

By Michael K. Jeanes, Clerk of the Superior Court

### **Hatfields, McCoys, and eFiling: A Decade of Adventure**

Before getting into the specifics of a decade of eFiling, remember the events that were occurring in 2002 and 2003: The world still felt the emotional and financial impacts of September 11; the Dow Jones closed at its lowest level in five years (7,286.27); a tragedy occurred as the Space Shuttle Columbia re-entered from orbit; the Governor of California's tenure was terminated after a total recall; and in less-remembered news, the Hatfields and McCoys signed a formal truce. Older technologies ceased, including production of the last "old" Volkswagen Beetle. New technologies were introduced, including version 1.0 of Mozilla, the open-source software that produced the Firefox web browser. And it was in 2003 when the Clerk's Office and Superior Court implemented eFiling in Maricopa County.

eFiling began as a pilot project in complex civil litigation cases and filings were submitted through LexisNexis File and Serve, a third-party vendor. Soon after, the Clerk's Office implemented an in-house eFiling system called eFiling Online, which is still in use for three case types. Mandatory eFiling in complex civil cases was implemented by an eleven-page Superior Court Administrative Order. eFilers were required to file, serve, and accept service through the eFile system and signing-in to the eFile system with a vendor-issued user ID and password constituted the filer's eSignature.

eFiling was originally limited to some civil and criminal cases. It was permissive in criminal cases, and in civil cases, attorneys had to receive a minute entry stating eFiling was available in individual cases. Nonetheless, a group of go-getters began eFiling documents in civil cases that had not been designated for eFiling or that were meant for family court, probate, and other matters where eFiling was not allowed (including some documents meant for justice courts). A victim of its own success, the Clerk's Office walked a precarious line of encouraging enthusiastic eFilers while letting them know their documents couldn't be accepted in cases or divisions that weren't set up to receive them.

During the last ten years, eFiling was implemented through the Clerk's eFiling Online system in a single division or with a few judicial officers in a case type. The filing parties were normally allowed, but not required, to eFile and a few adventurous lawyers and individuals would be early adopters of the change. Once eFiling proved its stability and viability, judicial officers anxious to move beyond paper would order attorneys to eFile in cases before them.

In this way, eFiling expanded relatively slowly, being piloted in a few judicial divisions in one or two case types at a time before being more available throughout a case type. After eFiling's start in complex cases, its journey continued with pilots in criminal and general civil cases starting in 2005; permissive eFiling with a few judges in family court in 2007; available in Tax Court in 2011; and accessible in all family court divisions since 2012. Today, the majority of criminal case documents are eFiled through the Clerk's eFiling Online system by the Maricopa County Attorney's Office and Indigent Defense. In general civil cases, attorneys were permitted to eFile through the Clerk's system beginning in 2005 and have had mandatory eFiling through AZTurboCourt since February of 2011. The Clerk's Office processed its one millionth eFiling in October 2011.

While some judges and attorneys were immediately ready and willing to move forward with eFiling, not everyone was so eager. Some judges, attorneys, legal support staff and court employees unabashedly admitted to anchoring their retirement timetable to the progress of mandatory eFiling. A number of those who weren't interested in retiring or eFiling attended a CLE the Clerk's Office conducted in 2009 called "eFiling for the panicked and unwilling." This course covered basic concepts like word processing software, how to name and upload documents for the eFiling environment, characteristics of different internet connection speeds, how much memory a computer should have, email providers available in the market, and options for scanners.

Peter Swann, then a Superior Court judge, was an early adopter of eFiling and, after working with a pilot group of attorneys, ordered eFiling for all attorneys with civil cases assigned to his division. Beginning in 2005, and as an offshoot of working with the firms in the pilot program, the Clerk's Office travelled to law firms, paralegal groups, and conducted CLEs at the Clerk's Offices and with bar associations over the next few years to train thousands in the legal community about eFiling. Training materials for multiple case types are still online on the Clerk's website and from AZTurboCourt.

The Clerk's Office didn't pursue eFiling because it was "the next thing." The paper situation in the Clerk's Office was dire. The Clerk's records center was built to last for ten years of population and filing growth but was filled to capacity in fewer than four years. Once the space designated for records was filled, the records center nearly became a fire hazard with boxes stacked two-deep and five-high throughout the hallways and conference and break rooms. The options were to build another building (not really an option) or reduce the paper. The situation in the records center didn't ease until eFiling was incorporated, scanned images were designated as the official record, and the Clerk's Office obtained authority to shred paper.

Reflecting on the last ten years of eFiling, scanning, the electronic court record, and other advances and efficiencies through technology, it's clear that the legal community, the Court and the Clerk's Office did this together. Early adopters of the changes tested the systems and processes and gave feedback. Firms and individuals upgraded their technology and most people got new software, went to training, and learned through trial and error. Clerk's Office employees managed paper and electronic processes

simultaneously and guided attorneys and legal support staff through the processes, often while learning it themselves.

Through the persistence of time, eFiling is a fact of modern-day practice. Soon enough remote access to records will improve and other needs and changes will keep “modern-day practice” an evolving reality. Like the relations between the Hatfields and McCoys, some will reach a truce with technology. And the Clerk’s Office will continue to help those who might always be panicked and unwilling.