

ADMINISTRATIVE ORDER
SUPREME COURT OF APPEALS OF WEST VIRGINIA

RE: AUTHENTICITY OF E-FILED ORDERS

By Administrative Order entered June 29, 2016, the Court recognized the general authority of the CourtPlus Initiative—a project sponsored by the Supreme Court of Appeals of West Virginia— that will bring electronic filing (“e-filing”) and unified case management to all of the circuit and family courts in the State.

An important component of e-filing is the ability of judges to sign orders electronically and the ability of circuit clerks to docket orders electronically and transmit e-filed orders to the parties in the case. Traditional paper orders are physically signed by the judge, and may also bear the seal of the court that issued the order. In contrast, e-filed orders are not physically signed by the judge, and do not have to bear a seal of the issuing court in order to be authenticated.

The Uniform Electronic Transactions Act provides that “if a law requires a signature, an electronic signature satisfies the law.” W. Va. Code § 39A-1-7(d). An electronic signature is defined as “an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with intent to sign the record.” W.Va. Code § 39A-1-2(8). Furthermore, “an electronic signature is attributable to a person if it was the act of the person. The act of the person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.” W. Va. Code § 39A-1-9(a). *See* Syllabus Point 6, *Benjamin v. Walker*, ___ W.Va. ___, 786 S.E.2d 200 (2016)(Electronic receipt with a unique transaction identifier constitutes a sufficient “signature” of a contributor).

The e-filing system used by the CourtPlus Initiative requires each user—including judicial users—to maintain a secure username and password. Trial Court Rules 15A.06 - 15A.10. **As of July 12, 2016**, each e-filed order in Marion, Monroe, and Hampshire County will contain two stamps at the top of the first page. The official e-filing court stamp appears on the top-right corner, and identifies the county, the circuit clerk, the case number, and the date and time of filing. Trial Court Rule 15A.25. The official judge’s signature stamp appears on the top-left corner, and identifies the judge, the county, and a reference code. The reference code is a unique identifier, which allows any recipient of an order to verify its authenticity by utilizing an online verification tool available at: www.courtsv.gov/e-file.

The CourtPlus Initiative is operating as a pilot project. In some instances, orders entered prior to July 12, 2016 do not bear an official judge’s signature stamp and a reference code, but will instead only contain an official e-filing court stamp and the typographic signature of the presiding

judge. Orders that are e-filed in Jefferson County after July 12, 2016 will continue to follow this format, which satisfies the requirements of the law with respect to electronic signatures. Nevertheless, the official judge's signature stamp and reference code have been added as a means to allow third parties to easily verify the authenticity of an e-filed order. This functionality will be added to Jefferson County at a later date.

In light of the forgoing authorities, and in order to provide clarity to third parties (such as regional jails, law enforcement, county officials, and the State Auditor) who receive e-filed orders, it is hereby ORDERED, that the combination of individual user security, official e-filing court stamp, electronic signature, and verification system for e-filed orders shall be sufficient to establish the authenticity of an e-filed order, notwithstanding the fact that an e-filed order does not bear a traditional judge's signature.

It is further ORDERED, that the combination of individual user security, electronic signature, and official e-filing court stamp shall be sufficient to establish the authenticity of an e-filed order entered prior to July 12, 2016 in Marion, Monroe, and Hampshire Counties, as well as all e-filed orders entered in Jefferson County, notwithstanding the fact that an e-filed order does not bear a traditional judge's signature.

It is finally ORDERED, that the combination of individual user security, electronic signature, official e-filing court stamp, and verification system for e-filed orders shall be sufficient to establish that an e-filed order has been duly entered by the Clerk of the Court, notwithstanding the fact that an e-filed order does not bear the seal of the court that issued the order. An e-filed order entered in accordance with this protocol shall be deemed to have satisfied the requirements of W.Va. Code 12-3-1(e).

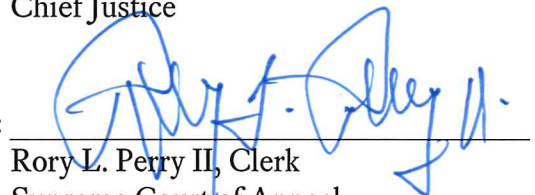
ENTERED this 11th day of July, 2016.



MENIS E. KETCHUM

Chief Justice

Attest:



Rory L. Perry II, Clerk
Supreme Court of Appeal