

**SUPREME COURT OF PENNSYLVANIA
DOMESTIC RELATIONS PROCEDURAL RULES COMMITTEE**

PUBLICATION REPORT

Proposed Adoption of Pa.R.Civ.P. 1930.10

The Domestic Relations Procedural Rules Committee (Committee) is considering proposing the adoption of Pennsylvania Rule of Civil Procedure 1930.10 to permit the use of “facsimile signatures” on documents filed pursuant to Pa.R.Civ.P. 1901-1959.

The Committee has been studying whether facsimile signatures should be accepted in lieu of “wet” or pen-and-ink signatures on documents filed with the court. Preliminarily, the concept of a “wet” signature may be illustrated through reference to Pa.R.E. 902(4) and the Comment concerning the self-authentication of certified copies of public records. In relevant part, that rule states: “A certificate required by paragraph (4)(B) may include a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer’s authorization. A seal may, but need not, be raised.” Its Comment, in relevant part, states: “Pa.R.E. 902(4) differs from F.R.E. 902(4) insofar as the rule does not require the certificate to include a pen-and-ink signature or raised seal for the self-authentication of public documents.”

The Committee believes that the requirement of a “wet” signature is archaic because, in more modern practice, the entire case record may be digital and never exist in physical form. Further, with the remote practice of law or multi-office/multi-county practices, obtaining a client’s “wet” signature prior to filing causes unnecessary delay and expense when signed documents are mailed, and an unnecessary inconvenience when documents must be signed in person. Additionally, in family court matters, there is often insufficient time for the client to deliver a “wet” signed document to the attorney prior to filing.

Pa.R.Civ.P. 205.3(a) presently permits a party to file a copy of a pleading or other legal paper provided the copy shows that the original “was properly signed.” Subdivision (b) provides that the other party may require the original to be filed. Pa.R.Civ.P. 205.4(b)(3)(i), governing e-filing of documents, states that e-filing constitutes a certification by the filing party that a “hard copy” of the document, including verification, was properly signed.

Pa.R.Civ.P. 76 does not define a “signature”; rather it provides examples of what may constitute a “signature.” It is only with reference to documents produced by a court does Pa.R.Civ.P. 76 include “a handwritten signature, a copy of a handwritten signature, a computer generated signature or a signature created, transmitted, received, or stored

by electronic means, by the signer or by someone with the signer's authorization." These examples do not include documents filed with the court by parties. Therefore, originals of documents filed with the court by parties must contain a "wet" signature and, if e-filed, retained by the parties.

Pa.R.Civ.P. 1930.10 is intended to permit the use of facsimile signatures. The language is borrowed from the examples of "signature" in Pa.R.Civ.P. 76, as applied to court-generated documents. The rule would not prohibit the use of commercial applications that allow users to "sign" a document electronically because the digital artifacts indicating the date and time when a document was signed and the electronic location of the signer permit authentication.

The Committee did not believe that a "wet" signature provides a significant safeguard against forgery. If a party would be willing to forge a facsimile signature, then the party would likely be inclined to also forge a "wet" signature. *See also* 18 Pa.C.S. § 4101(b) (defining a "writing" for the offense of forgery to include digital signatures). Nor did the Committee believe that a "wet" signature provided such an assurance of attribution to warrant its continued requirement. Notwithstanding, the Committee added cautionary citations to authority in the Comment advising readers that the form of a signature is not a shield against the consequences of the improper use of a signature.

All comments, concerns, and suggestions concerning this rule proposal are welcome.