

E-signatures – electronic consent offers convenience, risk

By [Erica Halley Blackstock](#)

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The legality of electronic contracts and signatures was codified into law in the United States, by in large, by two statutes. First, the federal Electronic Signatures in Global and National Commerce Act (ESIGN) was enacted on June 30, 2000. Second, the Uniform Electronic Transactions Act (UETA) has been adopted by nearly all state legislatures since its publication in 1999. Both statutes ensure electronic records and signatures are just as valid as paper contracts and handwritten or “wet-ink” signatures.

Under both statutes, and much like handwritten signatures, electronic signatures are effective and binding if: (1) the electronic signature (which may be a sound, symbol or process) is attached or logically associated with a contract or record, and (2) the signatory intended to execute or adopt the record. The UETA also requires the parties to the contract to agree to accept electronic signatures.

Care should be taken when conducting business over email, however, as several courts in the U.S. have held that email signatures constitute valid electronic signatures. While accepting terms by email may provide expediency, to avoid an accidental contract, the underlying agreement should include a provision noting that agreeing to terms in an email exchange does not create a binding agreement. If no underlying contract exists, then containing a disclaimer of any intent to create a contract in your signature will suffice in most cases.

Moreover, text message signatures have been treated similarly to email signatures by the courts. If there is a manifestation of mutual accord, a judge will enforce an agreement made via text message. To avoid this, parties should be careful to stipulate otherwise in either in an underlying written contract or by text in the thread itself.

Both inadvertent and intentional email/text contracts serve as breeding ground for ambiguity and confusion. To avoid unwanted contract terms and unwanted legal bills, individuals and business owners must understand, and be sure their employees understand, the hazards of negotiating and signing electronically.

Oklahoma's UETA can be found in Title 12A, Section 15-101 *et seq.* of the Oklahoma Statutes.

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For more information on how the information in this article may impact your business, please call 405.606.4704 or [email Erica Halley Blackstock](#).



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