

**Opinion No. 39-3069**

March 27, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Hon. E. D. Trujillo, State Auditor, Santa Fe, New Mexico.

{\*28} This is in response to your recent request for an opinion from this office relative to check signing machine which you contemplate purchasing for use in your office in signing state warrants.

Section 134-601, New Mexico Statutes, Annotated, 1929 Compilation, provides that the State Auditor shall draw all warrants on the State for money.

A signature may be written by hand, or written, or stamped, or typewritten, or engraved, or photographed, or cut from one instrument and attached to another. 58 C.J. 729.

In *Costilla Estates Development Co. vs. Mascarenas*, 33 N.M. 356, the question was raised as to whether the use of a rubber stamp by the court clerk was a violation of the Code of 1915, Section 1401, which provided as follows:

"It shall be the duty of the clerk, when any paper is filed in his office, immediately to enter on the back thereof his certificate of the date on which {\*29} it was filed, in the words: Filed in my office this \_\_\_ day of \_\_\_, 19\_\_\_, and sign his name as clerk to the same."

The court held in this cause that this statute did not require the clerk to write his name; only that he sign it. It further held that generally a signature, if adopted as such, may be printed, lithographed, or typewritten as well as written.

It is my opinion that Section 134-601, New Mexico Statutes, Annotated, 1929 Compilation, which provides that the State Auditor shall draw all warrants on the State for money does not require the Auditor to write his name; only that he sign it, and further, that his signature with a check signing machine is a proper signature since I find no statute preventing the use of this type of machine.