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IN THE SUPREME COURT OF THE STATE OF NEW MEXICO

October 18, 2017

NO. 17-8500-025

**IN THE MATTER OF THE
NEW MEXICO JUDICIARY
STATEWIDE POLICY FOR
THE ELECTRONIC SCANNING
AND DESTRUCTION OF PAPER
COURT CASE RECORDS**

ORDER

WHEREAS, this matter came on for consideration by the Court upon recommendations to adopt a statewide policy to govern the electronic scanning and destruction of paper case records for the New Mexico Judiciary, and the Court having considered the recommendations and being otherwise sufficiently advised, Chief Justice Judith K. Nakamura, Justice Petra Jimenez Maes, Justice Edward L. Chávez, Justice Charles W. Daniels, and Justice Barbara J. Vigil concurring;

NOW, THEREFORE, IT IS ORDERED that the New Mexico Judiciary Statewide Policy for the Electronic Scanning and Destruction of Paper Court Case Records is ADOPTED, effective immediately.

IT IS SO ORDERED.

WITNESS, Honorable Judith K. Nakamura, Chief Justice of the Supreme Court of the State of New Mexico, and the seal of said Court this 18th day of October, 2017.

(S E A L)


Joey D. Moya, Chief Clerk of the Supreme Court
of the State of New Mexico

NEW MEXICO JUDICIARY STATEWIDE POLICY FOR THE ELECTRONIC SCANNING AND DESTRUCTION OF PAPER COURT CASE RECORDS

The New Mexico Judicial Branch recognizes the vital importance of records management in the digital age. The primary purpose of case records management is to accurately capture and reliably retain the documents and other case information entered into the Judiciary's case management system. With the statewide implementation of the New Mexico Judiciary's Odyssey Case Management System (OCMS), each district court now accepts most civil case filings through its electronic filing system, the appellate courts accept most cases through the electronic filing system, and the expansion of electronic filing is expected to continue in the future. Those court records that are not electronically filed are scanned into OCMS after the paper document is filed with the appellate, district, or metropolitan court and, to some extent, in the magistrate courts as well. The municipal and probate courts do not use the New Mexico Judiciary's OCMS or electronic filing system.

The New Mexico Supreme Court emphasized the importance of implementing an effective records management program by issuing Supreme Court Administrative Order No. 13-8500, *In the Matter of Policies Regarding the Creation, Access, Use, Maintenance, and Retention of Electronic Court Records in the Judiciary*, which requires courts using OCMS to scan all court records filed on or after January 1, 2015, into OCMS. The electronic version of court records scanned into OCMS serves as the official record and has the same force and effect as a traditional paper record.

Order No. 13-8500 also states that, after a court record has been scanned into OCMS, the paper court document may be destroyed unless the original paper format of the record must be preserved as provided by law. But before paper records are destroyed, the electronic version of such court records must be reviewed against the paper records to ensure that the official, electronic court record is accurate and complete. That goal can be achieved through a system that provides for appropriate internal control over digitized court records and the necessary training and oversight of court staff before any paper court documents or files are authorized for destruction.

PURPOSE

The purpose of this policy is to provide minimum standards that each court must meet before destroying paper court records that have been scanned into OCMS. To that end, each court is encouraged to establish its own electronic court records quality control process tailored to the individual resources and practices of that court, but which also meets the minimum standards for accuracy, reliability, and internal control set forth under this policy. By doing so, each court will provide valuable guidance to the court clerks who must manage court documents and preserve the court record in an environment that continues to evolve from traditional paper records to a paperless or paper-on-demand system.

Court records in cases that were pending, opened, or re-opened after the implementation of OCMS in a court may be scanned or back-scanned into OCMS. Court records in a case that was closed before OCMS was implemented in the court may not be back-scanned without prior authorization from JIFFY unless the case was reopened or if a request to inspect, or for a copy of, any record in the custody of the court from a case was made after OCMS was implemented in that court. Records meeting the criteria delineated in this paragraph are subject to this policy.

RESPONSIBLE PARTIES

The proper scanning and destruction of paper court records is the responsibility of the clerk assigned to this task, that clerk's assigned court clerk supervisor or designee, the Court Executive Officer, and the Chief Judge or Justice of the appellate, district, or metropolitan court. The assigned supervisor or designee must supply, in writing, regular destruction updates to the Court Executive Officer who in turn must regularly update the Chief Judge or Justice of the appellate, district, or metropolitan court as set forth below. To the extent that a magistrate court scans paper court records into OCMS, this policy would apply with the AOC Magistrate Court Division Director and Presiding Magistrate Judge fulfilling the roles that the Court Executive Office and Chief Judge would fulfill under this policy in a district or metropolitan court. This policy does not apply to municipal and probate courts.

Some courts have already established an internal procedure or quality control practice for the scanning and destruction of paper court records. To obtain approval to continue using an established procedure or practice, the Court Executive Officer of that district must present the district court's official plan, in writing, to the Court Executive Officers Council for review and recommendation to the Supreme Court for approval. Approved plans will be filed with the Administrative Office of the Courts Judicial Information Division and the New Mexico Supreme Court.

MINIMUM STANDARDS FOR QUALITY CONTROL PROCEDURE

Any appellate, district, metropolitan, or magistrate court that wishes to destroy paper court records that have been scanned into OCMS after the effective date of this policy must develop and obtain approval of a written quality control procedure that meets the following minimum requirements:

A. Pre-Scanning Preparation Standards

1. Any raised seals placed on a paper document should be darkened so they are visible on the electronic scan of the document saved in OCMS.
2. Every paper document must be reviewed so that all pages that were submitted for filing are accounted for before the document is scanned into OCMS.

B. Scanning Standards

1. A process must be implemented to ensure the document scanned into OCMS is attached to the correct case and assigned case number.

2. The date and time stamp should be clearly visible on each scanned document.
3. All paper court records scanned into OCMS shall be reviewed for an accurate and complete image.

C. Post-Scanning Review Standards

1. If paper documents are to be destroyed after scanning, a post-scanning review process should be implemented so that the electronic record is again compared to the paper record for accuracy by a different court staff member than the one who originally scanned the document.
2. Ensure that the file-stamped date on the scanned document matches the docket date in OCMS. If a court file is being back-scanned into OCMS under the limited circumstances permitted under this policy, the clerk must compare all docket entries and related attached documents to the paper court file to ensure all documents are accounted for and scanned into OCMS.

DESTRUCTION

Before the destruction of any paper court record, the court documents or court files shall be reviewed to ensure all documents are entered into the correct case and the official, electronic version is complete and accurate in accordance with the court's approved quality control procedure approved under this policy.

The Court Executive Officer and Chief Judge or Justice must approve the destruction of all court documents or files. The Court Executive Officer is required to keep the Chief Judge or Justice informed on a regular basis regarding the destruction policies and activities of the court.

The Court Executive Officer or the Chief Financial Officer may contract or solicit in accordance with the Procurement Code a vendor that specializes in the destruction of official records.

It is imperative for court staff to obtain the required approvals under this policy before destroying any judicial documents. Destroying court records without approval may be grounds for discipline under *NMJBPR –Part I for Employees, Just Cause (14)*.

RETENTION

The following paper court records shall not be destroyed even if an electronic copy is scanned and saved in OCMS:

- Original Wills
- Original Promissory Notes and Other Negotiable Instruments
- Other original financial documents, including, but not limited to, unexonerated bail bonds, certificates of title, stock, and bonds, and

Other paper records not scanned into OCMS pursuant to a court order or required to be retained by statute, rule, or other valid evidentiary or due process reason.

(Approved October 18, 2017 by Supreme Court Order No. 17-8500-025)