

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)
)
AUTHORIZING ELECTRONIC) Administrative Order
TRANSMISSION AND DIRECT) No. 2011 - 67
FILING FOR THE RECORD ON)
APPEAL FROM THE SUPERIOR)
COURT IN MARICOPA COUNTY)
TO THE ARIZONA SUPREME COURT)

The ability to file and transmit an electronic court record improves access to the courts, improves efficiency, and reduces court delay.

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 transfer project 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 Superior Court in and for Maricopa County are authorized to commence electronic transmission and filing of the superior court's Record on Appeal with the Clerk of the Supreme Court in direct appeals and petitions for review in post conviction relief cases associated with capital cases. A 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 transition to production status as soon as is reasonably practicable. The following procedures are adopted to implement the project:

1. Official Record.
 - a. All electronic documents and the scanned images of any documents filed in paper form that are maintained in the Superior Court Clerk's electronic document management system (EDMS) shall be considered the Superior Court Clerk's original documents. All of the Superior Court Clerk's original documents that are electronically transmitted to and filed in the Supreme Court Clerk's Office shall be maintained in the Supreme Court Clerk's EDMS and shall be considered copies of the original documents. All electronic documents and any scanned images of any documents in paper form that are not the Superior Court Clerk's original documents that are filed with the Supreme Court Clerk shall be maintained in the Supreme Court Clerk's EDMS and shall be considered the original documents.

- b. A document printed from the Supreme Court 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 Supreme Court 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 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 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 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. The 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 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 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 and the provision of Administrative Order No. 2001-45 which prohibits imaging and electronic reproduction of grand jury transcripts, are suspended for electronic filings in this project. Administrative Order No. 99-75 is deemed amended for this 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)." This section of this Administrative Order will take effect on a date agreed upon between the clerks after the necessary technology and business practices are in place.

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 this project, thus allowing the superior court to provide original electronic records to other courts in electronic format and allowing other courts access to the electronic court records of the Supreme Court, if those courts are able to accept a record in electronic format.
- c. The Clerk of the Supreme Court 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 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.
6. Ensure that no electronic Arizona Supreme Court case file records are destroyed without the express approval of the Clerk of the Supreme Court.

Dated this 14th day of June, 2011.

REBECCA WHITE BERCH
Chief Justice