

Judicial Council of California

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INVITATION TO COMMENT SPR17-25

Title	Action Requested
Technology: Rules Modernization Project	Review and submit comments by April 28, 2017
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Cal. Rules of Court, rules 2.250, 2.251, 2.252, 2.253, 2.254, 2.255, 2.256, 2.257, and 2.259	January 1, 2018
Proposed by	Contact
Information Technology Advisory Committee Hon. Sheila F. Hanson, Chair	Andrea Jaramillo, 916-263-0991 andrea.jaramillo@jud.ca.gov

Executive Summary and Origin

As part of the Rules Modernization Project, the Information Technology Advisory Committee recommends amending several rules related to electronic service and electronic filing found in title 2, division 3, chapter 2 of the California Rules of Court. The proposed amendments are intended to improve the organization of the rules, improve the rules' consistency with the Code of Civil Procedure, and reduce redundancies between the rules and the Code of Civil Procedure.

Background

The Information Technology Advisory Committee (ITAC) is leading the Rules Modernization Project, a multiyear effort to comprehensively review and modernize the California Rules of Court so that they will be consistent with and foster modern e-business practices. Over the past two years, ITAC has worked with other advisory committees to address language in the rules that was incompatible with existing statutes and rules governing electronic filing and service, and has also worked on more in-depth examinations of any statutes and rules that may hinder electronic filing, electronic service, and modern e-business practices. The work of the Rules Modernization Project continues this year.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

The Proposal

The proposal includes amendments that would:

- Ensure consistency and reduce redundancy between the rules and Code of Civil Procedure section 1010.6 (section 1010.6), which provides statutory authority for permissive and mandatory electronic service and filing in the courts;
- Accommodate changes to section 1010.6 and the addition of Code of Civil Procedure section 1013b (section 1013b) in legislation that the Judicial Council will be sponsoring in 2017 (effective January 1, 2018, if signed into law); and
- Make limited organizational changes to the rules to improve their logical ordering.

Ensure consistency and reduce redundancy between the rules and Judicial Council–sponsored legislation that amends section 1010.6 and adds section 1013b to the Code of Civil Procedure

In 2017, the Judicial Council will be sponsoring legislation to amend section 1010.6 and enact section 1013b in the Code of Civil Procedure. (Judicial Council of Cal., Adv. Com. Rep., *Judicial Council–Sponsored Legislation: Electronic Filing, Service, and Signatures* (Oct. 28, 2016).¹) If passed, the amendments to section 1010.6 will:

- Authorize electronic filing and service by and on persons other than parties,
- Authorize electronic signatures on electronically filed documents,
- Provide for a consistent effective date of filing across courts and case types,
- Codify the effective date of electronic service,
- Consolidate mandatory electronic filing provisions,
- Codify mandatory electronic service provisions, and
- Codify protections for self-represented persons.

If passed, section 1013b will:

- Codify the trial court rule governing proof of electronic service.

ITAC recommends amending title 2, division 3, chapter 2 of the California Rules of Court to ensure consistency and reduce redundancy between the rules and the amended and new provisions of the Code of Civil Procedure.

Add provisions related to electronic filing and service by or on a nonparty. The Judicial Council–sponsored legislation amending section 1010.6 authorizes electronic filing by and electronic service by and on “other persons” rather than just parties. (Judicial Council of Cal., Adv. Com. Rep., *supra*, at pp. 9–12.). To ensure that the trial court rules are consistent with this change, the proposal amends rules 2.250–2.253 and 2.257 to reference “other persons” in addition to parties.

¹ The legislative proposal was approved as part of the consent agenda of the Judicial Council’s December meeting. (Judicial Council of Cal., agenda (Dec. 16, 2016), <https://jcc.legistar.com/View.ashx?M=A&ID=463484&GUID=8E4B8E76-2D88-480D-843A-6576CC996914> (as of Dec. 27, 2016)).

“Other person” was intentionally not defined in section 1010.6 because comprehensively identifying those who fall in the category of “other person” who may be involved in a case without being a party would be overly complicated and variable. (Judicial Council of Cal., Adv. Com. Rep., *supra*, at pp.7–8.) However, in a few instances in the rules, the addition of “other person” without any limiting language may result in an overly broad scope or confusion. Accordingly, ITAC recommends using limiting language to provide clarity. For example, under the proposed amendment to rule 2.251(e), governing maintenance of electronic service lists, a court would need to “maintain and make available electronically to the parties or other persons in the case an electronic service list. . .” (Italics added.) This would ensure that the electronic service list does not need to be made available to all other persons in the world who might request it, but rather is limited to other persons involved in the case. In addition, under the proposed amendment to rule 2.251(f)(1), governing service by parties and other persons, “parties and other persons that have consented to or are required to serve documents electronically are responsible for electronic service on all other parties and other persons required to be served in the case.” (Italics added.) The purpose of the limiting language here is to ensure the scope of responsibility for performing electronic service is not overly broad. Even if an “other person” agreed to electronic service, there is no obligation created by electronic service rules to electronically serve that particular document on the “other person” if that person is not someone required to be served a particular document.

Add provisions for electronic signatures on electronically filed documents. The Judicial Council–sponsored legislation amending section 1010.6 authorizes the use of electronic signatures on electronically filed documents signed under penalty of perjury. (Judicial Council of Cal., Adv. Com. Rep., *supra*, at pp. 2–3, 10–11.) To remain consistent with section 1010.6, the proposal amends rule 2.257, governing requirements for signatures on documents, to include a provision for electronic signatures.

Section 1010.6 leaves the creation of specific procedures, standards, or guidelines under the authority of the Judicial Council. ITAC recommends including an advisory committee comment to explain that the guidelines will be contained in the *Trial Court Records Manual*. The Court Executives Advisory Committee will be developing the standards.

Eliminate references to “close of business” and “regular filing hours” for effective date of electronic filing and service. The Judicial Council–sponsored legislation amending section 1010.6 establishes a consistent effective date of filing and service across courts and case types. (Judicial Council of Cal., Adv. Com. Rep., *supra*, at pp. 3–4, 10–11.) Under the legislation, documents received electronically by a court between 12:00 a.m. and 11:59:59 p.m. on a court day are deemed filed on that court day. (*Id.* at p. 11.) Similarly, documents served electronically between 12:00 a.m. and 11:59:59 p.m. on a court day are deemed served on that court day. (*Id.* at p. 10.) To remain consistent with section 1010.6, the proposal eliminates the definition of “close of business” under rule 2.250(b)(10), governing definitions. In addition, the proposal eliminates references to close of business in rule 2.251, which relates to electronic service, and rules 2.253

and 2.259, which relate to electronic filing. Finally, the proposal eliminates the definition of and references to “regular filing hours” found in rules 2.250(b)(9), 2.254(b), and 2.259(d).

Eliminate mandatory electronic filing and service fee provisions that will become redundant.

The Judicial Council–sponsored legislation amending section 1010.6 strikes the provision that authorizes a mandatory electronic filing and service pilot project in the Superior Court of Orange County and replaces it with language authorizing mandatory electronic filing and service by local rule in any court. (Judicial Council of Cal., Adv. Com. Rep., *supra*, at pp. 4, 11.) The fee provisions in rule 2.253(b)(5)–(6) will be duplicative of section 1010.6 and are largely eliminated in favor of a succinct provision that any fees charged by a court or electronic filing service provider shall be consistent with section 1010.6.

Eliminate provisions governing proof of electronic service that will become redundant. The Judicial Council–sponsored legislation adds section 1013b to the Code of Civil Procedure, which will codify proof of electronic service requirements that had previously been addressed only in the California Rules of Court. (Judicial Council of Cal., Adv. Com. Rep., *supra*, at pp. 6–7, 13.) Most of the language in section 1013b is taken directly from rule 2.251(i) (relettered (j) in the proposal). Because section 1013b will fill the statutory gap that the rule had been filling, the proposal eliminates provisions that are duplicative of section 1013b.

Ensure consistency, reduce redundancy, and improve clarity between the rules internally, and between the rules and section 1010.6, irrespective of Judicial Council–sponsored legislation

Regardless of whether the Judicial Council–sponsored legislation amending section 1010.6 is passed this year, there are areas of the rules where amendments can improve internal consistency and clarity as well as reduce redundancy with existing provisions of section 1010.6.

Clarify that issuances by a court can fall within the definition of “document.” Section 1010.6(a)(3) allows the court to electronically serve “any document issued by the court.” However, Section 1010.6 does not define “document.” Rather, rule 2.250(b) provides a definition but currently does not include any documents issued by a court within its scope. The proposal adds that a notice, order, judgment, or other issuance by the court is included in the definition of “document.”

Reorganize rules on electronic filing and electronic service required by court order. Section 1010.6(c) authorizes courts to require parties to file and serve documents electronically by court order in certain types of cases. Under the rules, both electronic filing and electronic service required by court order are addressed in rule 2.253(c). However, the heading of rule 2.253, “Permissive electronic filing, mandatory electronic filing, and electronic filing by court order,” indicates that only electronic filing is within its scope. Rule 2.251, “Electronic service,” includes some provisions for electronic service by court order but is not comprehensive, as additional provisions are located in rule 2.253. To resolve this inconsistency and improve clarity, the

proposal adds a new subdivision (d) to rule 2.251 concerning electronic service by court order. In addition, the scope of subdivision (c) of rule 2.253 is narrowed to encompass only electronic filing by court order to keep it topically consistent with the rest of the rule.

Eliminate rule provisions that are duplicative of section 1010.6. Owing to the historical development of the rules and section 1010.6 (with the rules sometimes preceding the statutes in addressing electronic filing and electronic service), duplicative provisions exist between the two. The proposal eliminates some rule provisions that duplicate those in section 1010.6. The benefit of eliminating redundant provisions is that the Judicial Council will not need to make rule amendments to replicate changes to section 1010.6. In turn, this will reduce the risk of the rules and section 1010.6 becoming inconsistent with one another.

Specifically, the proposal eliminates provisions for the extension of time associated with electronic service under rule 2.251(h) (relettered (i) under the proposal) as those provisions merely duplicate section 1010.6(a)(4)(A). The proposal also eliminates those provisions in rule 2.252(c)(1) on the legal effect of documents filed electronically that duplicate those in section 1010.6(b)(1).

The proposal does not eliminate the definitions of “electronic service,” “electronic transmission,” and “electronic notification” that are the same as those in section 1010.6. Rule 2.250(b) provides a more comprehensive scheme of definitions than does section 1010.6 and includes terms that are undefined in that section (e.g., the term “document”). However, ITAC requests specific comments on whether to retain the terms and definitions that are duplicative of those in section 1010.6.

Amend fee provisions to be more consistent with section 1010.6. Rule 2.255 provides for contracting between the courts and electronic filing service providers (EFSPs). Rule 2.255(b) allows permissible provisions of any such contract to include “reasonable fees” charged by an EFSP and “reasonable requirements” imposed by the EFSP for users to access the electronic filing system. The proposal splits rule 2.255(b) into two subdivisions: (b)(1) contains the same permissive language that existed in the rule previously, and (b)(2) includes a new mandatory provision that the contract must comply with the requirements of section 1010.6. The proposal will help avoid any gaps between what a contract may provide and what it must provide. Effective January 1, 2017, any fees an EFSP charges for processing a payment for filing fees and other court fees “shall not exceed the costs incurred for processing the payment.” (§ 1010.6(b)(7).) Existing rule 2.255(b) does not take this specific requirement into account. Retaining the permissive language in the proposal continues to allow “reasonable fees” to be charged and for providers to make “reasonable requirements,” but adding in the mandatory piece places a limit. The mandatory piece refers back to section 1010.6 generally, rather than duplicating specific language such as the new limit on fees for processing a payment in section 1010.6(b)(7). This is to avoid redundancy with existing section 1010.6, and inconsistency with amendments to section 1010.6 that the Legislature may make in the future.

Finally, rule 2.252, which provides general rules for electronic filing, includes permissive language on whether a court permits applications for fee waivers in proceedings in which the court accepts electronic filings. Under rule 2.252(f), a court “may” permit the application to be filed electronically. This is inconsistent with section 1010.6(b)(6), which states, “The court *shall* permit a party or attorney to file an application for waiver of court fees and costs, in lieu of requiring the payment of the filing fee, *as part of the process involving the electronic filing of a document.*” (Italics added.) Accordingly, the proposal amends rule 2.252(f) to reflect section 1010(b)(6)’s requirement that courts to allow the application for fee waiver to be filed electronically in any proceeding in which the court accepts electronic filings.

Clarify responsibilities of electronic filers. Rule 2.256 governs the responsibilities of electronic filers. Under the existing rules, as a condition of electronic filing, an electronic filer must “[f]urnish one or more electronic service addresses, in the manner specified by the court, at which the electronic filer agrees to accept service.” (Rule 2.256(a)(4).) The proposal strikes the phrase “at which the electronic filer agrees to accept electronic service” because, by definition, an electronic service address *is* an electronic address through which one has authorized electronic service. (Rule 2.250(b)(5) [defining “electronic service address”].)

In addition, the proposal adds the following limitation to rule 2.256(a)(4): “This only applies when the electronic filer has consented to or is required to accept electronic service.” Under rule 2.251(b)(1)(B), the act of electronically filing a document acts as consent to receive electronic service except with self-represented parties, who must affirmatively consent to receive electronic service. Accordingly, a self-represented party may be an electronic filer but may not have the responsibility to provide an electronic service address because he or she has not affirmatively consented to receive electronic service. Accordingly, the rule amendment is intended to clarify which electronic filers have the responsibility to furnish an electronic service address. Similarly, under rule 2.256(a)(5), an electronic filer must “[i]mmediately provide the court and all parties with any change to the electronic filer’s electronic service address.” The proposal adds that “[t]his only applies when the electronic filer has consented to or is required to accept electronic service” to clarify the scope of electronic filers that must provide such notice.

Alternatives Considered

If the Judicial Council–sponsored legislation on electronic filing and electronic service is enacted in 2017, the committee believes many of the proposed rule changes will be necessary to avoid inconsistency. Other changes, though not strictly necessary, would improve and clarify the rules. Hence, alternatives to the proposed changes were not considered appropriate.

Implementation Requirements, Costs, and Operational Impacts

The advisory committee expects that the rule proposal will provide greater clarity in the rules for parties, attorneys, courts, and other court users, and improved consistency between the rules and the Code of Civil Procedure.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

Section 1010.6 and rule 2.250(b) contain definitions of “electronic service,” “electronic transmission,” and “electronic notification.” The rule 2.250(b) definitions mirror the section 1010.6 definitions, but the rule provides a more comprehensive scheme of definitions than does section 1010.6. The advisory committee retained the duplicative definitions to preserve this comprehensive scheme.

With respect to the definitions of “electronic service,” “electronic transmission,” and “electronic notification” in rule 2.250(b), the advisory committee seeks comments on whether it should:

- Continue to include the terms and their definitions in the rules;
- Eliminate the terms and their definitions;
- Retain the terms, but refer back to section 1010.6 for the definitions (e.g., “‘Electronic service’ has the same meaning as defined in Code of Civil Procedure section 1010.6”); or
- Modify the definitions in some other way.

Attachments and Links

1. Proposed amendments to Cal. Rules of Court, rules 2.250, 2.251, 2.252, 2.253, 2.254, 2.255, 2.256, 2.257, and 2.259, at pages 8–27.

Rules 2.250, 2.251, 2.252, 2.253, 2.254, 2.255, 2.256, 2.257, and 2.259 of the California Rules of Court would be amended, effective January 1, 2018, to read:

1 **Rule 2.250. Construction and definitions**

2
3 (a) * * *

4
5 (b) **Definitions**

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7 As used in this chapter, unless the context otherwise requires:

- 8
9 (1) A “document” is a pleading, a paper, a declaration, an exhibit, or another
10 filing submitted by a party or other person, or by an agent of a party or other
11 person on the party’s or other person’s behalf. A document is also a notice,
12 order, judgment, or other issuance by the court. A document may be in paper
13 or electronic form.
14
15 (2) “Electronic service” is service of a document on a party or other person by
16 either electronic transmission or electronic notification. Electronic service
17 may be performed directly by a party or other person, by an agent of a party
18 or other person, including the party’s or other person’s attorney, through an
19 electronic filing service provider, or by a court.
20
21 (3) “Electronic transmission” means the transmission of a document by
22 electronic means to the electronic service address at or through which a party
23 or other person has authorized electronic service.
24
25 (4) “Electronic notification” means the notification of a party or other person that
26 a document is served by sending an electronic message to the electronic
27 service address at or through which the party or other person has authorized
28 electronic service, specifying the exact name of the document served and
29 providing a hyperlink at which the served document can be viewed and
30 downloaded.
31
32 (5) “Electronic service address” ~~of a party~~ means the electronic address at or
33 through which the party or other person has authorized electronic service.
34
35 (6) An “electronic filer” is a party or other person filing a document in electronic
36 form directly with the court, by an agent, or through an electronic filing
37 service provider.
38
39 (7) “Electronic filing” is the electronic transmission to a court of a document in
40 electronic form. For the purposes of this chapter, this definition concerns the
41 activity of filing and does not include the processing and review of the
42 document, and its entry into the court records, which are necessary for a
43 document to be officially filed.

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(8) An “electronic filing service provider” is a person or entity that receives an electronic filing from a party or other person for retransmission to the court or for electronic service on other parties or persons, or both. In submission of filings, the electronic filing service provider does so on behalf of the electronic filer and not as an agent of the court.

~~(9) “Regular filing hours” are the hours during which a court accepts documents for filing at its filing counter.~~

~~(10) “Close of business” is 5 p.m. or any other time on a court day at which the court stops accepting documents for filing at its filing counter, whichever is earlier. The court must provide notice of its close of business time electronically. The court may give this notice in any additional manner it deems appropriate.~~

Advisory Committee Comment

The definition of “electronic service” has been amended to provide that a party may effectuate service not only by the electronic transmission of a document, but also by providing electronic notification of where a document served electronically may be located and downloaded. This amendment is intended to modify the rules on electronic service to expressly authorize electronic notification as a legally effective alternative means of service to electronic transmission. This rules amendment is consistent with the amendment of Code of Civil Procedure section 1010.6, effective January 1, 2011, to authorize service by electronic notification. (See Stats. 2010, ch. 156 (Sen. Bill 1274).) The amendments change the law on electronic service as understood by the appellate court in *Insyst, Ltd. v. Applied Materials, Inc.* (2009) 170 Cal.App.4th 1129, which interpreted the rules as authorizing electronic transmission as the only effective means of electronic service.

Rule 2.251. Electronic service

(a) Authorization for electronic service

When a document may be served by mail, express mail, overnight delivery, or fax transmission, the document may be served electronically under Code of Civil Procedure section 1010.6 and the rules in this chapter.

(b) Electronic service by consent of the parties

(1) Electronic service may be established by consent ~~of the parties in an action~~. A party or other person indicates that the party or other person agrees to accept electronic service by:

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(A) Serving a notice on all parties or other persons that the party or other person accepts electronic service and filing the notice with the court. The notice must include the electronic service address at which the party or other person agrees to accept service; or

(B) Electronically filing any document with the court. The act of electronic filing is evidence that the party or other person agrees to accept service at the electronic service address the party or other person has furnished to the court under rule 2.256(a)(4). This subparagraph (B) does not apply to self-represented parties or other self-represented persons; they must affirmatively consent to electronic service under subparagraph (A).

(2) A party or other person that has consented to electronic service under (1) and has used an electronic filing service provider to serve and file documents in a case consents to service on that electronic filing service provider as the designated agent for service for the party or other person in the case, until such time as the party or other person designates a different agent for service.

(c) Electronic service required by local rule or court order

(1) A court may require parties to serve documents electronically in specified actions by local rule or court order, as provided in Code of Civil Procedure section 1010.6 and the rules in this chapter.

(2) A court may require other persons to serve documents electronically in specified actions by local rule, as provided in Code of Civil Procedure section 1010.6 and the rules in this chapter.

~~(3)~~(2) Except when personal service is otherwise required by statute or rule, a party or other person that is required to file documents electronically in an action must also serve documents and accept service of documents electronically from all other parties or persons, unless:

(A) The court orders otherwise, or

(B) The action includes parties or persons that are not required to file or serve documents electronically, including self-represented parties or other self-represented persons; those parties or other persons are to be served by non-electronic methods unless they affirmatively consent to electronic service.

1 (4)(3)Each party or other person that is required to serve and accept service of
2 documents electronically must provide all other parties or other persons in the
3 action with its electronic service address and must promptly notify all other
4 parties, other persons, and the court of any changes under ~~(f)~~(g).

5
6 **(d) Additional provisions for electronic service required by court order**

7
8 (1) If a court has adopted local rules for permissive electronic filing, then the court
9 may, on the motion of any party or on its own motion, provided that the order
10 would not cause undue hardship or significant prejudice to any party, order all
11 parties in any class action, a consolidated action, a group of actions, a
12 coordinated action, or an action that is complex under rule 3.403 to serve all
13 documents electronically, except when personal service is required by statute or
14 rule.

15
16 (2) A court may combine an order for mandatory electronic service with an order
17 for mandatory electronic filing as provided in rule 2.253(c).

18
19 (3) If the court proposes to make any order under (1) on its own motion, the court
20 must mail notice to any parties that have not consented to receive electronic
21 service. The court may electronically serve the notice on any party that has
22 consented to receive electronic service. Any party may serve and file an
23 opposition within 10 days after notice is mailed, electronically served, or such
24 later time as the court may specify.

25
26 (4) If the court has previously ordered parties in a case to electronically serve
27 documents and a new party is added that the court determines should also be
28 ordered to do so under (1), the court may follow the notice procedures under (2)
29 or may order the party to electronically serve documents and in its order state
30 that the new party may object within 10 days after service of the order or by
31 such later time as the court may specify.

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33 **~~(d)~~(e) Maintenance of electronic service lists**

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35 A court that permits or requires electronic filing in a case must maintain and make
36 available electronically to the parties or other persons in the case an electronic
37 service list that contains the parties' or other persons' current electronic service
38 addresses, as provided by the parties or other persons that have filed electronically
39 in the case.
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1 **~~(e)~~(f) Service by the parties and other persons**

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3 (1) Notwithstanding ~~(d)~~(e), parties and other persons that have consented to or
4 are required to serve documents electronically are responsible for electronic
5 service on all other parties and other persons required to be served in the
6 case. A party or other person may serve documents electronically directly, by
7 an agent, or through a designated electronic filing service provider.

8
9 (2) A document may not be electronically served on a nonparty unless the
10 nonparty consents to electronic service or electronic service is otherwise
11 provided for by law or court order.

12
13 **~~(f)~~(g) Change of electronic service address**

14
15 (1) A party or other person whose electronic service address changes while the
16 action or proceeding is pending must promptly file a notice of change of
17 address electronically with the court and must serve this notice electronically
18 on all other parties and all other persons required to be served.

19
20 (2) A party's or other person's election to contract with an electronic filing
21 service provider to electronically file and serve documents or to receive
22 electronic service of documents on the party's or other person's behalf does
23 not relieve the party or other person of its duties under (1).

24
25 (3) An electronic service address is presumed valid for a party or other person if
26 the party or other person files electronic documents with the court from that
27 address and has not filed and served notice that the address is no longer valid.

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31 **~~(g)~~(h) Reliability and integrity of documents served by electronic notification**

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33 A party or other person that serves a document by means of electronic notification
34 must:

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36 (1) Ensure that the documents served can be viewed and downloaded using the
37 hyperlink provided;
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39 (2) Preserve the document served without any change, alteration, or modification
40 from the time the document is posted until the time the hyperlink is
41 terminated; and
42
43 (3) Maintain the hyperlink until either:

- 1
2 (A) All parties in the case have settled or the case has ended and the time
3 for appeals has expired; or
4
5 (B) If the party or other person is no longer in the case, the party or other
6 person has provided notice to all other parties and other persons
7 required to receive notice that it is no longer in the case and that they
8 have 60 days to download any documents, and 60 days have passed
9 after the notice was given.

10
11 **(h)(i) When service is complete**

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13 (1) Electronic service of a document is complete ~~at the time of the electronic~~
14 ~~transmission of the document or at the time that the electronic notification of~~
15 ~~service of the document is sent.~~ as provided for under Code of Civil
16 Procedure section 1010.6 and the rules in this chapter.
17
18 (2) If an electronic filing service provider is used for service, the service is
19 complete at the time that the electronic filing service provider electronically
20 transmits the document or sends electronic notification of service.
21
22 ~~(2) — If a document is served electronically, any period of notice, or any right or~~
23 ~~duty to act or respond within a specified period or on a date certain after~~
24 ~~service of the document, is extended by two court days, unless otherwise~~
25 ~~provided by a statute or a rule.~~
26
27 ~~(3) — The extension under (2) does not extend the time for filing:~~
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29 ~~(A) — A notice of intent to move for a new trial;~~
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31 ~~(B) — A notice of intent to move to vacate the judgment under Code of Civil~~
32 ~~Procedure section 663a; or~~
33
34 ~~(C) — A notice of appeal.~~
35
36 ~~(4) — Service that occurs after the close of business is deemed to have occurred on~~
37 ~~the next court day.~~

38
39 **(i)(i) Proof of service**

- 40
41 (1) Proof of electronic service ~~may be by any of the methods~~ shall be made as
42 provided in Code of Civil Procedure section 1013b, 1013a, with the
43 following exceptions:

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2 (A) ~~The proof of electronic service does not need to state that the person~~
3 ~~making the service is not a party to the case.~~

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5 (B) ~~The proof of electronic service must state:~~

6
7 (i) ~~The electronic service address of the person making the service, in~~
8 ~~addition to that person's residence or business address;~~

9
10 (ii) ~~The date of the electronic service, instead of the date and place of~~
11 ~~deposit in the mail;~~

12
13 (iii) ~~The name and electronic service address of the person served, in~~
14 ~~place of that person's name and address as shown on the~~
15 ~~envelope; and~~

16
17 (iv) ~~That the document was served electronically, in place of the~~
18 ~~statement that the envelope was sealed and deposited in the mail~~
19 ~~with postage fully prepaid.~~

20
21 (2) ~~Proof of electronic service may be in electronic form and may be filed~~
22 ~~electronically with the court.~~

23
24 ~~(3)~~(2) Under rule 3.1300(c), proof of electronic service of the moving papers must
25 be filed at least five court days before the hearing.

26
27 ~~(4)~~(3) The party filing the proof of electronic service must maintain the printed
28 form of the document bearing the declarant's original signature and must
29 make the document available for inspection and copying on the request of the
30 court or any party to the action or proceeding in which it is filed, in the
31 manner provided in rule 2.257(a). If a person signs a printed form of a proof
32 of electronic service, the party or other person filing the proof of electronic
33 service must comply with the provisions of rule 257(a).

34
35 ~~(j)~~(k) **Electronic service by or on court**

36
37 (1) The court may electronically serve documents any notice, order, judgment, or
38 other document issued by the court in the same manner that parties may serve
39 documents by electronic service. as provided for under Code of Civil
40 Procedure section 1010.6 and the rules in this chapter.
41

- 1 (2) A document may be electronically served on a court if the court consents to
2 electronic service or electronic service is otherwise provided for by law or
3 court order. A court indicates that it agrees to accept electronic service by:
4
- 5 (A) Serving a notice on all parties and other persons in the case that the
6 court accepts electronic service. The notice must include the electronic
7 service address at which the court agrees to accept service; or
8
- 9 (B) Adopting a local rule stating that the court accepts electronic service.
10 The rule must indicate where to obtain the electronic service address at
11 which the court agrees to accept service.
12

13 **Advisory Committee Comment**
14

15 **Subdivisions (c)–(d).** Court-ordered electronic service is not subject to the provisions in Code of
16 Civil Procedure section 1010.6 requiring that, where mandatory electronic filing and service are
17 established by local rule, the court and the parties must have access to more than one electronic
18 filing service provider.
19

20 **Rule 2.252. General rules on electronic filing of documents**
21

22 **(a) In general**
23

24 A court may provide for electronic filing of documents in actions and proceedings
25 as provided under Code of Civil Procedure section 1010.6 and the rules in this
26 chapter.
27

28 **(b) Direct and indirect electronic filing**
29

30 Except as otherwise provided by law, a court may provide for the electronic filing
31 of documents directly with the court, indirectly through one or more approved
32 electronic filing service providers, or through a combination of direct and indirect
33 means.
34

35 **(c) ~~Effect of document filed electronically~~ No effect on filing deadline**
36

37 ~~(1) A document that the court or a party files electronically under the rules in this~~
38 ~~chapter has the same legal effect as a document in paper form.~~
39

40 ~~(2) Filing a document electronically does not alter any filing deadline.~~
41

1 **(d) Filing in paper form**

2
3 When it is not feasible for a party or other person to convert a document to
4 electronic form by scanning, imaging, or another means, a court may allow that
5 party or other person to file the document in paper form.
6

7 **(e) Original documents**

8
9 In a proceeding that requires the filing of an original document, an electronic filer
10 may file an electronic copy of a document if the original document is then filed
11 with the court within 10 calendar days.
12

13 **(f) Application for waiver of court fees and costs**

14
15 The court ~~may~~ must permit electronic filing of an application for waiver of court
16 fees and costs in any proceeding in which the court accepts electronic filings.
17

18 **(g) Orders and judgments**

19
20 The court may electronically file any notice, order, minute order, judgment, or
21 other document prepared by the court.
22

23 **(h) Proposed orders**

24
25 Proposed orders may be filed and submitted electronically as provided in rule
26 3.1312.
27

28 **Rule 2.253. Permissive electronic filing, mandatory electronic filing, and electronic**
29 **filing by court order**

30
31 **(a) Permissive electronic filing by local rule**

32
33 A court may permit parties by local rule to file documents electronically in any
34 types of cases, ~~directly or through approved electronic service providers~~, subject to
35 the conditions in Code of Civil Procedure section 1010.6 and the rules in this
36 chapter.
37

38 **(b) Mandatory electronic filing by local rule**

39
40 A court may require parties by local rule to electronically file documents in civil
41 actions directly with the court, or directly with the court and through one or more
42 approved electronic filing service providers, or through more than one approved

1 electronic filing service provider, subject to the conditions in Code of Civil
2 Procedure section 1010.6, the rules in this chapter, and the following conditions:

- 3
- 4 (1) The court must specify the types or categories of civil actions in which
5 parties or other persons are required to file and serve documents
6 electronically. The court may designate any of the following as eligible for
7 mandatory electronic filing and service:
8
- 9 (A) All civil cases;
- 10
- 11 (B) All civil cases of a specific category, such as unlimited or limited civil
12 cases;
- 13
- 14 (C) All civil cases of a specific case type, including but not limited to,
15 contract, collections, personal injury, or employment;
- 16
- 17 (D) All civil cases assigned to a judge for all purposes;
- 18
- 19 (E) All civil cases assigned to a specific department, courtroom or
20 courthouse;
- 21
- 22 (F) Any class actions, consolidated actions, or group of actions,
23 coordinated actions, or actions that are complex under rule 3.403; or
24
- 25 (G) Any combination of the cases described in subparagraphs (A) to (F),
26 inclusive.
- 27
- 28 (2) Self-represented parties or other self-represented persons are exempt from
29 any mandatory electronic filing and service requirements adopted by courts
30 under this rule and Code of Civil Procedure section 1010.6.
- 31
- 32 (3) In civil cases involving both represented and self-represented parties or other
33 persons, represented parties or other persons may be required to file and serve
34 documents electronically; however, in these cases, each self-represented
35 party or other person is to file, serve, and be served with documents by non-
36 electronic means unless the self-represented party or other person
37 affirmatively agrees otherwise.
- 38
- 39 (4) A party or other person that is required to file and serve documents
40 electronically must be excused from the requirements if the party or other
41 person shows undue hardship or significant prejudice. A court requiring the
42 electronic filing and service of documents must have a process for parties or
43 other persons, including represented parties or other represented persons, to

1 apply for relief and a procedure for parties or other persons excused from
2 filing documents electronically to file them by conventional means.

3
4 (5) Any fees charged by the court or an electronic filing service provider shall be
5 consistent with the fee provisions of Code of Civil Procedure section 1010.6.
6 ~~for no more than the cost actually incurred by the court in providing for the~~
7 ~~electronic filing and service of the documents. Any fees charged by an~~
8 ~~electronic filing service provider shall be reasonable.~~

9
10 ~~(6) Any fees for electronic filing charged by the court or by an electronic filing~~
11 ~~service provider must be waived when deemed appropriate by the court,~~
12 ~~including providing a waiver of the fees for any party that has received a fee~~
13 ~~waiver.~~

14
15 ~~(7)(6) Any document required to be electronically filed with the court under this~~
16 ~~subdivision that is received electronically after the close of business on any~~
17 ~~day is deemed to have been filed on the next court day, unless by local rule~~
18 ~~the court provides that any document required to be electronically filed with~~
19 ~~the court under this subdivision that is received electronically before~~
20 ~~midnight on a court day is deemed to have been filed on that court day, and~~
21 ~~any document received electronically after midnight is deemed filed on the~~
22 ~~next court day. The effective date of filing any document received~~
23 ~~electronically is prescribed by Code of Civil Procedure section 1010.6. This~~
24 ~~paragraph provision~~ concerns only the effective date of filing. Any document
25 that is received electronically must be processed and satisfy all other legal
26 filing requirements to be filed as an official court record.

27
28 ~~(8)(7)~~ A court that adopts a mandatory electronic filing program under this
29 subdivision must report semiannually to the Judicial Council on the operation
30 and effectiveness of the court's program.

31
32 **(c) Electronic filing and service required by court order**

33
34 (1) If a court has adopted local rules for permissive electronic filing, then ~~The~~ the
35 court may, on the motion of any party or on its own motion, provided that the
36 order would not cause undue hardship or significant prejudice to any party,
37 order all parties in any class action, a consolidated action, a group of actions,
38 a coordinated action, or an action that is complex under rule 3.403 to:

39
40 (A) ~~Serve all documents electronically, except when personal service is~~
41 ~~required by statute or rule;~~

42
43 (B) ~~File~~ file all documents electronically; ~~or~~

1
2 (C) ~~Serve and file all documents electronically, except when personal~~
3 ~~service is required by statute or rule.~~
4

5 (2) A court may combine an order for mandatory electronic filing with an order for
6 mandatory electronic service as provided in rule 2.252(d).
7

8 (3)(2) If the court proposes to make any order under (1) on its own motion, the
9 court must mail notice to ~~the~~ any parties that have not consented to receive
10 electronic service. The court may electronically serve the notice on any party
11 that has consented to receive electronic service. Any party may serve and file
12 an opposition within 10 days after notice is mailed, electronically served, or
13 such later time as the court may specify.
14

15 (4)(3) If the court has previously ordered parties in a case to electronically ~~serve or~~
16 file documents and a new party is added that the court determines should also
17 be ordered to do so under (1), the court may follow the notice procedures
18 under (2) or may order the party to electronically ~~serve or~~ file documents and
19 in its order state that the new party may object within 10 days after service of
20 the order or by such later time as the court may specify.
21

22 (5)(4) The court's order may also provide that:
23

- 24 (A) Documents previously filed in paper form may be resubmitted in
25 electronic form; and
26
27 (B) When the court sends confirmation of filing to all parties, receipt of the
28 confirmation constitutes service of the filing if the filed document is
29 available electronically.
30

31 **Advisory Committee Comment** 32

33 **Subdivision (b)(1).** This subdivision allows courts to institute mandatory electronic filing and
34 service in any type of civil case for which the court determines that mandatory electronic filing is
35 appropriate. The scope of this authorization is meant to be broad. It will enable courts to
36 implement mandatory electronic filing in a flexible yet expansive manner. However, in initiating
37 mandatory electronic filing, courts should take into account the fact that some civil case types
38 may be easier and more cost-effective to implement at the outset while other types may require
39 special procedures or other considerations (such as the need to preserve the confidentiality of
40 filed records) that may make them less appropriate for inclusion in initial mandatory e-filing
41 efforts.
42

1 **Subdivision (b)(2).** Although this rule exempts self-represented parties from any mandatory
2 electronic filing and service requirements, these parties are encouraged to participate voluntarily
3 in electronic filing and service. To the extent feasible, courts and other entities should assist self-
4 represented parties to electronically file and serve documents.

5
6 **Subdivision (c).** Court-ordered electronic filing ~~and service~~ under this subdivision ~~are~~ is not
7 subject to the provisions in (b) and Code of Civil Procedure section 1010.6 requiring that, where
8 mandatory electronic filing and service are established by local rule, the court and the parties
9 must have access to more than one electronic filing service provider.

10 11 **Rule 2.254. Responsibilities of court**

12 13 **(a) Publication of electronic filing requirements**

14
15 Each court that permits or mandates electronic filing must publish, in both
16 electronic and print formats, the court's electronic filing requirements.

17 18 **(b) Problems with electronic filing**

19
20 If the court is aware of a problem that impedes or precludes electronic filing ~~during~~
21 ~~the court's regular filing hours~~, it must promptly take reasonable steps to provide
22 notice of the problem.

23 24 **(c) Public access to electronically filed documents**

25
26 Except as provided in rules 2.250–2.259 and 2.500–2.506, an electronically filed
27 document is a public document at the time it is filed unless it is sealed under rule
28 2.551(b) or made confidential by law.

29 30 **Rule 2.255. Contracts with electronic filing service providers**

31 32 **(a) Right to contract**

- 33
- 34 (1) A court may contract with one or more electronic filing service providers to
35 furnish and maintain an electronic filing system for the court.
 - 36
 - 37 (2) If the court contracts with an electronic filing service provider, it may require
38 electronic filers to transmit the documents to the provider.
 - 39
 - 40 (3) If the court contracts with an electronic service provider or the court has an
41 in-house system, the provider or system must accept filing from other
42 electronic filing service providers to the extent the provider or system is
43 compatible with them.

1
2 **(b) Provisions of contract**

3
4 ~~The court's contract with an electronic filing service provider may allow the~~
5 ~~provider to charge electronic filers a reasonable fee in addition to the court's filing~~
6 ~~fee. The contract may also allow the electronic filing service provider to make other~~
7 ~~reasonable requirements for use of the electronic filing system.~~
8

9 (1) The court's contract with an electronic filing service provider may:

10
11 (a) Allow the provider to charge electronic filers a reasonable fee in addition to
12 the court's filing fee;

13
14 (b) Allow the provider to make other reasonable requirements for use of the
15 electronic filing system.

16
17 (2) The court's contract with an electronic filing service provider must comply with
18 requirements of Code of Civil Procedure section 1010.6.

19
20 **(c) Transmission of filing to court**

21
22 An electronic filing service provider must promptly transmit any electronic filing
23 and any applicable filing fee to the court.
24

25 **(d) Confirmation of receipt and filing of document**

26
27 (1) An electronic filing service provider must promptly send to an electronic filer
28 its confirmation of the receipt of any document that the filer has transmitted
29 to the provider for filing with the court.
30

31 (2) The electronic filing service provider must send its confirmation to the filer's
32 electronic service address and must indicate the date and time of receipt, in
33 accordance with rule 2.259(a).
34

35 (3) After reviewing the documents, the court must promptly transmit to the
36 electronic filing service provider and the electronic filer the court's
37 confirmation of filing or notice of rejection of filing, in accordance with rule
38 2.259.
39

1 (e) **Ownership of information**

2
3 All contracts between the court and electronic filing service providers must
4 acknowledge that the court is the owner of the contents of the filing system and has
5 the exclusive right to control the system's use.
6

7 **Rule 2.256. Responsibilities of electronic filer**

8
9 (a) **Conditions of filing**

10 Each electronic filer must:

- 11
12
13 (1) Comply with any court requirements designed to ensure the integrity of
14 electronic filing and to protect sensitive personal information;
15
16 (2) Furnish information the court requires for case processing;
17
18 (3) Take all reasonable steps to ensure that the filing does not contain computer
19 code, including viruses, that might be harmful to the court's electronic filing
20 system and to other users of that system;
21
22 (4) Furnish one or more electronic service addresses; in the manner specified by
23 the court, ~~at which the electronic filer agrees to accept service.~~ This only
24 applies when the electronic filer has consented to or is required to accept
25 electronic service;
26
27 (5) Immediately provide the court and all parties with any change to the
28 electronic filer's electronic service address. This only applies when the
29 electronic filer has consented to or is required to accept electronic service;
30 and
31
32 (6) If the electronic filer uses an electronic filing service provider, provide the
33 electronic filing service provider with the electronic address at which the filer
34 is to be sent all documents and immediately notify the electronic filing
35 service provider of any change in that address.
36

37 (b) **Format of documents to be filed electronically**

38
39 A document that is filed electronically with the court must be in a format specified
40 by the court unless it cannot be created in that format. The format adopted by a
41 court must meet the following requirements:
42

- 1 (1) The software for creating and reading documents must be in the public
2 domain or generally available at a reasonable cost.
3
4 (2) The printing of documents must not result in the loss of document text,
5 format, or appearance.
6
7 (3) The document must be text searchable when technologically feasible without
8 impairment of the document’s image.
9

10 If a document is filed electronically under the rules in this chapter and cannot be
11 formatted to be consistent with a formatting rule elsewhere in the California Rules
12 of Court, the rules in this chapter prevail.
13

14 **Advisory Committee Comment** 15

16 **Subdivision (b)(3).** The term “technologically feasible” does not require more than the
17 application of standard, commercially available optical character recognition (OCR) software.
18

19 **Rule 2.257. Requirements for signatures on documents** 20

21 **(a) Documents signed under penalty of perjury** 22

23 When a document to be filed electronically provides for a signature under penalty
24 of perjury; of any person, the following applies—the document is deemed to have
25 been signed by that person if filed electronically provided that either of the
26 following conditions is satisfied:
27

- 28 (1) The declarant has signed the document using a computer or other technology
29 in accordance with procedures, standards, and guidelines established by the
30 Judicial Council; or
31

32 ~~(1)(2)~~ The declarant ~~The document is deemed signed by the declarant if, before~~
33 ~~filing, the declarant has physically signed a printed form of the document. (2)~~
34 ~~By electronically filing the document, the electronic filer certifies that (1) has~~
35 ~~been complied with and that the original, signed document is available for~~
36 ~~inspection and copying at the request of the court or any other party. Local~~
37 ~~child support agencies may maintain original, signed pleadings by way of an~~
38 ~~electronic copy in the statewide automated child support system and must~~
39 ~~maintain them only for the period of time stated in Government Code section~~
40 ~~68152(a). If the local child support agency maintains an electronic copy of~~
41 ~~the original, signed pleading in the statewide automated child support system,~~
42 ~~it may destroy the paper original. In the event this second method of~~

1 submitting documents electronically under penalty of perjury is used, the
2 following conditions apply:

3
4 (A)(3) At any time after the electronic version of the document is filed,
5 any ~~other~~ party may serve a demand for production of the
6 original signed document. The demand must be served on all
7 other parties but need not be filed with the court.
8

9 (B)(4) Within five days of service of the demand under ~~(3)~~(A), the party
10 or other person on whom the demand is made must make the
11 original signed document available for inspection and copying by
12 all other parties.
13

14 (C)(5) At any time after the electronic version of the document is filed,
15 the court may order the filing party or other person to produce the
16 original signed document in court for inspection and copying by
17 the court. The order must specify the date, time, and place for the
18 production and must be served on all parties.
19

20 (D) Notwithstanding (A)–(C), local child support agencies may
21 maintain original, signed pleadings by way of an electronic copy
22 in the statewide automated child support system and must
23 maintain them only for the period of time stated in Government
24 Code section 68152(a). If the local child support agency
25 maintains an electronic copy of the original, signed pleading in
26 the statewide automated child support system, it may destroy the
27 paper original.
28

29 **(b) Documents not signed under penalty of perjury**

30
31 If a document does not require a signature under penalty of perjury, the document
32 is deemed signed by the party if the document is filed electronically.
33

34 **(c) Documents requiring signatures of opposing parties**

35
36 When a document to be filed electronically, such as a stipulation, requires the
37 signatures of opposing parties, the following procedure applies:
38

- 39 (1) The party filing the document must obtain the signatures of all parties on a
40 printed form of the document.
41
42 (2) The party filing the document must maintain the original, signed document
43 and must make it available for inspection and copying as provided in (a)(2) of

1 this rule and Code of Civil Procedure section 1010.6. The court and any other
2 party may demand production of the original signed document in the manner
3 provided in (a)(3)–(5)(2)(A)–(C).
4

- 5 (3) By electronically filing the document, the electronic filer indicates that all
6 parties have signed the document and that the filer has the signed original in
7 his or her possession.
8

9 **(d) Digital signature**

10 A party is not required to use a digital signature on an electronically filed
11 document.
12

13 **(e) Judicial signatures**

14 If a document requires a signature by a court or a judicial officer, the document
15 may be electronically signed in any manner permitted by law.
16
17

18 **Advisory Committee Comment**

19 **Subdivision (a)(1).** The standards and guidelines for electronic signatures that satisfy the
20 requirements for an electronic signature under penalty of perjury are [will be] contained in the
21 Trial Court Records Manual.
22
23

24 **Rule 2.259. Actions by court on receipt of electronic filing**

25 **(a) Confirmation of receipt and filing of document**

26 (1) *Confirmation of receipt*

27 When a court receives an electronically submitted document, the court must
28 promptly send the electronic filer confirmation of the court’s receipt of the
29 document, indicating the date and time of receipt. A document is considered
30 received at the date and time the confirmation of receipt is created.
31

32 (2) *Confirmation of filing*

33 If the document received by the court under (1) complies with filing
34 requirements and all required filing fees have been paid, the court must
35 promptly send the electronic filer confirmation that the document has been
36 filed. The filing confirmation must indicate the date and time of filing and is
37 proof that the document was filed on the date and at the time specified. The
38 filing confirmation must also specify:
39
40
41
42
43
44

- 1 (A) Any transaction number associated with the filing;
2
3 (B) The titles of the documents as filed by the court; and
4
5 (C) The fees assessed for the filing.
6

7 (3) *Transmission of confirmations*
8

9 The court must send receipt and filing confirmation to the electronic filer at
10 the electronic service address the filer furnished to the court under rule
11 2.256(a)(4). The court must maintain a record of all receipt and filing
12 confirmations.
13

14 (4) *Filer responsible for verification*
15

16 In the absence of the court's confirmation of receipt and filing, there is no
17 presumption that the court received and filed the document. The electronic
18 filer is responsible for verifying that the court received and filed any
19 document that the electronic filer submitted to the court electronically.
20

21 **(b) Notice of rejection of document for filing**
22

23 If the clerk does not file a document because it does not comply with applicable
24 filing requirements or because the required filing fee has not been paid, the court
25 must promptly send notice of the rejection of the document for filing to the
26 electronic filer. The notice must state the reasons that the document was rejected
27 for filing.
28

29 ~~**(c) Document received after close of business**~~
30

31 ~~A document that is received electronically by the court after the close of business is~~
32 ~~deemed to have been received on the next court day, unless the court has provided~~
33 ~~by local rule, with respect to documents filed under the mandatory electronic filing~~
34 ~~provisions in rule 2.253(b)(7), that documents received electronically before~~
35 ~~midnight on a court day are deemed to have been filed on that court day, and~~
36 ~~documents received electronically after midnight are deemed filed on the next court~~
37 ~~day. This provision concerns only the effective date of filing; any document that is~~
38 ~~electronically filed must be processed and satisfy all other legal filing requirements~~
39 ~~to be filed as an official court record.~~
40

1 **~~(c)~~(d) Delayed delivery**

2
3 If a technical problem with a court’s electronic filing system prevents the court
4 from accepting an electronic filing ~~during its regular filing hours~~ on a particular
5 court day, and the electronic filer demonstrates that he or she attempted to
6 electronically file the document on that day, the court must deem the document as
7 filed on that day. This subdivision does not apply to the filing of a complaint or any
8 other initial pleading in an action or proceeding.

9
10 **~~(d)~~(e) Endorsement**

- 11
12 (1) The court’s endorsement of a document electronically filed must contain the
13 following: “Electronically filed by Superior Court of California, County of
14 _____, on _____ (date),” followed by the name of the court clerk.
15
16 (2) The endorsement required under (1) has the same force and effect as a
17 manually affixed endorsement stamp with the signature and initials of the
18 court clerk.
19
20 (3) A complaint or another initial pleading in an action or proceeding that is filed
21 and endorsed electronically may be printed and served on the defendant or
22 respondent in the same manner as if it had been filed in paper form.

23
24 **~~(e)~~(f) Issuance of electronic summons**

- 25
26 (1) On the electronic filing of a complaint, a petition, or another document that
27 must be served with a summons, the court may transmit a summons
28 electronically to the electronic filer in accordance with this subdivision and
29 Code of Civil Procedure section 1010.6.
30
31 (2) The electronically transmitted summons must contain an image of the court’s
32 seal and the assigned case number.
33
34 (3) Personal service of the printed form of a summons transmitted electronically
35 to the electronic filer has the same legal effect as personal service of a copy
36 of an original summons.