

**JUDICIAL COUNCIL OF CALIFORNIA
ADMINISTRATIVE OFFICE OF THE COURTS**
455 Golden Gate Avenue
San Francisco, California 94102-3688

Report

TO: Members of the Judicial Council

FROM: Civil and Small Claims Advisory Committee
Hon. Elihu M. Berle, Chair
Susan R. Goins, Senior Attorney, 415-865-7990

DATE: March 24, 2005

SUBJECT: Electronic Submission of Documents to Chair of Judicial Council
(adopt Cal. Rules of Court, rule 1511.5) (Action Required)

Issue Statement

Parties to complex coordination proceedings, or cases sought to be coordinated under Code of Civil Procedure section 404 and rule 1521 of the California Rules of Court, are required to submit certain documents to the Chair of the Judicial Council. No rule currently allows parties to submit these documents electronically.

The text of the proposed rule is attached at pages 4–5.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council, effective July 1, 2005, adopt rule 1511.5 of the California Rules of Court to allow electronic submission of documents to the Chair of Judicial Council.

The text of the proposed rule is attached at pages 4-5.

Rationale for Recommendation

Rule 1511 requires that various documents, including a petition for coordination and a response in opposition to or in support of a petition for coordination, be submitted to the Chair of the Judicial Council (chair). Currently, most parties submit coordination documents by U.S. mail or private delivery service. Documents submitted to the chair are not filed. Under the direction of the chair, a coordination attorney performs administrative functions in connection with the processing of petitions, including maintaining a file for each coordination

proceeding. (Cal. Rules of Court, rule 1550.) Electronic submission of coordination documents would reduce the volume of paper submitted, simplify organizing and tracking documents, and expedite receiving and processing documents.

Adoption of the rule would permit but not require electronic submission, would inform attorneys and parties of their obligations if they choose to submit coordination documents electronically, and would establish requirements for electronic document submission. The requirements are generally modeled on rule 2050 et seq. of the California Rules of Court which governs electronic filing in the superior court. They address the responsibilities of a party submitting documents electronically, the format of documents submitted in that manner, the means of signing under penalty of perjury, and the effect of a signature on a document submitted electronically.

Alternative Actions Considered

Submission of documents in coordination proceedings to the Chair of the Judicial Council would continue without adoption of the proposed rule, as rule 1511 requires submission of certain documents to the chair. Parties have been able to submit the required documents electronically since March 2004, when the Administrative Office of the Courts established an electronic mailbox for this purpose. The rule would formalize this practice and establish requirements for electronic submission.

Comments From Interested Parties

The proposed rule was circulated for public comment between December 8, 2004, and February 4, 2005. Fourteen individuals and groups responded. Commentators included the State Bar of California Committee on Administration of Justice (CAJ) and its Standing Committee on the Delivery of Legal Services, the Orange County Bar Association, the Superior Court of Orange County Rules and Forms Committee, the Civil Supervising Judge for the Superior Court of Los Angeles County, court executive officers, court program managers and supervisors, and others. A comment chart, including the proposed committee response to comments, is attached at pages 6–9.

Commentators unanimously approved proposed rule 1511.5. Only three commentators provided narrative comments; all others responded, “Agree with proposed changes,” without further comment. The State Bar’s CAJ responded that its members experienced in electronic filing have found it to be a quick, efficient, and cost-effective way to file and lodge documents. CAJ believes the proposal will provide an effective tool to aid parties in submitting documents to the Chair of the Judicial Council, and CAJ strongly endorses the proposed rule.

A court executive officer suggested that the rule should also require that parties send electronic copies to courts handling coordination proceedings. Existing rules—rule 2050 et seq.—govern documents filed electronically in the superior court. Neither those rules nor the proposed rule requires electronic filing and submission of documents. Staff therefore recommends that electronic submission be an option, rather than a requirement.

The State Bar’s Standing Committee on the Delivery of Legal Services supports the discretionary nature of the rule, commenting, “The committee supports adoption of this rule because it is optional and not mandatory.”

In addition to the 14 commentators, the Court Technology Advisory Committee reviewed and approved the proposed rule before its circulation for public comment.

Implementation Requirements and Costs

An electronic mailbox (coordination@jud.ca.gov) has already been established. There are no other implementation requirements and no implementation costs.

Rule 1511.5 of the California Rules of Court is adopted, effective July 1, 2005, to read:

Rule 1511.5. Electronic submission of documents to Chair of Judicial Council

- (a) **[Documents that may be submitted electronically]** Any paper listed in rule 1511(a) may be submitted electronically to coordination@jud.ca.gov.

- (b) **[Responsibilities of party submitting documents electronically]** A party submitting a document electronically must:
 - (1) Take all reasonable steps to ensure that the submission does not contain computer code, including viruses, that might be harmful to the Judicial Council's electronic system and to other users of that system; and

 - (2) Furnish one or more electronic notification addresses and immediately provide any change to his or her electronic notification addresses.

- (c) **[Format of documents to be submitted electronically]** A document that is submitted electronically must meet the following requirements:
 - (1) The software for creating and reading the document must be in the public domain or generally available at a reasonable cost; and

 - (2) The printing of documents must not result in the loss of document text, format, or appearance.

- (d) **[Signature on documents under penalty of perjury]**
 - (1) When a document to be submitted electronically requires a signature under penalty of perjury, the document is deemed signed by the declarant if, before submission, the declarant has signed a printed form of the document.

 - (2) By electronically submitting the document, the party submitting it indicates that he or she has complied with subdivision (d)(1) of this

rule and that the original, signed document is available for review and copying at the request of the court or any party.

(3) At any time after the document is submitted, any other party may serve a demand for production of the original signed document. The demand must be served on all other parties but need not be filed with the court.

(4) Within five days of service of the demand, the party on whom the demand is made must make the original signed document available for review and copying by all other parties.

(e) **[Signature on documents not under penalty of perjury]** If a document does not require a signature under penalty of perjury, the document is deemed signed by the party if the document is submitted electronically.

(f) **[Digital signature]** A party is not required to use a digital signature on an electronically submitted document.

1.	Hon. Ronald L. Bauer Orange County Rules and Forms Committee Superior Court of California, County of Orange Santa Ana	A	Y	None	None
2.	Mr. Saul Bercovitch State Bar of California Committee on Administration of Justice San Francisco	A	Y	CAJ strongly endorses the proposal. CAJ members with experience in e-filing have found it to be a quick, efficient, and cost-effective way to file and lodge documents. CAJ believes this proposal will provide an effective tool to aid parties in submitting documents to the Chair of the Judicial Council and to modernize the procedures.	No response necessary.
3.	Ms. Sue DuFour Supervising Legal Clerk II Superior Court of California, County of Stanislaus Turlock	A	N	None	None
4.	José O. Guillén Executive Officer Superior Court of California, County of Imperial El Centro	A	N	The rule should also require electronic copies sent to coordination court(s).	Neither the proposed rule for electronic submission to the Chair of the Judicial Council, nor the existing rules for electronic filing in the superior court require parties to use electronic means. Additionally, some courts in which coordination documents

					must be filed (courts in which included actions originated and assigned coordination courts) may not provide for electronic filing. The committee believes that electronic submission should be optional and this rule is not intended to modify existing rules (Cal. Rules of Court, rule 2050 et seq.) for electronic filing. Therefore, the committee declines to modify the rule to require that "electronic copies [be] sent to coordination court(s)."
5.	Ms. Sharon Hoover Program Manager Superior Court of California, County of Solano Fairfield	A	N	None	None
6.	Lt. Allen Hugging Costa Mesa Police Department Costa Mesa	A	N	None	None
7.	Ms. Kathlyn Lamoure Coordinator Unified Family Court Superior Court of California, County of Yolo Woodland	A	N	None	None

8.	Hon. David W. Long Judge Superior Court of California, County of Ventura Ventura	A	N	None	None
9.	Mr. Stephen V. Love Executive Officer Superior Court of California, County of San Diego San Diego	A	N	None	None
10.	Hon. Charles W. McCoy, Jr. Supervising Judge—civil Superior Court of California, County of Los Angeles Los Angeles	A	N	None	None
11.	Ms. Sharon Ngim Staff Liaison to the Standing Committee on the Delivery of Legal Services State Bar of California San Francisco	A	Y	The committee supports adoption of this rule because it is optional and not mandatory.	No response necessary.
12.	Tina Rasnow Senior Attorney/Coordinator Superior Court of California, County of Ventura Ventura	A	N	None	None

13.	Ms. Patti Morua-Widdows Court Program Manager Superior Court of California, County of Ventura Ventura	A	N	None	None
14.	Mr. Dean J. Zipser President Orange County Bar Association Irvine	A	Y	None	None