

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-13-0002
PETITION TO AMEND RULE 123,)
RULES OF THE SUPREME COURT) **FILED 08/28/2013**
OF ARIZONA)
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_____)

**ORDER
AMENDING RULE 123, RULES OF THE SUPREME COURT OF ARIZONA**

A petition having been filed proposing to amend Rule 123, Rules of the Supreme Court of Arizona, and comments having been received, upon consideration,

IT IS ORDERED that Rule 123, Rules of the Supreme Court of Arizona, be amended in accordance with the attachment hereto, effective January 1, 2014.

DATED this _____ day of August, 2013.

REBECCA WHITE BERCH
Chief Justice

TO:

Rule 28 Distribution

Michael Baumstark, Chairperson, Committee on Compulsory Arbitration

John A Furlong

Deborah Young, President, Arizona Association of Superior Court

Clerks

ATTACHMENT¹

Rules of the Supreme Court of Arizona

Rule 123. Access to the Judicial Records of the State of Arizona

(a) – (f) [No change]

(g) Remote Electronic Access to Case Records.

(1) A court may provide remote electronic access to case records as follows:

(A) *Parties, Attorneys, and Arbitrators.* Parties, attorneys, and arbitrators may be provided remote electronic access, upon registering, to case records ~~which~~ that are not sealed in all case types in which the person is an attorney of record, arbitrator, or named party, including an individual, partnership, corporation, association, or public or private organization. An attorney of record on the staff of a public or private law firm may extend access to any other attorney or person working for or on behalf of that public or private law firm, upon the other attorney's or person's registration.

(B) *Members of the State Bar of Arizona.* In addition to access provided by paragraph (g)(1)(A), attorneys who are active members of the State Bar of Arizona may be provided remote electronic access to all case records that are not sealed or confidential by law, as authorized by the Arizona Code of Judicial Administration (ACJA).

~~(B)~~ (C) *Governmental Entities and Private Organizations Serving a Public Purpose.* Any federal, state, tribal or local governmental entity or private organization serving a public purpose may be provided remote electronic access to any case records necessary to carry out a particular governmental or public purpose responsibility. The terms of such access shall be set forth in a memorandum of understanding between the entity or organization and the custodian that includes provisions for safeguarding the confidentiality of any closed records. The director of the Administrative Office of the Courts may enter into a memorandum of understanding with a governmental entity as authorized by the ACJA.

~~(C)~~ (D) *General Public, Registered Users.*

(i) Members of the public ~~who hold an Arizona driver license or nonoperating identification license~~ may be provided remote electronic access, ~~upon registering and paying any established fee pursuant to ACJA § 1-604,~~ to all of the following categories of case records unless sealed or otherwise made confidential by rule or law:

(a) – (d) [No change]

¹ Additions to text are indicated by underscoring; deletions by ~~striking through~~.

(ii) The following documents shall not be accessible by remote electronic access to users registered under paragraph (g)(1)(~~ED~~) due to the inability to protect sensitive data that is likely to be contained within these documents:

(a) – (h) [No change]

Upon motion by a party, by any person, or upon the court's own motion, and for good cause shown, the court in which such action is pending may issue an order to allow remote electronic access to members of the public, as provided in paragraph (g)(1)(~~ED~~), to any case in which a defendant is charged with an offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense as provided in paragraph (g)(1)(~~ED~~)(ii)(h). The order may include any appropriate provision required to protect the juvenile or other victim from embarrassment or oppression. The burden of showing good cause for an order shall remain with the person seeking remote electronic access to the case record. Irrespective of an order limiting electronic access under this paragraph, the clerk shall provide non-registered users remote electronic access as set forth in paragraph (~~DE~~)(ii) herein when the court generally provides such non-registered user access in other cases.

(~~D~~) (E) *General Public, Non-Registered Users.* Unless otherwise provided by rule or law, members of the public may be provided remote electronic access, without registering, to:

(i) the following data elements in ~~closed cases, including~~ juvenile delinquency, mental health, probate, and criminal cases in which a defendant is charged with an offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense as provided in paragraph (g)(1)(~~ED~~)(ii)(h) above:

- party names,
- case number,
- judicial assignment, ~~and~~
- attorney names, and
- in the above-described criminal cases only, the docket or register of actions, but not remote electronic access to other documents, so long as the names of victims do not appear in the docket or the register of actions.

(ii) except as provided in paragraph (g)(1)(~~ED~~)(ii)(h) above, individual case information extracted from a case management system in all civil, criminal, and civil traffic cases identified in paragraphs (g)(1)(~~ED~~)(i)(a) through (d), ~~and family law cases, including.~~ Case information includes a list of documents filed, events, dates, calendars, party names, month and year of birth, residential city, state and zip code, case number, judicial assignment, attorneys, charges filed or claims made, interim rulings, and case outcomes, including sentence, fines, payment history, minute entries, and notices.

Case information does not include any information regarding the registration, filing of a petition for, or issuance of an order of protection or an injunction against harassment, if such publication would be likely to reveal to the general public the identity or location of the party protected under such order.

(iii) Case information may be provided for family law matters, with minute entries limited only to those issued during hearings conducted in open court or in chambers when one or more parties or their counsel are present. For purposes of this subsection, case information includes a list of documents filed, events, dates, calendars, party names, month and year of birth, residential city, state and zip code, case number, judicial assignment, attorneys, payment history, minute entries, and notices. Case information does not include any information regarding the registration, filing of a petition for, or issuance of an order of protection or an injunction against harassment, if such publication would be likely to reveal to the general public the identity or location of the party protected under such order.

~~(iii)~~(iv) court of appeals and supreme court opinions and decisions in all case types, except that any appendix in criminal cases in which a defendant is charged with any offense listed in A.R.S. Title 13, chapters 14, 32, 35 or 35.1 or in which the victim was a juvenile at the time of the offense as provided in paragraph (g)(1)~~(C)~~(D)(ii)(h) above, shall not be provided by remote electronic access.

(2) *Registration and fees.* The registration process and fees for remote electronic access to case records shall be established by the Supreme Court upon the recommendation of the Arizona Judicial Council, and shall be an amount as reasonable as possible to develop, implement, maintain, and enhance the remote electronic access to case records system. All information provided by a potential user for registration purposes shall be closed. Remote access provided pursuant to paragraph (g)(1)~~(B)~~(C) shall not require registration or payment of any fees.

(3) Courts and clerks of court shall not display case records online except:

- A. minute entries, as provided by ARS §§ 12-283(I) ~~and (J)~~;
- B. case records, as ordered by the court in a particular high profile case that creates great public or media interest to which the court can more timely and efficiently respond by displaying records of the case online;
- C. audio or video of any case, as authorized by the presiding judge of the court, the chief judge of the court of appeals, or the chief justice of the supreme court; or
- D. as otherwise provided in this rule.

Any remote electronic access shall be conditioned upon the user's agreement to access the information only as instructed by the court, not to attempt any unauthorized access, and to consent to monitoring by the court of all use of the system. The court will also notify users that it will not be liable for inaccurate or untimely information, or for misinterpretation or misuse of the data. Such agreement and notices shall be provided to the users in any manner the court deems appropriate. The court may deny access to users for failure to comply with such requirements. The court or clerk of court that establishes remote

electronic access to case records may also establish limitations on remote electronic access based on the needs of the court, limitations on technology and equipment, staff resources and funding.

(4) – (8) [No change]

(h)-(j) [No change]

Comment to 2014 Amendment to Paragraph (g)(1)(E)(iii)

Courts and clerks of court should prominently note on their document access website that it may not display all documents in a case and that additional or subsequent documents or orders may be available from the court or clerk of court.