GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2005

H HOUSE BILL 1434

Short Title: Electronic Signature Under Rule 4. (Public)

Sponsors: Representatives Glazier, Stiller (Primary Sponsors); and Moore.

Referred to: Judiciary IV.

	- •	
		April 21, 2005
1		A BILL TO BE ENTITLED
2	AN ACT TO AUTHO	ORIZE, FOR SERVICE OF PROCESS UPON A NATURAL
3	PERSON OR FOR	PROOF OF PERSONAL SERVICE UNDER RULE 4 OF THE
4	RULES OF CIVI	IL PROCEDURE, CERTAIN ELECTRONIC SIGNATURE
5	CONFIRMATION.	
6	•	of North Carolina enacts:
7		• G.S. 1A-1, Rule 4(j)(1) reads as rewritten:
8		al Person. – Except as provided in subsection (2) below, upon a
9	natura	al person by one of the following:
10	a.	By delivering a copy of the summons and of the complaint to
11		him or by leaving copies thereof at the defendant's dwelling
12		house or usual place of abode with some person of suitable age
13		and discretion then residing therein.
14	b.	By delivering a copy of the summons and of the complaint to an
15		agent authorized by appointment or by law to be served or to
16		accept service of process or by serving process upon such agent
17		or the party in a manner specified by any statute.
18	c.	By mailing a copy of the summons and of the complaint,
19		registered or certified mail, return receipt requested, addressed
20	J	to the party to be served, and delivering to the addressee.
21	d.	By depositing with a designated delivery service authorized
22 23		pursuant to 26 U.S.C. § 7502(f)(2) a copy of the summons and
23 24		complaint, addressed to the party to be served, delivering to the addressee, and obtaining a delivery receipt.
2 4 25	Δ	By mailing a copy of the summons and of the complaint,
26	<u>e.</u>	addressed to the party to be served, and delivering to the
27		addressee, when delivery is confirmed by electronic signature
28		confirmation, an electronic proof of service that is obtained
29		from the United States Postal Service Internet Web site, is
		india die Cinica States I obtai Scribe internet Web Site, is

maintained by the United States Postal Service, and is available by fax or mail, upon request."

SECTION 2. G.S. 1A-1, Rule 4(j2)(2) reads as rewritten:

Registered or Certified Mail-Mail, Mail when Delivery is Confirmed "(2)by Electronic Signature Confirmation, or Designated Delivery Service. - Before judgment by default may be had on service by registered or certified mail mail, by mail when delivery is confirmed by electronic signature confirmation, or by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, the serving party shall file an affidavit with the court showing proof of such service in accordance with the requirements of G.S. 1-75.10(4)G.S. 1-75.10(4), 1-75.10(6), or G.S.—1-75.10(5), as appropriate. This affidavit together with the return or delivery receipt or copy of the electronic receipt signed by the person who received the mail or delivery if not the addressee raises a presumption that the person who received the mail or delivery and signed the receipt was an agent of the addressee authorized by appointment or by law to be served or to accept service of process or was a person of suitable age and discretion residing in the addressee's dwelling house or usual place of abode. In the event the presumption described in the preceding sentence is rebutted by proof that the person who received the receipt at the addressee's dwelling house or usual place of abode was not a person of suitable age and discretion residing therein, the statute of limitation may not be pleaded as a defense if the action was initially commenced within the period of limitation and service of process is completed within 60 days from the date the service is declared invalid. Service shall be complete on the day the summons and complaint are delivered to the address."

SECTION 3. G.S. 1-75.10 is amended by adding a new subdivision to read:

- "(6) Service by Mail When Delivery is Confirmed by Electronic Signature Confirmation. In the case of service by mail when delivery is confirmed by electronic signature confirmation, by affidavit of the serving party averring all of the following:
 - a. That a copy of the summons and complaint was deposited in the post office for mailing.
 - b. That it was in fact received as confirmed by electronic signature confirmation, an electronic proof of service that is obtained from the United States Postal Service Internet Web site, is maintained by the United States Postal Service, and is available by fax or mail, upon request; and this confirmation is evidenced by the attached copy of the electronic signature or other evidence satisfactory to the court of delivery to the addressee.
 - <u>c.</u> That the copy of the electronic signature or other evidence is attached."

43

44

SECTION 4. This act becomes effective October 1, 2005, and applies to actions filed on or after that date.