

GENERAL INFORMATION**What does this information sheet cover?**

This information sheet tells you how to fill out *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E). This information sheet is not part of the proof of service and does not need to be copied, served, or filed.

① What is “serving” a document?

“Serving” a document on a person means having the document delivered to that person. The general requirements for serving documents are set out in California Code of Civil Procedure sections 1010.6–1013a (you can get a copy of these laws at any county law library or online at www.leginfo.ca.gov/calaw.html). There are three main ways to serve documents: (1) by mail, (2) by personal delivery, or (3) by electronic service.

When a document is served by mail, it must be put in a sealed envelope or package that is addressed to the person who is being served and that has the postage fully prepaid. The envelope then has to be deposited with the U.S. Postal Service by leaving it at a U.S. Postal Service office or mail drop or at an office or business mail drop where the person serving the document knows the mail is picked up every day and deposited with the U.S. Postal Service.

When a document is personally delivered to a party who is represented by an attorney, the document must either be given directly to the attorney representing that party or the document can be placed in an envelope or package addressed to the attorney and left with the receptionist at the attorney’s office or with a person who is in charge of the attorney’s office. When a document is personally served on a party who is not represented by an attorney, the document must either be given directly to the party or the document can be given to someone who is at least 18 years old at the party’s residence between the hours of eight in the morning and six in the evening.

You may be able to serve a document electronically if the person being served has agreed to accept electronic service or if the court has ordered the person to accept electronic service. The requirements for electronic service are set out in California Code of Civil Procedure section 1010.6.

When a document is electronically served, it must be served either by electronic transmission or by electronic notification. “Electronic transmission” means sending the document to the person’s electronic service address, an e-mail address the person has given the court and the other parties to the case for this purpose. “Electronic notification” means sending a notice to the person with the exact name of the document and a hyperlink—a link to a web address—at which the document may be viewed and downloaded.

② What documents have to be served?

Rule 8.817 of the California Rules of Court requires that before you file any document with the court in a case in the appellate division of the superior court, you must serve one copy of the document on each of the other parties in the case and on anyone else when required by law (statute or rule of court). Other rules require that certain documents in cases in the appellate division be served, including the notice of appeal and the notice designating the record on appeal in appeals in limited civil cases and briefs in all appeals. (For more information about appeals in general and about these documents, read *Information on Appeal Procedures for Limited Civil Cases* (form APP-101-INFO), *Information on Appeal Procedures for Misdemeanors* (form CR-131-INFO), and *Information on Appeal Procedures for Infractions* (form CR-141-INFO).)

③ Who can serve a document?

State law (the Code of Civil Procedure) says that a document in a court case can only be served by a person who is over 18 years old. Service by mail or by personal delivery must be by someone who is not a party in the case; electronic service may be performed directly by a party.

If you are a party in a case and wish to serve documents by mail or by personal delivery, **you must have someone else who is over 18 and who is not a party in your case serve any documents in your case for you.** You will need to give the person who is serving the document for you (the server) the names and addresses of all the people who need to be served with that document. You will also need to give the server one copy of each document that needs to be served for each person who is being served.

If you are serving documents electronically, you can do so yourself or have another person over 18 do it for you. The person doing the serving (the server) will need the names and electronic service addresses of everyone who must be served, as well as the document to be served in a form that allows it to be electronically transmitted or made available by hyperlink.

4 What is proof of service?

A “proof of service” shows the court that a document was served as required by the law. Rule 8.817 also requires a party who is filing a document with the court in a case in the appellate division to attach a proof of service to the document he or she wants to file. You can use *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E) to give the court this proof of service in any case in the appellate division of the superior court. The server should follow the instructions below for completing the *Proof of Service (Appellate Division)* (form APP-109) or *Proof of Electronic Service (Appellate Division)* (form APP-109E). If another person is serving the documents for you—as is required if the document will be served by mail or personal delivery—tell the server to give you the original form when it is filled out and signed. You will need to attach the original proof of service to the document you want to file.

If you are electronically filing the document, the proof of service may also be filed electronically. However, the original signed proof of service must be kept by the party filing the document and produced upon request.

INFORMATION FOR THE SERVER

5 Who fills out the *Proof of Service* or *Proof of Electronic Service*?

If you are the server (the person who serves a document for a party in a court case), you must prepare and sign the proof of service. If you served the document by mail or personal delivery, you can use *Proof of Service (Appellate Division)* (form APP-109) to prepare this proof of service in any case in the appellate division. If you served the document electronically, you can use *Proof of Electronic Service (Appellate Division)* (form APP-109E) to prepare the proof of service.

6 How do I fill out the *Proof of Service*?

These instructions are for *Proof of Service (Appellate Division)* (form APP-109), if you are serving the document by mail or personal delivery. If you are serving the document electronically, please see 7 below, for instructions on how to fill out *Proof of Electronic Service (Appellate Division)* (form APP-109E).

You can fill out most of the information on *Proof of Service (Appellate Division)* (form APP-109) by copying the information from the document you are serving before you serve that document. However, you should not sign and date the form until after you have finished serving the document. **By signing form APP-109, you are swearing, under penalty of perjury, that the information that you put in the form is true and correct.**

When you fill out the *Proof of Service (Appellate Division)* (form APP-109), you should print neatly or use a typewriter. If you have Internet access, you can fill out the form online at www.courts.ca.gov/forms (use the “fillable” version of the form).

Filling in the top section of form APP-109:

First box, right side of form: Leave this box blank for the court’s use.

Second box, right side of form: Fill in the name of the county in which the case is filed and the street address of the court. You can copy this information from the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the second box on the right-hand side of the form.

Third box, right side of form: Fill in the trial court case name and number. You can copy this information from the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the third box on the right-hand side of the form.

Fourth box, right side of form: Fill in the appellate division case number, if you know it. If this number is available, it will be on the first page of the document that you are serving. If the document you are serving is

another Judicial Council form, this number will be in the fourth box on the right-hand side of the form.

Filling in items 1–5:

Items ① and ②: You are stating, under penalty of perjury, that you are over the age of 18 and that you are not a party in this court case.

Item ③: Check one of the boxes and provide your home or business address. This information is important because, if you serve the document by mail, you must live or work in the county from which the document was mailed.

Item ④: Check or fill in the name of the document that you are serving. If the document you are serving is another Judicial Council form, the name of the document is located on both the top and the bottom of the first page of the form. If the document you are serving is not a Judicial Council form, the name of the document should be on the top of the first page of the document.

a. Check box 4a. if you are serving the document by mail. **BEFORE YOU SEAL AND MAIL THE ENVELOPE WITH THE DOCUMENT YOU ARE SERVING**, fill in the following parts of the form.

- (1) You are stating, under penalty of perjury, that you are putting one copy of the document you identified in item 4 in an envelope addressed to each person listed in 4a.(2), sealing the envelope, and putting first-class postage on the envelope.
- (2) Fill in the name and address of each person to whom you are mailing the document. You can copy this information from the list of people to be served or the envelopes provided by the party for whom you are serving the document. If you need more space to list names and addresses, check the box under item 4a.(2) and attach a page listing them. At the top of the page, write “APP-109, Item 4a.”
- (3) Fill in the date you are mailing the document and the city and state from which you are mailing it. **REMEMBER:** You must live or work in the county from which the document is mailed.

(a) Check box 4a.(3)(a) if you are personally depositing the document with the U.S. Postal Service, such as at a U.S. Post Office or U.S. Postal Service mailbox.

(b) Check box 4a.(3)(b) if you are putting the document in the mail at your place of business.

Once you have finished filling out these parts of the form, make one copy of *Proof of Service (Appellate Division)* (form APP-109) with this information filled in for each person you are serving by mail. Put this copy of *Proof of Service (Appellate Division)* (form APP-109) in the envelope with the document you are serving. Seal the envelope and mail it as you have indicated on the *Proof of Service*.

- b. Check box 4b. If you personally delivered the documents. Remember, when a document is personally delivered to a party who is represented by an attorney, the document must either be given directly to the party’s attorney or the document can be placed in an envelope or package addressed to the attorney and left with the receptionist at the attorney’s office or with a person who is in charge of the attorney’s office. When a document is personally served on a party who is not represented by an attorney, the document must either be given directly to the party or the document can be given to someone who is at least 18 years old at the party’s residence between the hours of eight in the morning and six in the evening.

For each person to whom you personally delivered the document, fill in:

- (a) The person’s name.
- (b) The address at which you delivered the document to this person.
- (c) The date on which you delivered the document to this person.
- (d) The time at which you delivered the document.

If you need space to list more names, addresses, and delivery dates and times, check the box

under 4b. and attach a page listing this information. At the top of the page, write “APP-109, Item 4b.”

Item ⑤: At the bottom of the form, type or print your name, sign the form, and fill in the date that you signed the form. **By signing this form, you are stating under penalty of perjury that all the information you filled in on *Proof of Service (Appellate Division)* (form APP-109) is true and correct.**

After you have finished serving the document and filled in, signed, and dated *Proof of Service (Appellate Division)* (form APP-109), give the original completed form to the party for whom you served the document.

⑦ How do I fill out the *Proof of Electronic Service*?

You can fill out most of the information on *Proof of Electronic Service (Appellate Division)* (form APP-109E) by copying the information from the document you are serving before you serve that document. However, you should not sign and date the form until after you have finished serving the document. **By signing form APP-109E you are swearing under penalty of perjury that the information you have put in the form is true and correct.**

You can fill out the *Proof of Electronic Service (Appellate Division)* (form APP-109E) online at www.courts.ca.gov/forms (use the “fillable” version of the form), or you can print it out and fill it in, printing neatly or using a typewriter.

Filling in the top section of form APP-109E:

First box, right side of form: Leave this box blank for the court’s use.

Second box, right side of form: Fill in the name of the county in which the case is filed and the street address of the court. You can copy this information from the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the second box on the right-hand side of that form.

Third box, right side of form: Fill in the trial court case number and name. You can copy this information from the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the third box on the right-hand side of that form.

Fourth box, right side of form: Fill in the appellate division case number, if you know it. If this number is available, it will be on the first page of the document that you are serving. If the document you are serving is another Judicial Council form, this information will be in the fourth box on the right-hand side of that form.

Filling in items 1–5:

Item ①: You are stating, under penalty of perjury, that you are over the age of 18.

Item ②:

a. Check one of the boxes and provide your home or business address.

b. Fill in your electronic service address. This is the address at which you have agreed to accept electronic service, usually an e-mail address.

Item ③: Check or fill in the name of the document that you are serving. If the document you are serving is another Judicial Council form, the name of the document is located on both the top and the bottom of the first page of the form. If the document you are serving is not a Judicial Council form, the name of the document should be on the top of the first page of the document.

Item ④: Fill in the name of each person served, and the name or names of the parties represented, if the person served is an attorney. For each person served, fill in that person’s electronic service address and the date you served the person. If you need more space to list additional persons served, check the box under item ④ b. and attach a page listing them, with their electronic service addresses and the date each person was served. At the top of the page, write “APP-109E, Item 4.”

When you have filled in the information in items 1–4, create an electronic copy of the *Proof of Electronic Service (Appellate Division)* (form APP-109E) with this

information filled in. Transmit the filled-in form with the document you are serving to each person served.

Item ⑤: At the bottom of the form, type or print your name, sign the form, and fill in the date that you signed the form. **By signing this form, you are stating under penalty of perjury that all the information you filled in on the *Proof of Electronic Service (Appellate Division)* (form APP-109E) is true and correct.** If you are not the party for whom the documents are served, give the original completed *Proof of Electronic Service (Appellate Division)* (form APP-109E) to the party for whom you served the document.

If you are electronically filing the document that is served, the proof of service may also be filed electronically. However, the original signed proof of service must be kept by the party filing it and produced upon request.