

E-Filing Policy Issue - # 7
(Statute of Limitations Enforcement)

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

Should TurboCourt enforce civil statutes of limitations – and reject intelligent form e- filings that are beyond the prescribed statute of limitations period?

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

TurboCourt could reject filings that are beyond the prescribed statute of limitations for the cause of action being filed, by using the date of occurrence of the event as supplied by the user. However, the user might argue that the limitation period began to run at time other than the date of the occurrence of the event that caused the harm (such as a medical malpractice claim where the limitation period may not begin to run until the person knew, or should have known that a problem occurred as the result of a medical procedure). Furthermore, the statute of limitations is an affirmative defense that must be plead; otherwise it is waived. Therefore, despite the user filing a claim beyond the limitations period, if the responding party fails to raise the defense, the claim can proceed. However, some argue that the court system should apply the efficiency of TurboCourt programming and reject cases that are untimely on their face, just as the programming could reject cases that are not within the jurisdictional limits of a court.

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

The various Arizona statutes of limitations can be found in A.R.S. Article 12, Chapter 5.

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

- Offer information to the user in TurboCourt about statutes of limitation as information only, such as through instructions or FAQ's, but do not enforce the statute of limitations by rejecting filings.
- Refuse to allow filings that are beyond the prescribed statute of limitations for the cause of action being filed, using the date of occurrence of the event as supplied by the user.

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

The AOC E-Filing team recommends that, as current practice does not reject paper pleadings filed over the counter, an e-filed pleading should not be rejected for the reason that it is beyond

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the prescribed statute of limitations. The statute of limitations is a legal decision requiring input by the judge and should not be decided strictly by computer programming.

Decision:

The statute of limitations is an affirmative defense and can be waived if not timely raised by a defendant. The system must allow filings regardless of a possible statute of limitations defense; the merits of the defense can later be addressed by a judicial officer.