

SUPREME COURT OF ARKANSAS

Opinion Delivered May 31, 2012

IN RE ADMINISTRATIVE
ORDER NO. 21—
ELECTRONIC FILING

PER CURIAM

We adopted Administrative Order No. 21 on June 17, 2010. *See In re Administrative Order No. 21 – Electronic Filing*, 2010 Ark. 304 (per curiam). At that time, we said, “Notwithstanding all the hard work that has produced Administrative Order Number 21, we view it as a work in progress. We anticipate modifying the order in the coming years based on our experience with e-filing.” *Id.* As contemplated, the order was amended on June 23, 2011. *See In re Administrative Order No. 21 – Electronic Filing*, 2011 Ark. 292 (per curiam).

The Supreme Court Committee on Automation has presented us with additional amendments to Administrative Order No. 21. We adopt the requested amendments and republish the order. These amendments are effective immediately. (The changes are illustrated in the End Note.)

ADMINISTRATIVE ORDER NUMBER 21—Electronic Filing

Section 1. Purpose, Scope, and Application.

(a) *Purpose.* This order establishes statewide policies and procedures governing the electronic filing process in all the courts in Arkansas.

(b) *Scope.* Electronic filing is a voluntary means of fulfilling the filing requirements of the courts of this state, but any court or clerk that elects to adopt electronic filing pursuant to this order must use the electronic filing system provided by the Administrative Office of the Courts (“AOC”) or an electronic citation system approved by the AOC. Once an election is made to use the electronic filing system provided by the AOC, then electronic filing shall be the exclusive means of filing in all cases, except as may otherwise be provided in this order or by rule adopted by the Supreme Court.

(c) *Application.* This order shall be liberally construed to secure the proper and efficient administration of the business and affairs of the court and to promote and facilitate the administration of justice by the court.

Section 2. Definitions.

(a) *Case management system.* A “case management system” is an electronic database maintained by the court or clerk to track information used to manage the court’s caseload, such as case numbers, party names, attorneys for parties, titles of all documents filed in a case, and all scheduled events in a case.

(b) *Case initiating document.* A “case initiating document” is the first filing in any matter, including but not limited to the complaint and summons, any subpoena, and citation.

(c) *Citation.* “Citation” means a written order or electronic ticket issued by a law enforcement officer or employee of the department of public safety of a city or incorporated town who is authorized to make an arrest; and that requires a person accused of violating the law to appear in a designated court or governmental office at a specified date and time.

(d) *Clerk.* The “clerk” means the clerk of the Supreme Court and Court of Appeals, circuit court, or district court.

(e) *Conventional document.* A “conventional document” is a paper document that may be filed or submitted to the clerk for filing in paper form or a paper document that must be converted by a registered user or clerk to an electronic document.

(f) *Document management system.* A “document management system” is an electronic database containing documents stored in electronic form and structured to allow access to those documents using index fields such as case number, filing date, or type of document.

(g) *Electronic case.* An “electronic case” is one in which the case documents are electronically maintained in a document management system.

(h) *Electronic document.* An “electronic document” is an electronic version of a

conventional document or an electronic ticket and has the same legal effect.

(i) *Electronic filing*. “Electronic filing” is the electronic transmission to or from a clerk of an electronic document by uploading from the registered user’s (or his or her designated agent’s) or clerk’s computer to the electronic filing system. It does not include submission via e-mail, fax, floppy disks, or other electronic means.

(j) *Electronic filing system*. “Electronic filing system” refers to the system established pursuant to this order that receives and stores electronic documents.

(k) *Electronic service*. “Electronic service” is the electronic transmission of an electronic document, or of notice of its filing, to a party, attorney, or representative under these rules. Electronic service may not be used to accomplish service of process or a subpoena to gain jurisdiction over persons or property.

(l) *Electronic ticket*. “Electronic ticket” means an electronic citation or warning printed by a law enforcement officer and issued to a person accused of violating the law.

(m) *Public access terminal*. A “public access terminal” is a computer terminal provided by a clerk for viewing publicly accessible electronic documents. Public access terminals must be available during the clerk’s normal business hours and must include access to a printer.

(n) *Registered user*. A “registered user” is an individual who has been issued a user ID and password to access the electronic filing system.

Section 3. Implementation of Electronic Filing.

(a) *Establishment of electronic filing and electronic citation systems*. The AOC is authorized to develop or contract with a vendor for the development of electronic filing systems for the district, circuit, and appellate courts, and to approve the interface of electronic citation systems with the courts.

(1) In the district courts, the District Judge(s) shall decide whether to adopt the electronic filing system.

(2) In the circuit courts, the Administrative Judge of the Judicial Circuit, with input from the Clerk, and, if applicable, the Ex Officio Circuit Clerk for the Probate Division, of the counties within the Circuit, shall decide whether to adopt the electronic filing system.

(3) In the appellate courts, the Supreme Court shall decide whether to adopt the electronic filing system.

(4) Every court is encouraged to implement an electronic filing system as soon as practical.

(b) *Mandatory electronic filing processes*. Once implemented, use of the electronic filing system in all cases or a particular type of case is mandatory only if: (1) the court provides a mechanism for waiving electronic fees in appropriate circumstances; (2) the court allows for the exceptions needed to ensure access to justice for indigent, disabled, self-represented, and other litigants who have special needs; (3) the court provides adequate advance notice of the mandatory participation requirement; (4) the court provides a one-

year transition period during which any document may be filed conventionally or electronically, and the court provides notice during the transition period about electronic filing to all parties filing a document conventionally; and (5) the court provides training for filers in the use of the process.

(c) *Paper filing exceptions.*

(1) Documents may be filed conventionally during the one-year transition period required by section (3)(b)(4) herein, and the clerk must electronically file such documents not later than 48 hours after the conventional filing.

(2) Conventional paper filings shall be permitted, pursuant to the provisions of the policies and procedures manual promulgated by the AOC, by the clerk for specific documents or classes of documents, such as documents not available in electronic form, documents that are too lengthy to electronically image, and documents filed under seal.

(3) Conventional paper filings shall be permitted in the event of electronic filing system errors or other technical problems pursuant to Section 12.

(d) *Quality control procedures.* The clerk must institute a combination of automated and human quality control procedures sufficient to ensure the accuracy and reliability of their electronic records system.

(e) *Archiving electronic documents.* The clerk must maintain forward migration processes to guarantee future access to electronic documents.

(f) *Effect on Rules of Evidence.* This order does not affect any rule of evidence regarding the authentication of a document.

(g) *Fee for electronic filing system.*

(1)(A) The fee to be charged for use of the electronic filing system shall be as prescribed in this section.

(B) No portion of the electronic filing system fee shall be refunded.

(2) The electronic filing system fee is as follows:

(A) For all civil actions and misdemeanors electronically filed in either the Supreme Court or Court of Appeals.....\$20.00

(B) For initiating a cause of action through the electronic filing system in the civil, domestic relations, or probate division of circuit court, including appeals.....\$20.00

(C) For initiating a cause of action through the electronic filing system in the civil or small claims division of district court.....\$20.00

(3) The fee provided under subdivision (g) of this section shall be remitted by the Clerk of the Supreme Court on or before the fifteenth day of each month to the Administration of Justice Funds Section on a form provided by the Office of Administrative Services of the Department of Finance and Administration for deposit into the Judicial Fine Collection Enhancement Fund established by section 16-13-712.

(4) No fee shall be charged or collected when the court by order, under Rule 72 of the Arkansas Rules of Civil Procedure, allows an indigent person to prosecute a cause of action in forma pauperis.

(5) Prosecuting attorneys filing actions on behalf of the state, with the exception of

child-support cases, are exempt from paying fees under this section.

(6) Fees under this section shall not be charged or collected in cases brought in the circuit court under the Arkansas Juvenile Code of 1989, section 9-27-301 et seq., by a governmental entity or nonprofit corporation, including without limitation, an attorney ad litem appointed in a dependency-neglect case or the Department of Human Services.

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Section 10. Registration requirements.

(a) *Registration mandatory.* All persons wanting access to the electronic filing system or document management system must become a registered user in order to access the system. The following persons shall be permitted to become registered users: (1) licensed Arkansas attorneys; (2) non-Arkansas attorneys permitted to practice pro hac vice in Arkansas; (3) litigants appearing pro se in a particular case in which the court has mandated electronic filing; and (4) clerk and court personnel. A clerk shall permit persons who are not registered users and who are not authorized to access the document management system to access electronically filed documents via a public access terminal located in the courthouse, subject to the restriction on disclosure of confidential documents provided in Section 11 of this order.

(b) *Registration requirements.* The AOC shall establish registration requirements for all authorized users and must limit the registration of users to individuals, not law firms, agencies, corporations, or other groups. The AOC must assign to the registered user a confidential, secure log-in sequence. The log-in sequence must be used only by the registered user to whom it is assigned and by agents and employees as the registered user may authorize. No registered user shall knowingly permit his or her log-in sequence to be used by anyone other than his or her authorized agents and employees. The AOC may require users to undergo training prior to authorizing access to the electronic filing system. The AOC is permitted to collect a fee not to exceed \$100 for training and registration to be deposited in the Bar Account of Arkansas. Attorneys who complete this training shall be entitled to receive one hour of general Continuing Legal Education Credits.

(c) *Electronic mail address required.* Registered users shall furnish at least one electronic mail address that the electronic filing system will use for electronic service and other notices. It is the registered user's responsibility to ensure that the electronic filing system has the correct electronic mail address.

(d) *Misuse of electronic systems.* Any registered user who attempts to harm the electronic filing system or document management system in any manner, attempts to alter electronic documents or information stored on the systems, or attempts any unauthorized use of the systems, has committed misuse of the system. Misuse of the electronic filing system or document management system may result in loss of a user's registration and subject the registered user to any other penalty provided by law or rule.

(e) *Electronic citation systems registration and access.* Registration requirements for, and access to, electronic citation systems shall be as determined through appropriate interdepartmental, interagency, or intergovernmental agreements. The agreements shall clearly state the terms of access to the systems and permitted uses of the systems by registered users.

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Section 13. Creation of Policies and Procedures Manual.

The AOC is authorized to promulgate policies and procedures manuals for the implementation of this order and for the use and operation of the electronic filing and electronic citation systems and the document management system, and shall update policies and procedures and the manuals as needed from time to time.

Section 14. Working Group.

The Supreme Court Committee on Automation is authorized to appoint working groups, such as an electronic citation working group, which groups shall advise the Committee on matters of policy and procedure in the management of electronic filing systems.

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END NOTE

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Cite as 2012 Ark. 258

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