document preparer.

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

- Require users of AZTurboCourt to prepare then e-file their own court documents.
- Allow users of AZTurboCourt to complete web-based court pleadings in AZTurboCourt by either answering a series of questions generated by the system or by filling in blanks on a template.

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

The AOC E-filing team recommends that users be permitted to complete web-based court pleadings through AZTurboCourt by answering a series of questions or by filling in blanks.

Decision:

Completing forms promulgated by the court does not constitute the practice of law or legal document preparation.