IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:	)	
	)	
UPDATING E-FILING IN THE SUPERIOR COURT IN MARICOPA COUNTY	)	Administrative Order No. 2018 - 81 Replacing Administrative Order No. 2017-131
	)	
	)	
	)	

Since 2007, this Court has entered several administrative orders authorizing and expanding electronic filing in the Superior Court in Maricopa County using AZTurboCourt as the authorized efiling service provider (EFSP). The Administrative Office of the Courts (AOC) recently began deploying a second EFSP, eFileAZ, for use in the Superior Court in Maricopa County. Information on approved efiling service providers can be found at azcourts.gov/efilinginformation.

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED adopting the following updated definitions, fees, and procedures for efiling non-initiating documents in civil and tax cases in the Superior Court in Maricopa County through any electronic filing service provider (EFSP) authorized by the Administrative Director. Provisions of this Order that are inconsistent with the Arizona Rules of Court shall supersede procedural requirements of the rules.

1. Definitions
   a. "Application Fee" means the fee assessed when a filer performs various functions using any EFSP.
   b. "Attached Document" means a document prepared outside of an EFSP and then filed with a court through an EFSP.
   c. "Clerk" means the Clerk of the Superior Court in Maricopa County.
   d. "Court" means the Superior Court in Maricopa County.
   e. "Document" means any pleading, motion, exhibit (other than a courtroom exhibit), declaration, affidavit, memorandum, paper, order, notice and any other filing submitted by a filer or by the Court.
   f. "Electronic Document Management System" ("EDMS") means a collection of computer software application programs and hardware devices that provide a means of organizing and controlling the creation, management, and retrieval of electronic documents through their life cycle.
   g. "Electronic Filing Service Provider" ("EFSP") means a private or public entity authorized by the Administrative Director to provide efiling services to Arizona court filers.

h. "Judicial Officer" means any person who is authorized to perform judicial functions within the Court, including a judge, court commissioner, referee, or pro tempore judge.

i. "Small Tax (ST)" cases are Superior Court cases filed pursuant to A.R.S. § 12-172 with a case value under $2 million or a tax case in which the case value is under $5,000 and the filing taxpayer indicates in the case caption the desire to use Small Claims case procedures.

j. "Regular Tax (TX)" cases are Superior Court cases filed under A.R.S. § 12-161, et. seq., except cases filed as Small Tax cases.

k. "Electronic Service" means the method of formally notifying opposing parties using a computerized web-based method such as email or an EFSP rather than by paper.

l. "Secondary Service" means the notification sent to opposing parties of filings which are subsequent to the original complaint.

2. Applicability

a. Attorneys shall file post-initiation civil case documents and post-initiation regular tax (TX) case documents electronically through any EFSP in accordance with this Order.

b. Self-represented litigants may, but are not required to, file civil and regular tax (TX) documents through an EFSP. A self-represented litigant who chooses to electronically file documents using an EFSP shall pay all applicable fees and follow the requirements set forth in this Order.

c. This Order does not apply to documents filed in any of the following case types: criminal, family law, probate, juvenile, mental health and related case types, small tax (ST), special actions, transcript of judgment, lower court of appeals, and the Gila River General Stream Adjudication case.

3. Exceptions

a. Attorneys must file the following civil and regular tax (TX) documents in paper.

i. Case initiation documents, including a complaint or petition or any other document that may initiate a new case as well as any accompanying document intended for issuance or personal service. Attorneys and process servers may electronically file a proof of service document upon completion of service.

ii. Any document that requires issuance by the Clerk as well as any accompanying document that requests the issuance. Attorneys and process servers may electronically file the issued document as well as any proof of service document upon completion of service.

iii. Petitions for injunctions against harassment and injunctions against workplace harassment. Attorneys may electronically file a subsequent document in an injunction against harassment and injunction against workplace harassment case.

iv. Documents, any portion of a document, and exhibits filed under seal.
v. An application or supplemental application for waiver or deferral of a filing fee, application fee, or any other fee or cost.
vi. Any documents in a civil case assigned to a probate division.

b. Any written motion requesting an exception from compliance with efiling through an EFSP may be filed on paper by the attorney requesting the exception using a form approved by the Court and provided by the Clerk. The provisions of Rule 5.1(d) of the Rules of Civil Procedure and Rule 2.17 of the Local Rules of Practice for the Superior Court in Maricopa County that require a proposed order be a separate document from a motion or other document shall not apply to these motions.
c. Rule 5(a) of the Rules of Civil Procedure, which requires that a written motion be served upon all opposing parties and that opposing parties be granted an opportunity to file and serve a response to the motion, shall not apply to motions filed requesting an exception to the mandatory efiling requirements.
d. A judicial officer may initiate, permit or consider ex parte communications with the attorney requesting an exception for the limited purpose of determining why an exception is necessary, and shall not involve the substance of the impending matter. Such ex parte communication shall be considered an exception to the prohibition against ex parte communication pursuant to Rule 81 of the Rules of the Supreme Court, Canon 2, Rule 2.9(A)(5).
e. A copy of the order granting the electronic filing exception must be provided to the Clerk at the time of filing the paper document(s).
f. Any attorney, when working as an employee of an approved legal service organization and representing litigants who are unable to pay the application fee for filing a document in a civil case using an EFSP, may file documents either on paper or, at the option of the attorney, except as provided in (4)(b) below, using an EFSP.

4. <u>Application Fee and Filing Fees</u>
a. An application fee shall be assessed to support the electronic filing and document access services offered by an EFSP, as follows:
- $6.50 to e-file an attached document
- $3.80 if filer elects to use optional electronic service

b. The application fee shall not be assessed to e-file a document submitted on behalf of a public entity or official identified in A.R.S. § 12-304.
c. All filing fees, local court fees, and application fees shall be paid through the EFSP at the time of filing.
d. The application fee shall be nonrefundable.
e. A judicial officer shall not waive or suspend the application fee for a party unless said party has an Order for Waiver or Deferral from the court waiving or deferring filing fees for a case or specific document.
f. The Clerk shall no longer require a document be filed in paper when a litigant is required to pay a filing fee in a case in which a waiver or deferral has been granted.

5. General Policy
   a. Signatures
      i. Signature of Attorney. An attorney is responsible for all documents filed under the attorney's registered login ID and password and under the registered login ID and password of any person the attorney has authorized to file in an EFSP. Any document displaying the symbol "/s/" with the attorney's printed name shall be deemed signed by that attorney for purposes of the rules and statutes governing practice and procedure in the courts of this state, including, but not limited to, Rule 11 of the Rules of Civil Procedure.
      ii. Signature of Judicial Officer. Documents filed in an EFSP under a judicial officer's or clerk's registered login ID and password shall be deemed filed by that judicial officer or clerk. Any judgment of order displaying the symbol "/s/" or a facsimile signature with the judicial officer shall be deemed signed by that judicial officer for purposes of the rules and statutes governing practice and procedure in the courts of this state, including, but not limited to, Rule 58(b) of the Rules of Civil Procedure.
      iii. Signature of Self-Represented Litigant. Documents filed in an EFSP by a self-represented litigant shall be filed under the self-represented litigant's registered login ID and password and shall be deemed signed by that self-represented litigant for purposes of the rules and statutes governing practice and procedure in the courts of this state, including, but not limited to, Rule 11 of the Rules of Civil Procedure.
      iv. Multiple Self-Represented Parties' Signatures not Required. A document being filed for more than one self-represented litigant need only be signed by one of the self-represented litigants. The signer of the document shall ensure that all parties named in the document agree with the contents of the document. The parties' actual participation in any filing is subject to judicial determination.
   b. Document Format. All documents filed through an EFSP shall be formatted in accordance with the applicable rules governing formatting of paper documents, including Rules 2.15 through 2.17 of the Superior Court of Maricopa County Local Rules and Rule 5.2(b) of the Rules of Civil Procedure, and shall conform to such other format requirements as the Court may from time to time require. The Clerk shall not reject documents that do not comply with formats not required in a specific rule of procedure or statute.
      i. Technical Format and Size. Any document submitted through an EFSP shall be in Portable Document Format (.pdf) except for Proposed Orders, which shall be submitted in an editable text format (.doc or .docx). Filers in eminent domain cases may submit Proposed Orders that include an attached legal description of real property in .pdf format. Proposed Orders submitted through an Online Dispute Resolution (ODR) application may be submitted in .pdf format. Documents shall not be password protected and shall not exceed the size limitation of the EFSP.
      ii. Certified Mail, Return Receipt Card. When establishing proof of service by U.S. Postal Service certified mail, the filer may file the proof of service on

paper or electronically. Scanned images must include both sides of the return receipt.

iii. National Courier Service, Return Receipt. When establishing proof of service by a national courier service, the filer may scan and file the required documentation or file it on paper.

iv. Notary Requirement. A notary requirement may be satisfied by scanning and filing the document that contains the notary's original signature and seal.

c. Required Exhibits and Attachments to Pleadings. Any court rule that requires a copy of a document be attached as an exhibit to a document is satisfied by electronically attaching either a scanned image of the exhibit or a copy of the exhibit in an approved format.

d. Hyperlinks. A filer may include a hyperlink only to static textual information or documents. Materials accessed via hyperlinks are not part of the official Court record. A filer may include a bookmark to another page within the same document.

e. Date and Effect of Electronic Filing.

i. An electronically submitted document shall be deemed filed on the date and time it is received by the EFSP as reflected on the subsequent email notification or the filing details displayed within the EFSP, unless payment is not made and/or the Court later rejects the document for filing. The Clerk shall provide the filer an explanation of any deficiency identified.

ii. The electronic delivery of documents by the Court through an EFSP is complete upon transmission.

f. Responsibility for Filing and Service. A person who files a document electronically shall have the same responsibility as a person who files a document conventionally for ensuring that the document is properly filed and is complete and readable, and that a copy has been provided to other parties in the case. Secondary service is available electronically through the EFSP.

g. Paper Copy for Court. Except as provided by local rule, a judicial officer shall not require a filer to provide a paper copy of any document submitted through an EFSP.

h. Official Record.

i. An electronic document that resides within the Clerk's or Court's EDMS is the original document and satisfies the requirements of Rule 1002, Arizona Rules of Evidence.

ii. An electronic transmission or print-out from the Clerk's or Court's EDMS that shows the Clerk's or Court's seal attesting to the document's authenticity shall be considered an official record or certified copy of the original.

iii. Any Court rule requiring that a document be an original, be on paper or another tangible medium, or be in writing, is satisfied by the electronic image defined as the original document in section 5(h)(i) above.

6. <u>Extension of Time Due to Interruption in Service</u>

a. If a filer fails to meet a filing deadline imposed by Court order, rule or statute because of a failure at any point in the electronic transmission and receipt of a document, and the matter cannot be resolved to the satisfaction of the filer and the

Clerk, the filer may file the document on paper or electronically as soon thereafter as practicable and accompany the filing with a motion to accept the document as timely filed. For good cause shown, the Court may enter an order permitting the document to be filed nunc pro tunc to the date the filer originally sought to transmit the document electronically.

b. The Court and Clerk shall not be liable for malfunction or errors occurring in electronic transmission or receipt of electronically filed documents.

7. Additional eFiling Policies. The Presiding Judge of the Court and the Clerk, in consultation with the Administrative Director of the Administrative Office of the Courts, may create additional efiling administrative policies for implementing this Order. Any such efiling administrative policies and efiling guidelines shall be available online at azcourts.gov/efilinginformation and on the websites of the Clerk of the Court and the Superior Court.

IT IS FURTHER ORDERED that this Order replaces Administrative Order No. 2017-131.

Dated this 15th day of August, 2018.

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SCOTT BALES
Chief Justice