



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



Haywood Securities, Inc. v. The Arizona Court of Appeals, Division One,
and The Honorable Susan A. Ehrlich, Daniel A. Barker, and G. Murray
Snow, Judges Thereof, Respondents. Peter J. Workum and Joanne E. Workum,
Real Parties in Interest, CV-06-0280-SA

PARTIES AND COUNSEL:

Petitioner: Haywood Securities is represented by Kevin O'Malley and Mark Fuller of Gallagher & Kennedy.

Respondent: Peter J. and Joanne E. Workum are represented by Linda D. Skon, Law Office of Linda D. Skon.

FACTS:

This special action asks this Court to determine whether a trial court judge's typed name on an electronically filed judgment in a complex litigation court case using electronic filing satisfies the requirement under Rule 58(a) of the Arizona Rules of Civil Procedure that a judgment must be "signed by a judge" to be final for appeal purposes.

The underlying case has an extended procedural history, but the key facts for purposes of this Court's review are that Haywood filed an original petition for special action in this Court on August 10, 2006 asking this Court to reverse the court of appeal's ruling concerning the validity of electronic signatures in trial court orders and judgments within the electronic court system.

In 2000, with the promulgation of Supreme Court Rule 124, this Court gave lower courts authority to implement electronic filing systems, as authorized by the Legislature. *See* A.R.S. §§ 12-119.02, 12-284.02, 22-284 & 22-408. Rule 124 authorized an electronic filing program and stated that "[a]n electronically filed document constitutes the filing of the original written and signed paper under the rules governing practice and procedure in the courts of this state." Rule 124(c) (2). The following year this Court issued Administrative Order No. 2001-116, adding section 1-506 to the Arizona Code of Judicial Administration and stating that the purpose of the Order was to provide uniform administrative requirements, standards, and guidelines for the use of electronic filing and document management systems within the state courts. The Order specifically contemplates "electronic" signatures, which are defined to mean "any letters, characters, or symbols executed with an intent to authenticate a writing." *Id.* at §A. Separate provisions addressed security issues, including requiring implementation of procedures to verify and authenticate the source of any electronically signed and filed documents. *Id.* at §E.

Administrative Order No. 2002-107 followed, promulgated based upon authority derived from Article VI, section 3 of the Arizona Constitution. That administrative order authorized the Maricopa County Superior Court to establish and implement a Complex Litigation Program on a pilot basis. That Order delegated to the presiding judge of the Maricopa County Superior court authority to “establish additional rules and procedures for the pilot program to implement electronic filing and management of court documents.” *Id.* at 2. The Presiding Judge then promulgated Administrative Order No. 2003-115 which established a number of rules to govern Complex Civil Litigation Court cases, including Paragraph 32, entitled “Court Orders and Judgments,” which states that “The Court may issue, file, and serve notices, orders, and other documents electronically in an e-filed case, subject to the provisions of this Administrative Order.”

In 2005, the Presiding Judge promulgated another Administrative Order, No. 2005-091, stating that electronically-filed documents would be considered “original” documents in a case and such documents could be electronically transmitted “to the Court” and “from the Court.” No. 2005-091 at ¶¶ 2-3. Just as in the earlier Order, the 2005 Order provided, that “[t]he Court may issue, and file orders and other documents electronically in an e-file case.” *Id.* ¶22. The 2005 Order specified how participants in e-filing cases, including judges, would electronically sign documents:

“To ensure the intent of the filing participant, the signature line on an electronically filed document will bear the printed name of the filing participant preceded by the symbol “/s/”. *Electronic documents may be signed by Judicial Officers via the use of a printed signature preceded by the “/s/” symbol or via the use of the e-filing application judicial signature stamp.*
Administrative Order No. 2005-091 ¶ 6 (emphasis added).

Based on that history, Haywood urges the Court to accept jurisdiction, reverse the court of appeal’s order, and hold that signatures in an approved electronic court setting are valid under Rule 58 and all other procedural rules.

The Workum’s respond by asserting that Arizona statutes and court rules do not authorize appeal under A.R.S. §12-2101(B) from a judgment lacking a judge’s manual signature. They assert that local administrative orders should not determine whether a judgment is final for appeal purposes. *See Musa v. Adrian*, 130 Ariz. 311, 312, 636 P.2d 89, 90 (1981)(absent a pertinent constitutional provision, if no statute provides that a judgment or order is appealable, appellate courts do not have jurisdiction to consider the merits of question that is raised on appeal.) The Workum’s note that A.R.S. §12-2101(B) does not expressly authorize electronic signatures of judgments. Rule 58(a) provides that, except in habeas corpus proceedings, all judgments shall be in writing and “signed by a judge.” That requirement safeguards against appealable error because if a judge is required to sign a judgment, “he is alerted to the situation that this may be an order finally disposing of the case by a lower court.” *Blackman v. Associates Loan*, 1 Ariz. App. 11, 12, 398 P.2d 919, 920 (1965).

The Workum’s also note that Rule 124(d) provides for electronic filing, delivery, and service of documents but does not even mention “electronic signatures.” They note that although this Court recently amended various Rules of Civil Procedure, including Rule 124, in Arizona Supreme Court

Orders No. 2005-47 and No. 2006-02, the Court did not mention electronic signatures in the newly promulgated rules. Finally, the Workum's note that a separate panel of the court of appeals division one has ruled that Rule 58(a), Arizona Rules of Civil Procedure, requires that a trial court judge's order granting judgment be manually signed. *See* Second Appendix to Response, Judge Winthrop's Order, dated December 22, 2005, in a related case, *Energcorp, Inc. v. Swiss Plastering, Swiss Plastering & Interiors, Inc. v. EnerGCorp, Inc., Proprietary Industries, Inc. and Strategia Corp*, 1 CA-CV 05-0716. That order, virtually verbatim to the order at issue, rules that to be appealable a judgment must be manually signed by a judge.

ISSUE:

“The trial court affixed its signature to an otherwise final judgment issued in a case being litigated within the electronic court system promulgated by this Court. Did the court of appeals err in holding that the judgment was nonetheless not “signed” within the meaning of Arizona Rules of Civil Procedure 58? More generally, do electronic signatures in e-court proceedings qualify as signatures under the Rules of Civil Procedure?”

This Summary was prepared by the Arizona Supreme Court Staff Attorney's Office solely for educational purposes. It should not be considered official commentary by the court or any member thereof or part of any brief, memorandum or other pleading filed in this case.