

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
AUTHORIZING AN ELECTRONIC)
FILING PILOT PROGRAM FOR) Administrative Order
CRIMINAL CASES IN THE SUPREME) No. 2008 - 66
COURT AND THE COURT OF)
APPEALS, DIVISION ONE)
_____)

The first enumerated goal of the 2005-2010 Strategic Agenda for Arizona’s Courts is to provide access to swift and fair justice. The ability to provide for electronic filing of documents and an electronic court record improves access and reduces court delay and reflects a national trend that is enhancing business models for courts throughout the country. Implementing electronic case processing will ensure that Arizona fulfills its commitment to improved efficiency and the reduction of delay for its citizens. This pilot project will employ modern technology to benefit the courts in Arizona by implementing a reliable, user-friendly system providing meaningful access to the courts.

This Administrative Order addresses those rules of procedure that must be suspended to allow an electronic filing and electronic record pilot to succeed to its full potential.

Now, therefore, pursuant to Article VI, Section 3 of the Arizona Constitution,

IT IS ORDERED that the Clerk of the Arizona Supreme Court and the Clerk of the Arizona Court of Appeals, Division One are hereby authorized to conduct an Electronic Filing Pilot Project for criminal cases. The following procedures are adopted to implement the project:

1. Official Record.
 - a. For the purposes of this pilot project, all electronic documents accepted for filing and the scanned images of any documents filed in paper form which are maintained in the Clerk’s electronic document management system (EDMS) shall be considered the original documents of record in and for the Arizona Supreme Court and the Court of Appeals, Division One (“the pilot courts”).
 - b. A document printed from the Clerk’s EDMS that is file-stamped by the Clerk’s Office, or a document that is electronically transmitted from the Clerk’s EDMS, shall be considered an official record. A document printed from the Clerk’s EDMS upon which the Clerk’s Office has placed its seal

attesting to the document's authenticity shall be considered a certified copy of the original.

- c. A printout from the Clerk's EDMS that indicates the document's acceptance date shall be sufficient to prove authenticity.

2. Document Format.

- a. 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 herein.
- b. Those portions of Rule 31.9, Arizona Rules of Criminal Procedure, which refer to the original record on appeal as paper are suspended for the pilot courts, thus allowing these courts to provide original electronic records to other courts in paper format, and allowing other courts access to the pilot courts' electronic court records, if those courts are able to accept a record in electronic format.
- c. The Clerks of the pilot courts shall provide paper documents to other courts as needed, unless those courts are able and have made arrangements with the Clerks to receive electronic documents in lieu of paper.

3. Signatures.

- a. Any court rule requiring that a document be signed by an attorney is satisfied by inserting "/s/" on the document's signature line, typing the signatory's name under that line, and successfully registering with the electronic filing system.
- b. Any court rule requiring that a certificate of service be signed is satisfied by the following for any electronically-filed document:
 - (i) Inserting "/s/" on the document signature line and typing the signatory's name under that line, if the certificate of service is attached to a document and the server is acting at the direction of the submitting party; or
 - (ii) Inserting "/s/" on the document's signature line, typing the signatory's name under that line, and successfully registering with the electronic filing system, if the certificate of service is a separate document.

- 4. Destruction of Paper Records. The restrictions on destruction of case records imposed by Rule 28.1(d), Arizona Rules of Criminal Procedure, and Rule 29(E), Rules of the Supreme Court, are suspended for criminal case records in the pilot courts, thus allowing the Clerk to dispose of paper records that are converted to electronic records during the pilot project, and/or not require parties or lower courts to file documents in paper format.

5. Filing Copies. Those portions of Rules 31.12, 31.19, 31.21, and 32.9 of the Arizona Rules of Criminal Procedure which refer to the number of copies to be submitted to the Clerk are suspended for documents that are filed electronically with the pilot courts. As a quality assurance measure, parties who electronically file a document shall also file a single corresponding paper document with the Clerk. The requirement to file the corresponding paper document may be suspended at the receiving court's discretion once the Clerk has determined that the electronic filing program document recovery protocol is in place.
6. Brief Covers and Binding.
 - a. Those portions of Rules 31.25 and 31.13 of the Arizona Rules of Criminal Procedure which refer to the color of the cover pages of briefs are suspended for documents that are filed electronically with either the Supreme Court or the Court of Appeals, Division One.
 - b. The requirement in Rule 31.19 of the Arizona Rules of Criminal Procedure which refers to binding of documents is modified so that a document submitted in paper shall be bound in the top margin by a two-pronged fastener. No adhesive bindings or bindings using numerous holes shall be used.
7. Confidential and Sealed Documents. Section 1-506(E)(4) of the Arizona Code of Judicial Administration, which prohibits the electronic filing of confidential and sealed documents, is suspended for electronic filings in criminal cases in the pilot courts.

IT IS FURTHER ORDERED that the Administrative Office of the Courts shall:

1. Employ procedures that ensure the availability of at least one other copy of electronically filed documents at all times;
2. Perform systems backups at least daily;
3. Maintain multiple backups, at least one of which will be off-site in an area that would not be affected should a catastrophic event impact the court's primary data center;
4. Use recording media for storing all electronic records filed in the pilot program in a manner that will ensure their continuing integrity and availability;
5. Ensure that any electronic case file records that must be maintained permanently are maintained in a place and manner that will reasonably assure their permanent preservation, as required by Rule 29(B), Rules of the Supreme Court.

Dated this 14th day of August, 2008.

RUTH V. McGREGOR
Chief Justice