

## **E-Filing Policy Issue - # 23**

### **Signatures and Signature Lines on Orders**

#### **Issue:**

For orders that will be distributed electronically, is a judge's signature or a substitute for the judge's signature such as "/s/ [judge's name]" required:

- 1) When a hard copy of the order with wet signature exists; and
- 2) When there is no hard copy but the clerk is directed to file the order by the judge.

#### **Discussion:**

Signatures for electronic documents are currently in various formats. Some examples are:

- The clerk's office maintains the original hard copy order with wet signature and distributes an electronic version of the order with a blank signature line.
- The clerk's office maintains only an electronic order containing "/s/ [judge's name]" or "/s/" with the judge's name under the signature line.

This issue surfaced when a pro se litigant questioned the authenticity of an order he received electronically did not contain a signature or a "/s/" over the signature line.

**Authorities:** (Provide references to specific statutes, rules, codes or administrative orders you believe are pertinent to the issue.)

Haywood Securities, Inc. v. Workum, 214 Ariz 114, 149 P.3d 738 (2007). The superior court's electronic order contained "/s/ Kenneth L. Fields" in lieu of the judge's wet signature. The Arizona Supreme Court stated "...the defining characteristic of the requirement that a judgment be "signed" is that the document has affixed to it in some form the name of the judge that evidences an *intention of authentication*." (emphasis original) The court held "As long as a judge intends that his or her electronic signature formalizes a written judgment, the document complies with rule 58(a)."

**Alternative Solutions:** (List all identified alternative solutions for the issue.)

- #1) As long as there is some documentation of the judge's intent to sign an order (e.g., an email to the clerk), do not require a signature, signature substitute or signature line on the electronic order;
- #2) Require a signature or signature substitute on all orders

**Position/Recommendation:** (Does the AOC E-filing team have a recommendation on this issue?)

The Clerks recommend alternative #1.

**Decision:**

How clerks of court represent an order as being approved has nothing to do with e-filing. In practice, an internal trail proving that authority exists for the clerk to issue the order is the basic requirement.

A larger question needs to be answered involving how many items issued by courts legally require a signature.