

Contracts: signatures may be done by computer, email, fax!

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Sometimes there is a challenge from a customer who refuses to pay a bill that: "You can't collect from me because I didn't properly sign a contract with you." Well, first of all, not all contracts need to be in writing in the first place (millions of dollars of goods are purchased daily on phone call agreements). Further, goods received by a customer, which aren't returned timely are ACCEPTED and the deal has been RATIFIED...which makes for a valid deal even without a contract. On the other hand, perhaps you DO have a valid signed contract: only the customer (debtor) signed electronically!

Electronic signatures, such as confirming emails or click-ons ("I agree") or similar buttons are valid means of entering into contracts which are binding, and which will be upheld in court.

There are two main laws dealing with the topic of electronic signatures, the Electronic Signatures in Global and National Commerce Act (E-SIGN) and the Uniform Electronic Transactions Act (UETA).

E-Sign is a federal act enacted 10/1/2000 providing that no contract be "denied legal" effect solely because it is in electronic form. In other words, an electronic signature may be just as enforceable as a written one.

UETA is a state act enacted in 1999 to create uniformity in state laws pertaining to e-commerce. This act is very similar to E-SIGN in that it establishes that "records, signatures, and contracts may not be denied enforceability solely due to their electronic form."

The state law, UETA, is a uniform act, which, like the UCC, has been adopted in some form by most states...Michigan has adopted it.

Now, what is important is that both sides agree to the use of electronic signatures and that there be a way to prove the customer/debtor did consent....for example, client should require debtor to email back, or have a click on button "I agree" or something similar. If information is merely AVAILABLE online, that won't be adequate.

Most states also have restrictions on what contracts can be made or canceled with e-sign...for example, insurance companies still have to mail out written cancelations of policies even if the contracts to purchase insurance were done by e-sign.

There are cases at the appeal level which have upheld the validity of e-sign by email and click on agreements.

Then, there is the practical, as opposed to legal, factor: some judges aren't in the 20th Century!