

THE

BRIEF

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An electronic update for the legal community providing a brief look at news in the Clerk of the Superior Court's Office



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Transfers: Paper or Electronic?

Supreme Court Administrative Order (2006-96) authorized the Clerk of the Superior Court in Maricopa County to dispose of certain paper filings after their electronic image is captured and maintained, effective Jan. 1, 2007. The new process has posed some questions about court records and operations. For example, the Presiding Judge's office periodically refers Maricopa County cases of all case types to judges in outlying counties. This generally occurs when there appears to be a conflict for any Maricopa County Superior Court Judge to hear a matter. Part of this process involves ordering the Clerk to copy the entire file and send it to the newly-assigned Judge. A similar requirement to provide a copy of the file exists when a change of venue is ordered, or when a case is appealed or remanded to another court.

A common concern is how the implementation of an electronic court record (ECR) on 1/1/07 will impact these procedures. Although adult cases initiated on or after Jan. 1, 2002 have been scanned, imaged and are available for viewing electronically, the process for case transfers, changes of venue, and appeals will remain the same. The Clerk will still be required to make a copy of the file and forward it to the other court, county, or the newly-assigned judge. Although the original record may be electronic, paper copies of the original will continue to be printed and delivered, as has always been the practice. Eventually, more courts will be able to receive an electronic copy of the record and will choose to forego paper copies, allowing them to print only what they need.

More divisions to eFile

EFile is still in a pilot stage and only available in limited civil and criminal cases. The Clerk's Office and Superior Court are working to designate more general civil cases into the eFiling pilot program. The eFiling system includes a filing interface for attorneys and a "Judge Review" interface for the judicial divisions to review and rule on eFilings.

Administrative Order (2005-091) allows non-complex civil cases to be designated for mandatory eFiling. New divisions to the eFiling pilot usually start by selecting 30-40 active cases and issue minute entries designating them for mandatory eFiling. Two dates are placed in the eFiling minute entry that issues. The first date indicates when the party may begin eFiling, and the second date indicates when eFiling is mandatory. Divisions new to the eFiling pilot are considering making the eFiling system available before the December holidays, but not making mandatory eFiling commence until January on those cases designated for the pilot program.

Once the divisions are comfortable with eFiling, they are encouraged to designate as many cases for mandatory eFiling as they choose. Two judicial divisions have already designated every case on their calendars for eFiling. Pro Se litigants may continue traditional paper filing in eFile cases unless otherwise ordered.

New Civil Cover Sheet

A new code has been added to the civil coversheet for residential and commercial construction defects cases. The construction defects code under the contracts section has been further defined to indicate whether the controversy is regarding 19 or fewer structures or 20 or more structures. Using the most current forms allows the Clerk to accurately process and docket the high volume of cases filed each day with the Clerk. Practitioners and process servers will need to use the new form, effective December 1, 2006. The updated form is available on the "e-forms on demand" section of the Clerk's website at <http://www.clerkofcourt.maricopa.gov/faxondemand/204.pdf>.