

COURTS NOT OF RECORD: VENUE, JURISDICTION AND PROCEDURE IN CIVIL MATTERS.

COURTS OF RECORD: GENERAL PROVISIONS.

Signature of judge is not required for attested copy of court order. Judge's use of his initials when entering order is valid method of signing order.

The Honorable J. Curtis Fruit
Clerk, Circuit Court of Virginia Beach
March 31, 2000

You ask whether a judge's signature must be shown on the copy of an order in order for the copy to be properly certified, or whether a certification stamp by the clerk, with the date entered, is sufficient. You also ask whether a judge may enter a court order by using the judge's initials, or whether the judge is required to sign the order using a full signature.

The answer to your first inquiry is found in a prior opinion of the Attorney General addressing the meaning of "a copy teste" of an order and whether the judge's signature is required on the copy.¹ A "copy teste" is a copy of an order bearing an attestation or certification of the clerk of court or his duly authorized deputy verifying that the instrument is a genuine copy.² The opinion concludes that "'a copy teste' is legally sufficient even though the signature of the judge does not appear on the copy."³ The opinion notes that "[t]he practice of including or excluding the judge's signature on a photocopy may vary from jurisdiction to jurisdiction" and arises from the early practice wherein "clerks of court would hand-copy orders [but] could not also copy a judge's signature."⁴ I concur in the conclusion of the opinion that the signature of the judge is not required for an attested copy.

With respect to your second inquiry, another prior opinion notes that there is no Virginia statute defining the term "signature."⁵ The opinion also notes that nothing

"restricts the meaning of 'signature' to a written name ... what constitutes a signature must largely depend upon the circumstances of each particular case, though in all cases the intent is the vital factor. Whatever symbol is employed, it must appear that it 'is intended as a signature.'"⁶

The opinion concludes that a facsimile signature by a judge is a valid method of signing judgments, orders and decrees.⁷ Similarly, it is my opinion that a judge's use of his initials when entering a court order is a valid method of signing such order.⁸

¹ See 1986-1987 Op. Va. Att'y Gen. 46.

²See *id.* at 46.

³*Id.*

⁴*Id.*

⁵1980-1981 Op. Va. Att'y Gen. 323, 324.

⁶*Id.* (quoting *Pilcher v. Pilcher*, 117 Va. 356, 365, 84 S.E. 667, 670 (1915), in which Supreme Court considered validity of will signed by testator with his initials).

⁷*Id.* at 324. *But see* 1980-1981 Op. Va. Att'y Gen. 325 (holding that in court not of record, use of facsimile signature is inadequate for entry of judgment unless initialed by judge). See Va. Code Ann. § 16.1-94.

⁸*Compare* *Stephens v. Commonwealth*, 225 Va. 224, 232, 301 S.E.2d 22, 27 (1983) (holding that entry of unsigned order is notice of judicial determination, and stating that "the fact that the trial judge did not *sign or initial* the draft of the order prepared by the deputy clerk is of no consequence" (emphasis added)). See *also* § 17.1-123 (providing that orders shall be deemed authenticated when judge's signature is shown in order or order book, or order is recorded in order book on last day of each term showing signature of each judge presiding during term).

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