

By Michael K. Jeanes, Clerk of the Superior Court

Things Aren't Always As They Seem

This month's Clerk's Corner addresses two topics where things aren't as they appear. In the first section, the office heard from some in the legal community about expanded access to records over the internet. While a recent rule change has made it possible to expand online access to records, implementation is still on the horizon. The second section is a cautionary tale. Some attorneys have been named as party-defendants based on paperwork errors. These errors are avoidable with careful wording and can usually be fixed without motioning the court.

Remote Access to Records

In the last year, the Clerk's Office has increased the electronic court record by tens of millions of documents. In Maricopa County, public records are accessible over the internet to parties and their attorney of record in their individual cases through the Clerk's ECR Online website. Other public records are available through public access terminals located in Clerk and Superior Court facilities throughout the Valley.

The Supreme Court approved revisions to Supreme Court Rule 123 that authorize attorneys to have remote access to records pursuant to the Arizona Code of Judicial Administration (ACJA). The ACJA will be updated to provide the details for that access after the statewide eAccess portal is available. The records portal is still in development. In effect, Rule 123 allows Arizona's Administrative Office of the Courts to implement remote access to records when the technology is available. At this time, remote access to Superior Court records in Maricopa County remains limited to individual cases for parties and their attorneys or attorneys in the same firm.

Amended Affidavits of Service

Case-initiating documents often list fictional parties to be named when the actual name is determined. Note that the Clerk's Office must process affidavits of service based on the information stated on the affidavit. When appropriate, affidavits of service should list who was served and whether the person accepting the documents did so for someone else. For example, if an attorney accepts service for the true party, the affidavit of service should state the name of the attorney who was served and "on behalf of" or "for" followed by the true name of the party-defendant. Affidavits that state "Attorney ___" was served with the Summons and Complaint will result in the attorney being added to the case as a party-defendant. The Clerk's Office processes affidavits of service as priority documents to ensure the information is available to the court as soon as possible, which requires the office to rely on the plain language of the affidavit for party information.

When a party, attorney, or process server becomes aware that an affidavit of service is incorrect, an amended affidavit should be filed. To be useful, the amended affidavit should specifically state who was originally served and who the Clerk should reflect as the party-defendant on the case. There is no fee for filing an amended affidavit. The Clerk's Office can also add parties to a case based on the filing of an Amended Complaint.