

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
POLICIES FOR E-FILING	)	Administrative Order
OF FAMILY LAW CASES IN THE	)	No. 2023 - <u>35</u>
SUPERIOR COURT OF ARIZONA	)	(Replacing Administrative Order
	)	No. 2021-183)
	)	

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The Arizona Judiciary’s strategic agenda, *Justice for the Future: Planning for Excellence*, includes the goal of “Promoting Judicial Branch Excellence and Innovation.” Consistent with this goal, the Judicial Branch is working to enhance the systems and programs that litigants, judicial officers, and staff use to conduct court business, including the expansion of e-filing services.

E-filing services for documents filed in superior court cases pursuant to the Arizona Rules of Family Law Procedure (“family law cases”) are now available statewide using the approved e-filing service provider (“EFSP”). It is therefore necessary to establish policies and requirements for e-filing services in family law cases.

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

IT IS ORDERED that attorneys are required to electronically file family law case documents in the Superior Court through the approved EFSP.

IT IS FURTHER ORDERED that for family law cases filed in the Superior Court, the following definitions, fees, and policies are adopted.

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 and designees.
- d. “Court” means the Superior Court of Arizona.
- e. “E-Filed Document” means a document that is electronically filed with a court using an EFSP.

- f. “Electronic Document Management System” (“EDMS”) means a collection of computer software application programs and hardware devices that provide a means of storing, organizing, and controlling the creation, management, and retrieval of electronic documents through their life cycle.
- g. “Electronic Filing Service Provider” means a private or public entity authorized by the Administrative Director of the Administrative Office of the Courts (“Administrative Director”) to provide e-filing services.
- h. “Electronic Service” means a method of service using a computerized web-based method such as email, or service via an EFSP.
- i. “Filer” means the individual who electronically submits case documents to the court.
- j. “Subsequent Submission” means any non-case initiating filing submitted into an existing case.

## 2. Applicability

- a. Except as provided in section 3, attorneys shall file family law case documents electronically through an EFSP in accordance with this order.
- b. Self-represented litigants may, but are not required to, file family law case documents through an EFSP. A self-represented litigant who chooses to electronically file documents using an EFSP must follow the requirements set forth in this order and must pay all applicable fees pursuant to section 4 below.

## 3. Exclusions

- a. E-filing is not permitted for the following:
  - i. Any document not generated by the EFSP that requires the signature and seal of the clerk such as summonses, subpoenas, and writs, and their supporting documentation.
  - ii. Documents filed under seal, including any portion of a document and exhibits. This does not include the sensitive data sheet filed at case initiation.
  - iii. A motion to file documents under seal.
  - iv. Initial and supplemental applications for the waiver or deferral of court fees and costs.
  - v. Requests for a hearing, modification, dismissal, or any other documents relating to an Order of Protection proceeding.
  - vi. Documents that are intended to be used specifically as hearing or trial exhibits.
  - vii. Any documents in a restricted or sealed case.
  - viii. Amicus briefs.
  - ix. Petition for Conciliation filed in a pending matter.

- b. E-filing is not permitted for any document used to initiate the following case types. However, filers who are required to electronically file family law case documents pursuant to this order must e-file subsequent submissions in these case types, except the documents specifically identified in section 3.a above.
  - i. Change of Venue
  - ii. County Transfers (A.R.S. § 25-502)
  - iii. Registration of Child Custody Determination (A.R.S. § 25-1055)
  - iv. Enforcement of Physical Child Custody Determination
  - v. Order of Protection
  - vi. Any case type initiated by a Petition for Conciliation
  - vii. In Maricopa County only, any case initiated by a Summary Consent Petition and Decree (A.R.S. § 25-314.01)
- c. The clerk of court in a county in which e-filing is mandatory must accept a paper filing if the filing requests relief that requires immediate judicial review and if e-filing the document would cause a delay in presenting the request to a judicial officer.
- d. A judicial officer may initiate, permit, or consider ex parte communications with an attorney requesting an exception to the e-filing requirement for the limited purpose of determining why an exception is necessary. Any such communication shall not involve the substance of the pending 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. If an exception is granted, a copy of the order granting the e-filing exception must be provided to the clerk at the time of filing the paper document.
- e. Any attorney, when working as an employee of an approved legal services organization and representing litigants who are unable to pay the application fee for filing a document in a family law case using an EFSP, may file documents on paper.

#### 4. Fees

- a. A non-refundable application fee shall be assessed to support the e-filing and document access services offered by an EFSP, as follows:
  - \$6.50 to initiate a case
  - \$6.50 to e-file an attached document
  - \$3.80 if the filer elects to use optional electronic service
  - 3% payment processing fee
- b. All fees must be paid through the EFSP at the time of filing.
- c. A fee shall not be assessed for documents e-filed on behalf of a public entity or official identified in A.R.S. § 12-304 or for documents e-filed by a child's best interest attorney, a court-appointed advisor, or any other court-appointed professional in the matter.
- d. A fee shall not be assessed for documents e-filed by a party for whom a fee waiver or deferral has been granted, while the waiver or deferral is in effect. For a case initiating

submission, the order waiving or deferring fees and the corresponding application and affidavit must be attached to the e-filing submission.

- e. Absent an Order for Fee Waiver or Deferral from the court waiving or deferring filing fees for a case or a specific document, the fees listed in 4.a shall not be waived.
- f. The clerk shall not reject e-filing submissions on the basis of failure to pay fees for a party who has been granted a fee waiver or deferral.

5. Official Record

- a. An e-filed document that resides within the EDMS of the clerk or court is the original document and satisfies the requirements of Rule 1002, Arizona Rules of Evidence.
- b. An electronic transmission or print-out from the clerk's EDMS that shows the seal of the clerk or court attesting to the document's authenticity shall be considered an official record or certified copy of the original.
- c. Any court rule requiring that a document be an original, be it on paper or another tangible medium, or be it in writing, is satisfied by the electronic image defined as the original document in this section.

6. Signature Standards

Any document displaying the symbol “/s/” with the printed name of the filer is deemed signed by the named person for purposes of rules and statutes governing practice and procedure in the courts of this state.

- a. 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 e-file documents using services provided by an EFSP.
- b. Judicial Officer or Clerk. Documents e-filed under the registered login ID or password of a judicial officer or clerk are deemed to have been filed by that judicial officer or clerk.
- c. Self-Represented Litigant. Documents e-filed by a self-represented litigant must be filed under the self-represented litigant's registered login ID and password and are deemed signed by that self-represented litigant for purposes of rules and statutes governing practice and procedure in the courts of this state.
- d. Signing for Another Party. A person filing a document containing more than one place for a signature, such as a stipulation, may sign on behalf of another party only if the person has actual authority to do so. The person may indicate such authority either by attaching a document confirming that authority and containing the signatures of the other persons who have authority to consent for such parties, or, after obtaining a

party's consent, by inserting "/s/ [the other party's or person's name] with permission" as any non-filing party's signature.

7. *Date and Time of E-Filing.* A submission is deemed filed on the date and time it is received by the EFSP. If the clerk determines that the electronically submitted document is deficient pursuant to rule or order, the clerk may reject the submission and must provide the filer an explanation of the reason for the rejection.
8. *Required Exhibits, Attachments to Pleadings and Proposed Orders.* 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 attaching a copy of the exhibit in an approved format.
9. *Electronic Format and Size, Proposed Orders, Judgments and Notice of Hearings.* Any document submitted through an EFSP must be in a format that complies with Rule 20(c), Rules of Family Law Procedure. A proposed order, proposed judgment, or proposed notice of hearing shall not be password protected and must be in a format that allows the court to make changes as necessary to reflect the provisions of the order, judgment, or notice of hearing it intends to enter or issue. Documents shall not exceed the size limitation permitted by the Arizona Supreme Court.
10. *Certified Mail, National Courier, Return Receipt.* When submitting a return receipt as proof of service by certified mail, the filer must scan and file both sides of the signed return receipt and attach it to a properly formatted document. When submitting proof of service by a national courier service, the filer must scan the receipt and attach it to a properly formatted document.
11. *Notarization Requirement.* A notarized document, or a scanned copy of a notarized document, may be filed electronically if it contains the notarial officer's signature, a certificate as required by A.R.S. § 41-264, and a stamp or seal, if applicable.
12. *Family Law Cover Sheet.* Initiating a case through services provided by an EFSP meets the requirement to file a family law cover sheet.
13. *Copy for Court.* Except as authorized by order of the county's presiding judge of the superior court, a judicial officer shall not require a filer to provide a paper copy of any document submitted through an EFSP. If required by the receiving court, a filer must identify individual documents necessary for a judicial ruling.
14. *Responsibility for Filing and Service of Process.* A person who e-files a document is responsible for ensuring that the document is properly filed, that it is complete and readable, and that a copy has been provided to the other parties in the case to the same extent as provided via a paper filing.
15. *Distribution of Notices, Orders, and Other Documents by the Clerk or Court.* The clerk or court may electronically distribute notices, orders, and other documents to a party in any case in which the party has e-filed a document, and to an attorney in any case in which the attorney

has entered an appearance. The electronic delivery of documents by the clerk or court is complete upon transmission.

16. Hyperlinks and Bookmarks. 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.
17. Extension of Time Due to Interruption in Service.  
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 as practicable thereafter 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 on the date the filer originally sought to electronically transmit the document. When an interruption of service is caused solely by a technical malfunction of the court's or EFSP's system, the court may sua sponte enter an order documenting the interruption and allowing an alternative manner of filing or extension of filing deadlines.
18. Additional e-Filing Policies. The presiding judge of the superior court and the clerk, in consultation with the Administrative Director, may establish additional policies to implement e-filing in family law cases. Any such policies must be posted online at <http://www.azcourts.gov/efilinginformation> and on court and clerk websites.
19. Destruction of Paper Records. All documents in the clerk's EDMS are subject to the provisions of Supreme Court Rules 29(C) and 94 and § 1-507 of the Arizona Code of Judicial Administration regarding destruction of records.

IT IS FURTHER ORDERED that any e-filed document that meets the requirements described herein shall be accepted by the clerk, and that provisions of this order that are inconsistent with the Arizona Rules of Court shall supersede the procedural requirements of those rules.

IT IS FURTHER ORDERED that the presiding judge of the superior court and the clerk, in consultation with the Administrative Director, may make modifications to these policies not inconsistent with any rules or orders of this court.

Dated this 21st day of February, 2023.

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ROBERT BRUTINEL  
Chief Justice