

## **E-Filing Policy Issue - # 2** (Digital Signatures)

**Issue:** (State the issue and whether it is specific to a certain level of court or case type.)

Can an e-filed document be “signed” by inserting “/s/” on the signature line?

**Discussion:** (Provide the factual setting or context for the issue.)

The e-filing project cannot accommodate a digital signature component (because of the cost), so an alternative method of “signing” documents is necessary. Any court rule that calls for an actual/physical “signature” may eventually need to be modified to authorize the alternative method.

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

Although not actual “authority,” by way of example, Arizona Supreme Court AO 2008-66, which authorizes an electronic filing pilot for criminal cases in the Arizona Supreme Court and Court of Appeals, Division One, addressed signatures as follows:

- Any court rule requiring that a document be signed by an attorney is satisfied by inserting “/s/” on the document’s signature line, typing the signatory’s name under that line, and successfully registering with the electronic filing system.
- Any court rule requiring that a certificate of service be signed is satisfied by the following for any electronically-filed document:
  - (i) Inserting “/s/” on the document signature line and typing the signatory’s name under that line, if the certificate of service is attached to a document and the server is acting at the direction of the submitting party; or
  - (ii) Inserting “/s/” on the document’s signature line, typing the signatory’s name under that line, and successfully registering with the electronic filing system, if the certificate of service is a separate document.

Additionally, Arizona Supreme Court AO 2008-89, which authorized electronic filing in civil cases in the Superior Court in Maricopa County pursuant to electronic filing guidelines provides:

### **2.4 User ID and Electronic Signatures**

The Court hosted eFiling system and any certified eFiling provider eFiling system shall register users and provide each with a personally selected user name (ID) and password.

The user name when used in conjunction with the personally selected password

shall constitute a signature of the registered participant on documents submitted to the Court or by the Court. In order 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 Court’s eFiling Manager (EFM) application judicial signature stamp. The EFM application judicial signature stamp will be merged with the electronic document and shall be visible when the document is printed and viewed electronically. Documents requiring the signature of the defendant or other identifying indicators, such as thumbprints on sentencing orders, shall be filed with the court in paper format, scanned, and maintained consistent with applicable record retention schedules and archival rules.

Rules of the Supreme Court of Arizona

Rule 124. Electronic Filing, Delivery and Service of Documents

(c) Date and Effect of Electronic Filing.

(2) An 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. The court may require the party to produce the original of an exhibit that has been filed electronically. An electronically filed document as it resides on the court's computer shall be considered the original document satisfying the best evidence rule set forth in Rule 1002, Arizona Rules of Evidence.

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

- Allow all court rules requiring that a document be signed by an attorney to be satisfied by inserting “/s/” on the document’s signature line, typing the signatory’s name under that line, and successfully registering with the electronic filing system.

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

The AOC E-filing team recommends adopting the position set forth in the bullet above.

**Decision:**

Rule 124 of the Rules of the Supreme Court of Arizona, as written, sufficiently covers the scenario at issue /. The use of /s/ notation to indicate legal signing of a judgment has been upheld already by the Arizona Supreme Court in *Haywood Securities vs. Ehrlich*, 214 Ariz. 114, 149 P.3d 738 (2007). The presence of a filing fee provides sufficient deterrence to fraudulent

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submittals, particularly because in the initial phase of the project, the fee waiver/deferral form will not be available electronically. We left open the issue of whether some amendment to the Rules might eventually be desirable.