

**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: Court Technology Advisory Committee
Hon. Ming W. Chin, Chair
Rules Subcommittee
Hon. Terence L. Bruiniers, Chair
Christopher Smith, Supervising Analyst,
Information Services Division
Patrick O'Donnell, Supervising Attorney,
Office of the General Counsel,
patrick.o'donnell@jud.ca.gov, 415-865-7665

DATE: September 15, 2009

SUBJECT: Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address* and *Notice of Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010) (Action Required)

Issue Statement

California courts have begun to use electronic filing and service and will be using them more in the years ahead. This proposal recommends the approval of two new optional forms to assist persons filing documents electronically with the courts: (1) *Consent to Electronic Service and Notice of Electronic Notification Address* (form EFS-005), to provide a means for a party to state its consent to electronic service and provide its electronic notification address to the court and other parties under rule 2.260(a) of the California Rules of Court; and (2) *Notice of Change of Electronic Notification Address* (form EFS-010), to provide a means for parties to give notice of a change in electronic notification address under rule 2.260(d).

Recommendation

The Court Technology Advisory Committee recommends that the Judicial Council, effective January 1, 2010, approve the following new optional forms:

1. *Consent to Electronic Service and Notice of Electronic Notification Address* (form EFS-005); and

2. *Notice of Change of Electronic Notification Address* (form EFS-010).

Copies of the forms are attached at pages 6-9.

Rationale for Recommendation

The California courts have begun to use electronic filing and will be using it more in the years ahead. As e-filing and e-service become increasingly available, there is a benefit to having standardized Judicial Council forms available to assist electronic filers in handling certain recurring matters.

Two purposes for which standardized forms would be useful are (1) to provide a means for a party to state its consent to electronic service and provide its electronic notification address to the court and other parties under rule 2.260(a) of the California Rules of Court, and (2) to provide a means for parties to give notice of a change in electronic notification address under rule 2.260(d)(1).

1. *Consent to Electronic Service and Notice of Electronic Notification Address* (form EFS-005)

The rules on electronic service provide: “A party indicates that the party agrees to accept electronic service by: (A) Filing and serving a notice that the party accepts electronic service. The notice must include the electronic notification address at which the party accepts electronic service.” (See Cal. Rules of Court, rule 2.260(a)(2)(A).)¹ There is currently no Judicial Council form available for a party to use to indicate its consent to electronic service or to notify the court and other parties of its electronic notification address.

The proposed form, *Consent to Electronic Service and Notice of Electronic Notification Address* (form EFS-005), would fill this gap. It would be an optional form that a party may use to notify the court and other parties of its consent to electronic service. The form would include a place for the party to provide its electronic notification address. For the convenience of the users, the form would have a proof of electronic service on the second page.

2. *Notice of Change of Electronic Notification Address* (form EFS-010)

The rules on electronic service provide: “A party whose electronic notification address changes while the action or proceeding is pending must promptly file a

¹ The rule continues: “; or (B) Electronically filing any document with the court. The act of electronic filing is evidence that the party agrees to accept service at the electronic notification address the party has furnished the court under rule 2.256(a)(4).” (Cal. Rules of Court, rule 2.260(a)(2)(B).)

notice of change of address electronically with the court and must serve this notice electronically on all other parties.” (See Cal. Rules of Court, rule 2.260(d)(1).) There is currently a Judicial Council form for notifying the court and other parties of a change of mailing address.² But there is no comparable form available for litigants to use to provide notice of a change of electronic notification address.

The proposed *Notice of Change of Electronic Notification Address* (form EFS-010) would fill this gap. It would be an optional form that a party may use to notify the court and other parties of any change in the party’s electronic notification address. The form would include information about the old and new notification addresses. Like the mail notification form, it would provide a place for the party to indicate the date on which the new notification address will become effective. For convenience of the users, a proof of electronic service has been included as the second page of the form.³

Alternative Actions Considered

Instead of approving the proposed new forms, no forms might be developed for parties to use to indicate consent to electronic service or to indicate change of electronic notification address. Parties could prepare the consents and notices themselves. However, it appears better to provide optional forms for these purposes. This will assist self-represented litigants and infrequent electronic filers. The forms will also help standardize the practices in the new area of electronic filing and service.

Comments From Interested Parties

Six comments were received on this forms proposal. The commentators included a court administrator, court personnel, a local bar association, the Committee on Administration of Justice of the State Bar of California, and a private electronic filing and service provider.⁴ The comments were generally favorable, though some commentators suggested modifications to the forms.

The Committee on Administration of Justice of the State Bar of California (CAJ) had a number of suggestions about the wording on the forms and recommended some additional items. (See comment 2.) The advisory committee did not think that the changes in the wording or the additional items were necessary. But it did think that CAJ raised an important point about the language in the current statute and rule on electronic service. Under the existing language, only notices and

² *Notice of Change of Address* (form MC-040).

³ The attached proof of service reflects the separate rules proposal to eliminate the requirement in rule 2.260(f) that the proof state that “the transmission was reported as complete and without error.”

⁴ A chart summarizing the comments is attached at pages 10-17.

accompanying documents are expressly authorized to be served electronically. This language should be changed to clarify that all types of documents that may be served by mail, express mail, overnight delivery, or facsimile transmission may also be served by electronic means. Accordingly the Court Technology Advisory Committee has developed a legislative proposal for Judicial Council–sponsored legislation to broaden the scope of the documents that are authorized to be served electronically.⁵

The president of a local bar association suggested that the proposed forms should include a section where a person consenting to electronic service may specify the format to which the person would consent to being served electronically. (See comment 4.) The committee disagreed with this proposal. If a party or attorney consents to electronic service and provides an electronic notification address (as provided for in proposed form EFS-005), that should be sufficient. The committee thought that adding an additional section on the format of service would unduly complicate the process of consenting to electronic service.

A commentator suggested making some stylistic changes to the proofs of electronic service on the second pages of the forms. (See comment 1, part 2.) The committee generally agreed with these suggestions and has modified the proofs of service on the forms.⁶

Three commentators suggested that the proof of service on the second page of the form EFS-005 should provide for service by mail as well as by electronic means because not everyone in the case may have consented to electronic service. (See comments 1, 4, and 5.) This is not necessary. If a party serves the form by mail rather than electronically, the party does not need to use the proof of service on page 2 of the form. Proofs of service on Judicial Council forms are solely for the convenience of the parties. (See Cal. Rules of Court, rule 1.41.) Parties serving by mail may use another Judicial Council form (for example, form POS-030, *Proof of Service by First- Class Mail*) or their own proof of service.⁷

An electronic filing and service provider made several comments. (See comment 6.) First, it asked whether the consent form would give the court the right to serve documents electronically on the party. Under existing law, it would. (See Cal. Rules of Court, rule 2.260(g).) The commentator suggested that this information

⁵ This proposal has been circulated for public comment. (See Invitation to Comment, LEG09-01.)

⁶ Similar changes have been made to the forms for proof of electronic service that were separately circulated.

⁷ For informational purposes, a note has been added at the top of the proof of electronic service on page 2 of form EFS-005 indicating that, if the consent is served by mail, the party should use form POS-030.

be included on the form. This is not necessary. Users of forms should be familiar with the applicable law. Forms cannot include information about all the applicable law. It would be potentially confusing if the consent form were to include some information about the scope of electronic service but not other information.

Lastly, the commentator stated that the requirement that “I am a resident of or employed in the county where the electronic service took place” does not apply to proofs of electronic service and should not be on the form. The committee agreed that the language about residence or employment should not be included on the proofs of service. It will also review rule 2.260(f) on proofs of electronic service to determine if this issue needs further clarification. The rule states that proofs of electronic service may be by any of the methods provided in Code of Civil Procedure section 1013a. That section, in turn, provides for four methods of proof of service. Of these, two require that the proof indicate that person making the service be a resident of or employed in the county where the service occurs, whereas two do not. So the issue of whether or not there is such a requirement for proofs of electronic service under existing law is not entirely clear. To clarify this matter, the committee will consider amending rule 2.260(f) in the future.

Implementation Requirements and Costs

Approval of these two forms should impose no significant implementation requirements or costs. These forms are optional. They would enable parties more easily to indicate their consent to electronic service and to notify the court and others of changes in their electronic notification addresses. Hence, the forms should increase compliance with the rules on electronic service and reduce the costs of litigation.

Attachments

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr style="width: 20px; margin-left: 0;"/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	CASE NUMBER: _____ JUDICIAL OFFICER: _____
CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC NOTIFICATION ADDRESS	DEPT.: _____

1. The following party or the attorney for:

- a. plaintiff *(name)*:
- b. defendant *(name)*:
- c. petitioner *(name)*:
- d. respondent *(name)*:
- e. other *(describe and name)*:

consents to electronic service of notices and documents in the above-captioned action.

2. The electronic notification address of the person identified in item 1 is *(specify)*:

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:	CASE NUMBER:
------------	--------------

(Note: If you serve Consent to Electronic Service and Notice of Electronic Notification Address by mail, you should use form POS-030, Proof of Service by First-Class Mail, instead of using this page.)

PROOF OF ELECTRONIC SERVICE

CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC NOTIFICATION ADDRESS

1. I am at least 18 years old and not a party to this action.
 - a. My residence or business address is (specify):

 - b. My electronic notification address is (specify):

2. I electronically served a copy of the *Consent to Electronic Service and Notice of Electronic Notification Address* as follows:
 - a. Name of person served:

 - b. Electronic notification address of person served:
 On behalf of (name or names of parties represented, if person served is an attorney):

 - c. On (date):

 - d. At (time):

Electronic service of the *Consent to Electronic Service and Notice of Electronic Notification Address* on additional persons is described in an attachment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____  _____
 (TYPE OR PRINT NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr style="width: 20px; margin-left: 0;"/> TELEPHONE NO.: _____ FAX NO. <i>(Optional)</i> : _____ E-MAIL ADDRESS <i>(Optional)</i> : _____ ATTORNEY FOR <i>(Name)</i> : _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER: JUDICIAL OFFICER:
NOTICE OF CHANGE OF ELECTRONIC NOTIFICATION ADDRESS	DEPT.:

1. The following party or the attorney for:
- a. plaintiff *(name)*:
 - b. defendant *(name)*:
 - c. petitioner *(name)*:
 - d. respondent *(name)*:
 - e. other *(describe and name)*:

is changing his or her electronic notification address for electronic service of notices and documents in the above-captioned action.

2. The current electronic notification address of the person identified in item 1 is *(specify)*:
3. The new electronic notification address of the person identified in item 1 is *(specify)*:
4. All notices and documents regarding the action should be sent to the new electronic notification address as of *(date)*:

Date:

_____ _____
 (TYPE OR PRINT NAME) (SIGNATURE OF PARTY OR ATTORNEY)

CASE NAME:	CASE NUMBER:
------------	--------------

**PROOF OF ELECTRONIC SERVICE
NOTICE OF CHANGE OF ELECTRONIC NOTIFICATION ADDRESS**

1. I am at least 18 years old and not a party to this action.
 - a. My residence or business address is *(specify)*:

 - b. My electronic notification address is *(specify)*:

2. I electronically served a copy of the *Notice of Change of Electronic Notification Address* as follows:
 - a. Name of person served:
 On behalf of *(name or names of parties represented, if person served is an attorney)*:

 - b. Electronic notification address of person served:

 - c. On *(date)*:

 - d. At *(time)*:

Electronic service of the *Notice of Change of Electronic Notification Address* on additional persons is described in an attachment.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

_____  _____
 (TYPE OR PRINT NAME OF DECLARANT) (SIGNATURE OF DECLARANT)

SPR09-27

Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address and Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Superior Court of Orange County Meri Fischer, Family Law Analyst	AM	<p>1. Form EFS-005, page. 2 of 2: Remove the word “electronic” from the first line of the form title. This form may not have been served electronically and should provide for service by mail also.</p> <p>2. Form EFS-005, page 2 of 2, items 2a: Replace subsection “a” with: “Name of Person Served.”</p> <p>On second line reflect: “On behalf of:”</p> <p>3. Form EFS-010, page 2 of 2, item 2a: Replace subsection “a” with: “Name of Person</p>	<p>1. In the event that the <i>Consent to Electronic Service</i> form is served by mail rather than electronically, the party serving the form need not use the proof of service on page 2 of the form. Proofs of service on Judicial Council forms are solely for the convenience of the parties. (See Cal. Rules of Court, rule 1.412.) A party serving by mail may use another Judicial Council form (for example, form POS-030, <i>Proof of Service by First-Class Mail</i>) or their own proof of service. A note has been added to page 2 of form EFS-005 indicating that if the consent is served by mail, the party should use form POS-030 instead of the proof of electronic service on that page.</p> <p>2. Agreed.</p> <p>Also agreed. However, to clarify what is meant by “On behalf of,” a parenthetical statement should be added after ‘On behalf of’ stating “(name or names of parties represented, if the person served is an attorney)”.</p> <p>Also, for greater clarity, in item 2b the committee has replaced the word “To” with “Electronic notification address of person served:” and deleted the parenthetical statement.</p> <p>3. Agreed.</p>

SPR09-27

Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address and Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>Served”</p> <p>On second line reflect: "On behalf of:"</p>	<p>Also agreed. However, to clarify what is meant by “On behalf of,” a parenthetical statement should be added after “On behalf of” stating “(name or names of parties represented, if the person served is an attorney).”</p> <p>Also, for greater clarity, the committee in item 2b has replaced the word “To” with “Electronic notification address of person served:” and deleted the parenthetical statement.</p>
2.	<p>Committee on Administration of Justice State Bar of California By Saul Bercovitch San Francisco</p>	AM	<p><u>1. Consent to Electronic Service and Notice of Electronic Notification Address (form EFS-005)</u></p> <p>CAJ supports the adoption of this form but suggests changes based on the following concerns:</p> <p>1. The form does not provide a place to list the consenting attorney’s name and contact information.</p> <p>2. The form appears to conflict with Code of Civil Procedure Section 1010.6(a)(6) and Rule 2.260 of the California Rules of Court with respect to the type of documents that may be served electronically based on a party’s consent</p>	<p><u>2. Notice of Change of Electronic Notification of Address (Form EFS-010)</u></p> <p>1. The information about the attorney’s name and contact information will be in the caption of the document. So it does not appear necessary to repeat it in the text.</p> <p>2. The form is not inherently in conflict with either the statute or rule in that it does not specify the notices or documents that may be served electronically. The consent provided under the form may be for service of notices and documents as provided under the law.</p>

SPR09-27

Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address and and Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>to electronic service. Section (a)(6), which authorizes electronic service with party consent, refers only to service of <u>notice</u> (“and any accompanying documents”). Rule 2.260 likewise refers only to notice (“when a notice may be served by mail, express mail, overnight delivery or fax transmission, electronic service of the notice is permitted when authorized by these rules”). All other authorized means of service permit service of <u>“notice or other papers.”</u> See CCP § 1011 (personal), § 1013(a) (mail), § 1013(c) (express mail), and § 1013(e) (fax).</p> <p>To comply with section 1010.6(a)(6), CAJ believes that the form should read: “consents to electronic service of notices and <u>accompanying</u> documents in the above-captioned action.”</p> <p>Based on the above comments, CAJ suggests that consideration be given to making changes to proposed form EFS-005 as follows:</p> <p>“1. ****</p> <p>consents to electronic service of notices and accompanying documents in the above-captioned action”</p> <p><u>“2. The name, firm name, address, and telephone number of the consenting attorney indicated in item 1 (if any) are:</u></p>	<p>However, the comment raises an important issue: the current statute and rule as presently written provide for service of a narrower range of documents than other service statutes. The committee will request Judicial Council-sponsored legislation and the amendment of the rule to broaden the language of the statute and rule to clearly authorize the electronic service of any and all types of legal documents that may be served in pending cases.</p> <p>The form does not need to use the narrower language, particularly as legislation and rule changes are currently being developed to broaden the range of documents that may be served electronically.</p> <p>For the reasons stated above, the following changes are not necessary:</p> <p>1. The form does not need to use the narrower language, particularly as legislation and rule changes are being developed to broaden the scope of documents that may be served electronically.</p> <p>2. The committee does not think it is necessary to add this item separately. The attorney information will be provided in the caption of the form.</p>

SPR09-27

Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address and Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>“2 <u>3.</u> <u> </u> the electronic notification address of the person party identified in item 1 is (specify):</p> <p><u> </u>—or—</p> <p><u> </u> the electronic notification address of the attorney identified in item 1 is: “</p> <p>Additional Comments: CAJ believes clarity is needed regarding the type of documents that may be electronically served based on consent to e-service. Under the statute, consent applies only to a “notice and any accompanying documents” – a designation that would not encompass discovery documents or, technically, some motion papers (oppositions and replies, which do not include “notices”).</p> <p>Some CAJ members also believe that clarity is needed with respect to whether multiple attorneys of record in a single firm should each be entitled to receive notice electronically. (If so, form EFS-005 would be more useful if it allowed parties to provide multiple notification addresses.)</p> <p>CAJ recognizes that clarification of both issues may be beyond the scope of the current proposal but believes such clarification should be pursued.</p> <p><u>2. Notice of Change of Electronic Notification of Address (Form EFS-010)</u></p>	<p>3. The committee does not think that separating the item into these two subparts—one for parties and another for attorneys—is necessary or clearer.</p> <p>The proposed language in the form is sufficiently clear. However, as indicated above, the committee supports legislation to eliminate ambiguity and to broaden the scope of documents that are authorized by statute and rule to be served electronically.</p> <p>This suggestion is beyond the scope of the current proposal. The committee may consider in the future whether the form should be modified to allow a firm to specify multiple notification addresses.</p> <p>The committee will consider these issues separately from the current forms proposal.</p> <p><u>2. Notice of Change of Electronic Notification of Address (Form EFS-010)</u></p>

SPR09-27

Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address and Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>CAJ supports the adoption of this form, but suggests the following changes based on the comments made with respect to form EFS-005.</p> <p>“1. ****</p> <p>“is changing his or her electronic notification address for electronic service of notices and <u>accompanying</u> documents in the above-captioned action”</p> <p>“2. <u>2.</u> <u>The name, firm name, address, and telephone number of the attorney indicated in item 1 (if any) are:</u></p> <p>“2. <u>3.</u> ____ the current electronic notification address of the person identified in item 1 is (<i>specify</i>):) ”</p> <p>“3. <u>4.</u> ____ the new electronic notification address of the person identified in item 1 is (<i>specify</i>):.”</p> <p>“4. <u>5.</u> All notices and <u>accompanying</u> documents regarding the action should be sent to the new electronic notification address as of (<i>date</i>):</p>	<p>The form does not need to use the narrower language, particularly as legislation is being developed that will broaden the range of documents that may be served electronically.</p> <p>2. This addition is not necessary. The attorney information will be provided in the caption of the form.</p> <p>5. This change is not necessary. The form does not need to use the narrower language, particularly as legislation is being developed that will broaden the range of documents that may be served electronically.</p>

SPR09-27**Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address and Change of Electronic Notification Address*** (approve forms EFS-005 and EFS-010)

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
3.	Superior Court of San Diego County Mike Roddy, Executive Officer	A	No specific comments.	No response required.
4.	Orange County Bar Association Michael G. Yoder, President	AM	<p>It is believed that it would be beneficial to add to the Consent and Notice forms a section where the individual party can specify the various formats to which it would consent to being served electronically. Not all computers, individual attorneys, or law firms have all the various software formats (e.g., many use either WordPerfect or Microsoft Word for word processing, but not both). Giving the option of formats (in a way that allows the individual to check all the boxes that apply—.wpd, .doc, .tif, .pdf, etc. plus a box for “other”) will enable the court to work with the parties in deciding the official format for documents in a case, if it’s not something that’s standardized or specified in the court’s local or courtroom rules. While a uniform format is ideal, it may be unrealistic, and this option will allow the parties to not automatically consent to electronic service of a file type they cannot open or read. One thought in this regard is that as .pdf is free and readily available, perhaps it should be the designated format.</p> <p>Also suggest a minor change to the proof of service on the form. The form, which presumably would be served at the outset of the case, presumes that all other parties are to be served electronically and that the filer already knows the electronic addresses of those parties. The form should have a provision for traditional</p>	<p>The committee disagreed. If a party or attorney consents to electronic service and provides an electronic notification address (as provided for in proposed form EFS-005), that should be sufficient. Adding an additional section on the format of service would unduly complicate the process of consenting to electronic service.</p> <p>It is not necessary to add a proof of service by mail to this form. In the event that the <i>Consent to Electronic Service</i> form is served by mail rather than electronically, the party serving the form need not use the proof of service on page 2 of the form. Proofs of service on Judicial Council forms are solely for the convenience of the parties. (See</p>

SPR09-27**Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address and Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010)**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			service as well.	Cal. Rules of Court, rule 1.41.) A party serving by mail may use another Judicial Council form (for example, form POS-030, <i>Proof of Service by First-Class Mail</i>) or their own proof of service. A note has been added to page 2 of form EFS-005 indicating that if the consent is served by mail, the party should use form POS-030 instead of the proof of electronic service on that page.
5.	Kern County Superior Court (FL) By Christina Rodriguez, Assistant Court Supervisor	AM	Proof of service form needs mail option in case person being served has not filed a consent to allow electronic service.	It is not necessary to add a proof of service by mail to this form. In the event that the <i>Consent to Electronic Service</i> form is served by mail rather than electronically, the party serving the form need not use the proof of service on page 2 of the form. Proofs of service on Judicial Council forms are solely for the convenience of the parties. (See Cal. Rules of Court, rule 1.41.) A party serving by mail may use another Judicial Council form (for example, form POS-030, <i>Proof of Service by First-Class Mail</i>) or their own proof of service. A note has been added to page 2 of form EFS-005 indicating that if the consent is served by mail, the party should use form POS-030 instead of the proof of electronic service on that page.
6.	One Legal LLC By Robert T. DeFilippis, President Novato	NI	1. The consent form is straightforward and provides an easy way for a party to take advantage of electronic service. The question we have is whether the consent form also gives the court the right to serve documents on the	1. Under current law, if the parties may serve documents by electronic service, the court may serve notices, orders, judgments, and other documents on the parties in the same manner. (See Cal. Rules of Court, rule 2.260(g).) However,

SPR09-27**Forms for Electronic Service: *Consent to Electronic Service and Notice of Electronic Notification Address and Change of Electronic Notification Address* (approve forms EFS-005 and EFS-010)**

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
			<p>party signing the consent? We ask, especially given SPR09-03 and the two recent appellate opinions around courts serving triggering documents electronically. The court certainly receives a benefit by being able to communicate with parties electronically but the form should explicitly state the scope of the consent so all parties are aware of what they are consenting to.</p> <p>2. As to the Proof of Electronic Service page, Section 1, on forms EFS-005 and EFS-010, the following language doesn't apply with electronic service, "I am resident of or employed in the country where the electronic service took place." It seems this language was taken from the traditional mailing declarations and crafted to reflect electronic service even though knowing exactly where in the world electronic service takes place at any given time can be a challenge. Looking at 2.260(f)(1), it appears this language may not be required.</p>	<p>it does not seem necessary to include in the form statements regarding the scope of the law.</p> <p>2. The committee agreed that the language should be removed from the proof of electronic service. Because the current rule on proof of electronic service is ambiguous, the committee will consider revising rule 2.260(f).</p>