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SUPREME JUDICIAL COURT RULES

Order in re: COVID-19 (coronavirus) pandemic

Supreme Judicial Court updated order authorizing use of electronic signatures by attorneys and self-represented parties

ADOPTED DATE:

06/10/2020

EFFECTIVE DATE:

06/11/2020

UPDATES:

Issued June 10, 2020, effective June 11, 2020 (https://www.mass.gov/media/2143146/download)

Repeals and replaces April 6 order.

TABLE OF CONTENTS

Order (#order)

Downloads (#downloads)

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Order

In light of the ongoing and urgent public health concerns regarding the COVID-19 (coronavirus) pandemic, the Supreme Judicial Court, pursuant to its superintendence and rule-making authority, issues the following ORDER:

To the extent not already authorized, including by the Rules of Electronic Filing, Supreme Judicial Court Rule 1:25, the Order Concerning Electronic Signatures of Judges and Clerks, issued March 25, 2020, and the Order Concerning E-Mail Service in Cases Under Rule 5(b) of the Mass. R. Civ. P., issued March 30, 2020, the Supreme Judicial Court hereby ORDERS that, effective June 11, 2020, and until further order of the court:

1. This order shall repeal and replace the Order Authorizing Use of Electronic Signatures by Attorneys and Self-Represented Parties, issued by the court on April 6, 2020.
2. In all courts and case types, whenever an attorney or self-represented party is required to sign a document to be served on another party or filed with the court, including an affidavit that must be signed by an attorney or self-represented party under the penalties of perjury, the attorney or self-represented party may electronically sign, unless the court specifically orders otherwise.
3. The electronic signature can take the form of either (a) a scan of the attorney's or self-represented party's handwritten signature; (b) an electronic signature made by means of a stylus, an electronic pen, a computer mouse, a touch screen, or other similar method; (c) an electronically inserted image intended to substitute for a signature; or (d) a "/s/ name of signatory" block.
4. Such electronic signature shall have the same force and effect as if the attorney or self-represented party had affixed her or his original signature to a paper copy of the document so signed. An electronic signature may be used even if the document is not served or filed electronically, e.g., where the document is printed on paper and served on other parties or filed with the court by mail or hand-delivery.
5. When a party’s signature is required on a document, an attorney representing that party may affix that party’s electronic signature to the document, provided that the party has reviewed and approved the document and expressly authorized the attorney to sign it on the party’s behalf. When the document is an affidavit that must be signed under the penalties of perjury, the party must also expressly authorize the attorney to sign it by affixing that party’s electronic signature to the document under the penalties of perjury. The attorney should print “signed w/ approval,” sign the attorney’s name, and print the attorney’s name and Board of Bar Overseers number, after the party’s electronic signature.
6. In certain cases, a self-represented party may receive remote assistance in preparing a document from a Court Service Center (CSC) staff member, or from an attorney operating through a lawyer-for-the-day program or a legal aid organization who is not otherwise representing that party (LFD lawyer). In those circumstances, the CSC staff member or LFD lawyer may affix the self-represented party’s electronic signature to the document, and serve it on other parties and/or file it with the court on behalf of the self-represented party, provided that the self-represented party has reviewed and approved the document and expressly authorized the CSC staff member or LFD lawyer to take these actions. When the document is an affidavit that must be signed under the penalties of perjury, the self-represented party must also expressly authorize the CSC staff member or LFD lawyer to sign it

by affixing that party's electronic signature to the document under the penalties of perjury. The CSC staff member should print "signed w/ approval, and prepared with the assistance of [location] CSC," listing the CSC location, after the self-represented party's electronic signature. CSCs shall maintain logs identifying each self-represented party for whom a CSC staff member has affixed that party's electronic signature on a document, the CSC staff member who did so, and the documents so signed. The LFD lawyer should print "signed w/ approval, LFD," sign the LFD lawyer's name, and print the LFD lawyer's name and Board of Bar Overseers number, after the self-represented party's electronic signature. The CSC staff member or LFD lawyer is not required to enter an appearance in order to take these steps on behalf of the self-represented party.

7. Where a self-represented party participates in mediation services offered by the Housing Court's Housing Specialist Department (HSD), a housing specialist may affix the self-represented party's electronic signature to an agreement reached or other mediation-related document, provided that the self-represented party has reviewed and approved the document or agreement and has expressly authorized the housing specialist to take such action. After the self-represented party's electronic signature has been affixed, the housing specialist should print "signed w/ approval, HSD," and sign and print the housing specialist's name.
8. If the documents to be served or filed by an attorney or self-represented party include an affidavit from a third party that must be signed under the penalties of perjury, but the person making service has been unable to secure the affiant's original handwritten signature, or a scanned or photographed copy thereof, due to constraints arising from the coronavirus pandemic, the affidavit may still be served and subsequently filed with the court if the affiant has signed the affidavit electronically. The attorney or self-represented party shall thereafter take steps to secure the affidavit bearing the affiant's original handwritten signature as soon as practicable.
9. If a party has a good faith basis to believe that an electronic signature was not authorized by the attorney, self-represented party, or other person whose signature it purports to be, a challenge may be raised promptly by way of motion. If the motion has merit, the court may, among other things, strike the challenged document and/or direct that it be served or filed again with an original handwritten signature.

This Order is effective June 11, 2020, and shall remain in effect until further order of the court.

Downloads

Updated Order Authorizing Use of Electronic Signatures by Attorneys and Self-Represented Litigants

(https://www.mass.gov/doc/updated-order-authorizing-use-of-electronic-signatures-by-attorneys-and-self-represented/download)

(PDF 213.88 KB)

UPDATES:

Issued June 10, 2020, effective June 11, 2020 (https://www.mass.gov/media/2143146/download)

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