

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

97 JUN -9 PM 2: 20

IN THE MATTER OF FAX NOTICING
and OF ACE ELECTRONIC FILING
(ADVANCED COURT ENGINEERING)

NO. 97-83

ADMINISTRATIVE ORDER

THIS MATTER is before the Court *sua sponte*.

WHEREAS the Clerk of Court wishes to provide consenting counsel with the opportunity to receive notice of court generated orders and judgments by facsimile;

AND

WHEREAS this Court has implemented Local Rules 5.5 and 5.6 permitting filing, notice and service by direct electronic transmission and having entered Administrative Order No. 97-26 on February 11, 1997 governing the ACE process of electronic filing;

AND

WHEREAS this Court has determined that an amendment to Administrative Order No. 97-26 governing the implementation of the ACE process is necessary to insure a consistent policy in electronic filing; **AND**

WHEREAS this Court has determined that some clarification of Local Rule 5.6 is required; **AND**

WHEREAS this Court has instituted a policy with regard to the issue of signatures of judges and of the Clerk of Court in an electronic environment;

IT IS NOW THEREFORE ORDERED as follows:

1. **Fax Noticing:** Authorization by an attorney to receive notice of entry of judgment or orders by facsimile transmission from the Court does not constitute an agreement to accept service by facsimile from opposing counsel or any other person. Facsimile notice from the Court will be considered the equivalent of notice by U.S. Mail and the three day mailing rule shall apply.

2. **ACE electronic filing:**

(a) Based upon the requirements of the ACE electronic filing system, the final two sentences of Local Rule 5.6 are modified to read as follows: ***Electronic transmission to any person who has a written request on file with the Clerk to receive service and notice by electronic transmission on the ACE system is the equivalent of service by U.S. Mail in accordance with Fed. R. Civ. 5(b) and 77(d). The filing date is that date on which an electronic document is received on the ACE server.***

(b) Administrative Order No. 97-26 (paragraph B, third sentence) is amended to read as follows: ***Upon the electronic filing of any document on the Court's ACE server, a notice of such filing is immediately placed in an electronic mailbox of all attorney/user/participants in the relevant case who have agreed to use of electronic filing. Arrival in the electronic mailbox shall constitute service of the document on those parties. Such service shall be considered the equivalent of U.S. Mail for purposes of applying the three day mailing rule of Federal Rule of Civil Procedure 6(e).***

3. **Court generated documents:** Use of an authorized login and password and attachment of a graphical signature block to any orders initiated within chambers or

in the Clerk's Office serves as the equivalent of a written signature within this electronic environment.



CHIEF UNITED STATES DISTRICT JUDGE