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IN THE ARIZONA SUPREME COURT

In the matter of)	Supreme Court R- 06-0027
)	
PETITION TO AMEND RULES 4(a),)	COMMENT TO PROPOSED RULE
4(b), 4(f), 11(a), 16(d), 30(b)(2),)	RELATED TO AMENDING VARIOUS
30(b)(4), 30(e), 33(a), 41(a)(1)(B), AND)	COURT RULES REGARDING
58(a) ARCP AND RULES 40(A), 40(B),)	ELECTRONIC SIGNATURES
40(F), 31(A), 76(C)(1), 57(B)(2),)	
57(B)(4), 57(E), 60(A), 46(A), AND)	
81(A), ARFLP)	
_____)	

The Arizona Supreme Court recently held that a judge’s electronic signature on an electronically filed judgment satisfies the signature requirements in court rule. (Haywood Industries, Inc. v. Workum (real parties in interest) CV-06-0280 SA). In that holding, the Court referenced numerous bases for upholding electronic signatures in case law, court rule, and statute as the equivalent of ink signatures on traditional paper filings. The proposed rule changes in this Rule 28 petition were submitted prior to the Court’s holding, and the Arizona Association of Superior Court Clerks (AASCC) supports denial of this petition as moot based on the Court’s recognition of electronic signatures.

In the alternative, the AASCC submits the following comments on its own petition to authorize electronic signatures on electronically filed documents with the full force and effect of traditional ink signatures on paper documents:

In light of the Court's recent decision, and in recognition of the national movement toward electronic records and processes, the AASCC requests that, rather than add language to numerous individual court rules, the Court institute universal recognition in court rule that an electronic signature is the equivalent in force and effect of a traditional ink signature in all case types. Existing Supreme Court Rule 26, Suspension of Rules, supports this approach that the rules be liberally construed in the furtherance of justice. The Court may create a new Supreme Court rule specifically regarding electronic signatures, such as a new rule 97. A suggested change is recommended in Appendix A below.

In the alternative to a single rule, the Court could choose to clarify the authority of electronic signatures at one rule each in the civil, family, and criminal rules. In civil case types, the Court could add to the comments a note that "signatures" as stated in Arizona Rules of Civil Procedure Rule 11(a) regarding signatures includes electronic signatures. In family case types, the Court could add to the comments a note to the equivalent rule that "signatures" as stated in Arizona Rules of Family Law Procedure Rule 31(A) regarding signatures includes electronic signatures. In criminal case types, the Court could add to the comments a note that "signatures" as stated in Arizona Rules of Criminal Procedure Rule 2.3 regarding the content of a complaint includes electronic signatures. A suggested change for each of the case types is recommended in Appendix B below.

The AASCC supports the expansion of an electronic court record and the efficiencies created by recognition of electronic signatures as the equivalent of traditional ink signatures on paper documents.

Note that recommendations for new text in the appendices below are indicated by ALL CAPS and deletion of language is indicated by ~~strike through~~.

DATED this 18th day of May, 2007.

 /s/ *Juanita Mann*
Hon. Juanita Mann, President
Arizona Association of Superior Court
Clerks

Supreme Court R- 06-0027

APPENDIX A
New Supreme Court Rule

97. ELECTRONIC SIGNATURES

EFFECTIVE JANUARY 1, 2008 FOR COUNTIES MAINTAINING AN ELECTRONIC FILING SYSTEM AUTHORIZED BY THE COMMISSION ON TECHNOLOGY
AN INDIVIDUAL WHO INTENDS THAT HIS OR HER ELECTRONIC SIGNATURE FORMALIZE AN ELECTRONIC DOCUMENT HAS “SIGNED” THAT DOCUMENT WITH THE FULL FORCE AND EFFECT OF A TRADITIONAL SIGNATURE.

APPENDIX B

Rules of Civil Procedure Rule 11(a)

COMMENT:

AN INDIVIDUAL WHO INTENDS THAT HIS OR HER ELECTRONIC SIGNATURE FORMALIZE AN ELECTRONIC DOCUMENT HAS “SIGNED” THAT DOCUMENT WITH THE FULL FORCE AND EFFECT OF A TRADITIONAL SIGNATURE.

Arizona Rules of Family Court Rule 31(A)

COMMENT:

AN INDIVIDUAL WHO INTENDS THAT HIS OR HER ELECTRONIC SIGNATURE FORMALIZE AN ELECTRONIC DOCUMENT HAS “SIGNED” THAT DOCUMENT WITH THE FULL FORCE AND EFFECT OF A TRADITIONAL SIGNATURE.

Rules of Criminal Procedure Rule 2.3

COMMENT:

AN INDIVIDUAL WHO INTENDS THAT HIS OR HER ELECTRONIC SIGNATURE FORMALIZE AN ELECTRONIC DOCUMENT HAS “SIGNED” THAT DOCUMENT WITH THE FULL FORCE AND EFFECT OF A TRADITIONAL SIGNATURE.