

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
AUTHORIZING AN ELECTRONIC) Administrative Order
TRANSMISSION AND FILING PILOT) No. 2009 - 80
PROGRAM FOR THE RECORD ON)
APPEAL FROM THE SUPERIOR)
COURT IN MARICOPA COUNTY TO)
THE ARIZONA 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 to the courts, 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 and will further the courts’ goal of moving toward e-filing in all case types.

This Administrative Order sets the parameters for implementation, including addressing those rules of procedure that must be suspended, modified or amended to allow this 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 Court of Appeals, Division One, and the Clerk of the Superior Court in and for Maricopa County, are hereby authorized to conduct an Electronic Filing Pilot Project for electronic transmission and filing of the Maricopa County Superior Court’s Record on Appeal with the Division One Clerk in direct appeals in selected case types. The pilot shall begin on a date agreed upon between the clerks after the necessary technology and business practices are in place. The pilot is intended to continue for not less than 90 days. The following procedures are adopted to implement the project:

1. Official Record.

a. For the purposes of this pilot project, all electronic documents and the scanned images of any documents filed in paper form that are received and accepted for filing electronically by the Clerk of Division One of the Arizona Court of Appeals from the Clerk of the Maricopa County Superior Court as the Record on Appeal and maintained in the Division One Clerk’s

electronic document management system (EDMS) shall be considered the original documents in the Record on Appeal for Division One of the Arizona Court of Appeals.

b. A document printed from the Division One Clerk's EDMS that is file-stamped by that Clerk's Office, or a document that is electronically transmitted from that Clerk's EDMS, shall be considered an official record. A document printed from the Division One Clerk's EDMS upon which that 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 Division One Clerk's EDMS that indicates the date the document was filed shall be sufficient to prove authenticity.

2. Index of Record on Appeal.

a. Those portions of the Arizona Supreme Court's Administrative Orders Nos. 99-75 and 99-76 that require the Clerk of the Superior Court to prepare and transmit to the Arizona Court of Appeals an Index of the Record on Appeal in paper form are suspended for this pilot project.

b. Paragraph 2.1.3 of Administrative Order No. 99-75 is suspended for this pilot project to allow Minute Entries to be interspersed with Instruments on the Index of the Record on Appeal according to the file stamp date.

3. Record on appeal.

a. That portion of Administrative Order No. 99-75, paragraph 2.2, that requires each document in the Record on Appeal to be sequentially numbered and listed on the Index of the Record on Appeal in ascending file-date order shall be deemed modified for this pilot project to allow electronic documents added to an indexed electronic Record on Appeal to be numbered as a continuation of the existing Index numbering sequence and electronically added at the end of the Index without regard to the date order in which the additional documents were filed in the superior court.

b. As applied to any electronic Index of the Record on Appeal, all provisions of Paragraph 2.4 of Administrative Order No. 99-75, entitled "Physical Appearance of Record Volumes," are suspended for this pilot project.

c. 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 this pilot project. Administrative Order No. 99-75 is deemed amended for this pilot project to permit the listing and identification of a sealed document on an Index of the Record on Appeal using the document title followed by the designation "(SEALED)."

4. 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, and Rule 11, Arizona Rules of Civil Appellate Procedure, which refer to the original Record on Appeal as a compilation of paper documents are suspended for Division One of the Arizona Court of Appeals for this pilot project, thus allowing the court to provide original electronic records to other courts in electronic format, and allowing other courts access to the electronic court records of Division One, if those courts are able to accept a record in electronic format.

c. The Clerk of Division One of the Arizona Court of Appeals shall provide paper documents to other courts as needed, unless those courts are able and have made arrangements with the Clerk to receive electronic documents in lieu of paper.

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 or transmitted 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 which 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 29th day of July, 2009.

REBECCA WHITE BERCH
Chief Justice