



JUDICIAL COUNCIL OF CALIFORNIA

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INFORMATION TECHNOLOGY ADVISORY COMMITTEE

RULES AND POLICY SUBCOMMITTEE

MINUTES OF OPEN MEETING

August 19, 2016

12:10 PM – 1:30 PM

Teleconference

**Advisory Body
Members Present:**

Justice Peter Siggins, Professor Dorothy Glancy, Judge Jackson Lucky, Mr. Darrel Parker, Mr. Don Willenburg,

**Advisory Body
Members Absent:**

Justice Louis Mauro, Judge Julie Culver

Others Present:

Ms. Fati Farmanfarmaian, Ms. Nicole Rosa, Ms. Diana Glick, Mr. Patrick O'Donnell, Mr. Douglas Miller

OPEN MEETING (CAL. RULES OF COURT, RULE 10.75 (C)(1))

Call to Order and Roll Call

The chair called the meeting to order at 12:10 pm, and roll call was taken.

Approval of Meeting Minutes

Meeting minutes were approved for the July 8, 2016 Rules and Policy Subcommittee meeting and the July 12, 2016 Unlimited Case and Complex Litigation Subcommittee and Rules and Policies Subcommittee joint meeting.

PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75 (K)(2))

WRITTEN COMMENT

No public comments received.

DISCUSSION AND ACTION ITEMS (ITEMS 1-2)

Item 1

Legislative Proposal to Authorize E-Service in Probate Proceedings (Action Required)

Action: *The subcommittee voted to recommend the proposal to the Information Technology Advisory Committee (ITAC).*

Justice Siggins introduced the proposal. Mr. Patrick O'Donnell presented the public comments received in response to the proposed amendments to a legislative proposal that would amend the Probate Code sections to authorize e-service by consent of notices and other papers in probate matters.

Mr. O'Donnell explained that the Probate and Mental Health Advisory Committee drafted a proposal that systematically examined the Probate Code and other related codes to facilitate providing notice by electronic means and electronic service. The key approach throughout the review was to take a closer look at Probate Codes 1215 and 1216. These codes currently provide for "notice by mail" and "notice in person", but are missing "notice by electronic means". The committee's approach was to combined PC 1215 and 1216 and add a third form of notice which says "notice by electronic means with the consent of the entity entitled to be served or given notice". Following that change, throughout the code wherever there was reference to "service or notice by mail", the verbiage was replace with "by delivery of the notice pursuant to PC section 1215".

A total of six (6) public comments were received. All commentators conceded with the committee's approach and offered suggestions. Commentator suggestions on substantive matters were considered by the committee and will be added to the proposal next year when the proposal is in legislation. Other suggestions (outlined in the memorandum) were reviewed by the committee and added to this year's proposal: i.e. the Welfare and Institution Code 5362 in support of PC 1215.

Motion to approve the changes and recommend the rules proposal to ITAC. Motion passed.

Item 2

Legislative Proposal to Authorize E-Service and E-Filing in Juvenile Proceedings (Action Required)

Action: *The subcommittee voted to recommend the proposal to the Information Technology Advisory Committee (ITAC).*

Justice Siggins introduced the proposal. Ms. Diana Glick presented the public comments received in response to the proposed amendments to a legislative proposal that would amend the Welfare and Institutions Code to allow for e-service by consent and e-filing in juvenile dependency and delinquency proceedings.

Ms. Glick highlighted Bill 8879 that resulted in a rules proposal that allowed for the electronic email notice of certain dependency hearings. As a result, the current proposal seeks to expand on the Bill into delinquency and all different types of proceedings that occur in the juvenile realm to both e-filing and e-service.

Ms. Glick explained that the Family and Juvenile Law Advisory Committee thoroughly discussed the use of the term "encryption" for confidentiality because juvenile matters are confidential. Public comments were received from five (5) different entities with numerous discussions about encryption. At their August 4, 2016 meeting, the Committee discussed how detailed to be in code, and if there is a different venue that might be more appropriate for standards around encryption. The Committee ultimately agreed that encryption is the term that is broad enough to encompass the different technologies, also broad enough to not become obsolete tomorrow; but would enforce the notion that encryption will guarantee security.

Ms. Glick reported other suggestions on substantive matters raised by commentators including the electronic submission of medical and psychological records and age requirements (outlined in the memorandum). Concern around HIPA standards were expressed by members of the Rule & Policies

Subcommittee; specifically, that HIPA standards are met regarding the electronic submission of medical and psychological records. Ms. Glick agreed to complete an analysis on this concern.

Motion to approve these changes and recommend the rules proposal to ITAC. Motion passed.

A D J O U R N M E N T

There being no further business, the meeting was adjourned at 12:32 PM.

Approved by the Rules and Policy Subcommittee on _____.



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date	Action Requested
January 10, 2017	Approve Proposal
To	Deadline
Information Technology Advisory Committee, Rules and Projects Subcommittee and Civil and Small Claims Advisory Committee, Unlimited Case and Complex Litigation Subcommittee	January 19, 2017
From	Contact
Patrick O'Donnell, Principal Managing Attorney Andrea Jaramillo, Attorney Legal Services	Andrea Jaramillo, Legal Services 916-293-0991 phone andrea.jaramillo@jud.ca.gov
Subject	
Rules Proposal	

The attached rules proposal includes amendments to reduce redundancies and improve consistency between California Rules of Court governing electronic service and electronic filing in the trial courts, and provisions of the Code of Civil Procedure that provide statutory authority for permissive and mandatory electronic service and electronic filing in the courts. In addition, many of the proposed rule amendments are tailored to anticipated changes to the Code of Civil Procedure in legislation that the Judicial Council will be sponsoring in 2017. That legislation would be effective January 1, 2018 if signed into law, and the proposed rule amendments would likewise be effective January 1, 2018 if approved by the Judicial Council. Finally, the proposal includes amendments to make limited organizational changes to the rules to improve their logical ordering.

Judicial Council of California

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INVITATION TO COMMENT

[ItC prefix as assigned]-__

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 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 to reduce redundancies between the rules and the Code of Civil Procedures.

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 current 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 Proposal

The proposal includes amendments to reduce redundancies and improve consistency between the rules and California Code of Civil Procedure sections 1010.6 (section 1010.6), which provides statutory authority for permissive and mandatory electronic service and filing in the courts. Some of the proposed rule amendments are also tailored to changes to section 1010.6 and the addition

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.

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:

of Code of Civil Procedure section 1013b (section 1013b) in legislation that the Judicial Council will be sponsoring in 2017. That legislation would be effective January 1, 2018 if signed into law. Finally, the proposal includes amendments to make limited organizational changes to the rules to improve their logical ordering.

Ensuring consistency and reducing 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 create section 1013b in the Code of Civil Procedure. (Judicial Council of Cal., Rep. to the Judicial Council, 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 Rules of Court to ensure consistency and reduce redundancy between the rules and the amended and new provisions of the Code of Civil Procedure

Adding provisions related to electronic filing and service by or on a non-party. 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., Rep. to the Judicial Council, Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures, *supra*, 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.

“Other person” was intentionally not defined in section 1010.6 because comprehensively identifying those who fall in the category of “other person” that may be involved in a case without being a party would be overly complicated and variable. (Judicial Council of Cal., Rep. to the Judicial Council, Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures, *supra*, pp.7-8.) However, in a few instances in the rules, the addition of “other persons” 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

¹ The legislative proposal was approved as part of the Judicial Council’s consent agenda at its December 16, 2016 meeting. (Judicial Council of California, Dec. 16, 2016 Meeting Agenda, <<https://jcc.legistar.com/View.ashx?M=A&ID=463484&GUID=8E4B8E76-2D88-480D-843A-6576CC996914>> [as of Dec. 27, 2016]; Judicial Council of California, Dec. 16, 2016 Meeting Recording <http://jcc.granicus.com/MediaPlayer.php?view_id=1&clip_id=348&meta_id=18253> [as of Dec. 27, 2016] [approval of consent agenda].)

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:

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 that might request it, but rather is limited to other persons involved in the case. In addition, under proposed amendment to rule 2.251(f)(1), governing service by parties and other person, “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, if that person is not someone required to be served a particular document, there is no obligation created by electronic service rules to electronically serve that particular document on the “other person.”

Adding 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., Rep. to the Judicial Council, Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures, *supra*, 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.

Eliminating 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., Rep. to the Judicial Council, Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures, *supra*, 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).

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:

Eliminating 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 Superior Court of Orange County and replaces that language with language authorizing mandatory electronic filing and service by local rule in any court. (Judicial Council of Cal., Rep. to the Judicial Council, Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures, *supra*, 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.

Eliminating proof of electronic service provisions 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 Rules of Court. (Judicial Council of Cal., Rep. to the Judicial Council, Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures, *supra*, pp. 6-7, 13.) Most of the language in section 1013b is taken directly from rule 2.251(i) (re-lettered to 2.251(j) in the proposal). Because section 1013b will fill the statutory gap that rule 2.251(i) had been filling, the proposal eliminates provisions that are duplicative of section 1013b.

Ensuring consistency, reducing redundancy, and improving 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 existing areas of the rules where amendments can improve internal consistency and clarity as well as reduce redundancy with provisions of section 1010.6 currently in existence.

Clarifying that issuances by a court can fall within the definition of “document.” Section 1010.6 allows the court to electronically serve “any document issued by the court.” (§ 1010.6(a)(3)). 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.”

Reorganizing 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 overall topic of rule 2.253 indicates that only electronic filing is within its scope; the heading of 2.253 reads, “Permissive electronic filing, mandatory electronic filing, and electronic filing by court order.” Rule 2.251, which covers electronic service (heading: “Electronic service”), includes some provisions for electronic service by court order, but is not comprehensive as additional provisions are located in

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:

rule 2.253. To resolve this internal inconsistency and improve the clarity of the rules, the proposal adds a new subsection (d) to rule 2.251. The provisions of rule 2.253(c) concerning electronic service by court order are found in new rule 2.251(d) under the proposal. In addition, the scope of 2.253(c) is narrowed to only encompass electronic filing by court order to keep it topically consistent with the rest of rule 2.253.

Eliminating 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 statutes to address electronic filing and electronic service), duplicative provisions exist between the rules and section 1010.6. The proposal eliminates some rule provisions that are redundant as they duplicate provisions of 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 risk of the rules and section 1010.6 becoming inconsistent with one another.

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

The proposal does not eliminate the definitions of “electronic service,” “electronic transmission,” and “electronic notification,” which are the same as the definitions of those terms in section 1010.6. Rule 2.250(b) provides a more comprehensive scheme of definitions than section 1010.6 and includes terms that are undefined in section 1010.6 (e.g., “document” is not defined in section 1010.6, but is defined in rule 2.250(b).) To retain this comprehensive scheme, the proposal does not eliminate definitions of some terms though those same terms are defined in section 1010.6. However, ITAC requests specific comments on retaining the terms and definitions that are duplicative of section 1010.6.

Amending fee provisions to be more consistent with section 1010.6. Rule 2.255 provides for contracting between the courts and electronic filing service providers. Rule 2.255(b) allows permissible provisions of any such contract to include “reasonable fees” charged by an electronic service providers and “reasonable requirements” imposed by the electronic service provider for users to access the electronic filing system. The proposal splits rule 2.255(b) into (b)(1) and (b)(2); (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 on what a contract may provide and what it must provide. Effective January 1, 2017, any fees an electronic filing service provider charges for the processing of a payment for filing fees and other court fees shall not exceed the costs incurred of processing the payment. (§ 1010.6(b)(7).) Current 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

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:

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 of payment in section 1010.6(b)(7). This is to avoid redundancy with the current 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 of electronic filing, includes permissive language on whether a court accepts 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.

Clarifying responsibilities of electronic filers. Rule 2.256 governs the responsibilities of electronic filers. Under the current rules, as a condition of electronic filing, an electronic filer must “Furnish 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 “at which the electronic filer agrees to accept electronic service” as redundant 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 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 the self-represented party has not affirmatively consented to receive electronic service. Accordingly, the addition to the rule 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 “Immediately provide the court and all parties with any change to the electronic filer’s electronic service address.” The proposal adds that “This 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

Assuming the Judicial Council-sponsored legislation on electronic filing and electronic service will be 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

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:

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. Rule 2.250(b) provides a more comprehensive scheme of definitions than section 1010.6, however. 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 including 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 title 2, 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**

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3 (a) * * *

4
5 (b) **Definitions**

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

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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 person’s behalf. A document is also a notice, order,
12 judgment, or other issuance by the court. A document may be in paper or
13 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. on a court day 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.

~~(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) Addition 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.

32
33 **~~(d)~~(e) Maintenance of electronic service lists**

34
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.

40
41 **~~(e)~~(f) Service by the parties and other persons**

- 1 (1) Notwithstanding ~~(d)~~(e), parties and other persons that have consented to or
2 are required to serve documents electronically are responsible for electronic
3 service on all other parties and other persons required to be served in the
4 case. A party or other person may serve documents electronically directly, by
5 an agent, or through a designated electronic filing service provider.
6
- 7 (2) A document may not be electronically served on a nonparty unless the
8 nonparty consents to electronic service or electronic service is otherwise
9 provided for by law or court order.

10
11 **(f)(g) Change of electronic service address**

- 12
- 13 (1) A party or other person whose electronic service address changes while the
14 action or proceeding is pending must promptly file a notice of change of
15 address electronically with the court and must serve this notice electronically
16 on all other parties and all other persons required to be served.
17
- 18 (2) A party's or other person's election to contract with an electronic filing
19 service provider to electronically file and serve documents or to receive
20 electronic service of documents on the party's or other person's behalf does
21 not relieve the party or other person of its duties under (1).
22
- 23 (3) An electronic service address is presumed valid for a party or other person if
24 the party or other person files electronic documents with the court from that
25 address and has not filed and served notice that the address is no longer valid.
26

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

28

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

- 31
- 32 (1) Ensure that the documents served can be viewed and downloaded using the
33 hyperlink provided;
34
- 35 (2) Preserve the document served without any change, alteration, or modification
36 from the time the document is posted until the time the hyperlink is
37 terminated; and
38
- 39 (3) Maintain the hyperlink until either:
40
- 41 (A) All parties in the case have settled or the case has ended and the time
42 for appeals has expired; or
43

1 (B) If the party other person is no longer in the case, the party or other
2 person has provided notice to all other parties and other persons
3 required to receive notice that it is no longer in the case and that they
4 have 60 days to download any documents, and 60 days have passed
5 after the notice was given.

6
7 **(h)(i) When service is complete**

8
9 (1) Electronic service of a document is complete ~~at the time of the electronic~~
10 ~~transmission of the document or at the time that the electronic notification of~~
11 ~~service of the document is sent.~~ as provided for under Code of Civil
12 Procedure section 1010.6 and the rules in this chapter.

13
14 (2) If an electronic filing service provider is used for service, the service is
15 complete at the time that the electronic filing service provider electronically
16 transmits the document or sends electronic notification of service.

17
18 ~~(2) — If a document is served electronically, any period of notice, or any right or~~
19 ~~duty to act or respond within a specified period or on a date certain after~~
20 ~~service of the document, is extended by two court days, unless otherwise~~
21 ~~provided by a statute or a rule.~~

22
23 ~~(3) — The extension under (2) does not extend the time for filing:~~

24
25 ~~(A) — A notice of intent to move for a new trial;~~

26
27 ~~(B) — A notice of intent to move to vacate the judgment under Code of Civil~~
28 ~~Procedure section 663a; or~~

29
30 ~~(C) — A notice of appeal.~~

31
32 ~~(4) — Service that occurs after the close of business is deemed to have occurred on~~
33 ~~the next court day.~~

34
35 **(i)(j) Proof of service**

36
37 (1) Proof of electronic service ~~may be by any of the methods~~ shall be made as
38 provided in Code of Civil Procedure section 1013b. 1013a, with the
39 following exceptions:

40
41 ~~(A) — The proof of electronic service does not need to state that the person~~
42 ~~making the service is not a party to the case.~~

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

2
3 ~~(i) The electronic service address of the person making the service, in~~
4 ~~addition to that person's residence or business address;~~

5
6 ~~(ii) The date of the electronic service, instead of the date and place of~~
7 ~~deposit in the mail;~~

8
9 ~~(iii) The name and electronic service address of the person served, in~~
10 ~~place of that person's name and address as shown on the~~
11 ~~envelope; and~~

12
13 ~~(iv) That the document was served electronically, in place of the~~
14 ~~statement that the envelope was sealed and deposited in the mail~~
15 ~~with postage fully prepaid.~~

16
17 ~~(2) Proof of electronic service may be in electronic form and may be filed~~
18 ~~electronically with the court.~~

19
20 ~~(3)(2) Under rule 3.1300(c), proof of electronic service of the moving papers must~~
21 ~~be filed at least five court days before the hearing.~~

22
23 ~~(4)(3) The party filing the proof of electronic service must maintain the printed~~
24 ~~form of the document bearing the declarant's original signature and must~~
25 ~~make the document available for inspection and copying on the request of the~~
26 ~~court or any party to the action or proceeding in which it is filed, in the~~
27 ~~manner provided in rule 2.257(a). If a person signs a printed form of a proof~~
28 ~~of electronic service, the party or other person filing the proof of electronic~~
29 ~~service must comply with the provisions of rule 257(a).~~

30
31
32 ~~(j)(k) **Electronic service by or on court**~~

33
34 ~~(1) The court may electronically serve documents any notice, order, judgment, or~~
35 ~~other document issued by the court in the same manner that parties may serve~~
36 ~~documents by electronic service, as provided for under Code of Civil~~
37 ~~Procedure section 1010.6 and the rules in this chapter.~~

38
39 ~~(2) A document may be electronically served on a court if the court consents to~~
40 ~~electronic service or electronic service is otherwise provided for by law or~~
41 ~~court order. A court indicates that it agrees to accept electronic service by:~~
42

- 1 (A) Serving a notice on all parties and other persons in the case that the
2 court accepts electronic service. The notice must include the electronic
3 service address at which the court agrees to accept service; or
4
5 (B) Adopting a local rule stating that the court accepts electronic service.
6 The rule must indicate where to obtain the electronic service address at
7 which the court agrees to accept service.
8

9 **Advisory Committee Comment**

10
11 **Subdivisions (c)-(d).** Court-ordered electronic service is not subject to the provisions in the Code
12 of Civil Procedure section 1010.6 requiring that, where mandatory electronic filing and service
13 are established by local rule, the court and the parties must have access to more than one
14 electronic filing service provider.
15

16 **Rule 2.252. General rules on electronic filing of documents**

17
18 **(a) In general**

19
20 A court may provide for electronic filing of documents in actions and proceedings
21 as provided under Code of Civil Procedure section 1010.6 and the rules in this
22 chapter.
23

24 **(b) Direct and indirect electronic filing**

25
26 Except as otherwise provided by law, a court may provide for the electronic filing
27 of documents directly with the court, indirectly through one or more approved
28 electronic filing service providers, or through a combination of direct and indirect
29 means.
30

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

32
33 ~~(1)—A document that the court or a party files electronically under the rules in this~~
34 ~~chapter has the same legal effect as a document in paper form.~~

35
36 ~~(2)—Filing a document electronically does not alter any filing deadline.~~
37

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

39
40 When it is not feasible for a party or other person to convert a document to
41 electronic form by scanning, imaging, or another means, a court may allow that
42 party to file the document in paper form.

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(e) Original documents

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

(f) Application for waiver of court fees and costs

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

(g) Orders and judgments

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

(h) Proposed orders

Proposed orders may be filed and submitted electronically as provided in rule 3.1312.

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

(a) Permissive electronic filing by local rule

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

(b) Mandatory electronic filing by local rule

A court may require parties by local rule to electronically file documents in civil actions directly with the court, or directly with the court and through one or more approved electronic filing service providers, or through more than one approved electronic filing service provider, subject to the conditions in Code of Civil Procedure section 1010.6, the rules in this chapter, and the following conditions:

- (1) The court must specify the types or categories of civil actions in which parties or other persons are required to file and serve documents

1 electronically. The court may designate any of the following as eligible for
2 mandatory electronic filing and service:

- 3
4 (A) All civil cases;
5
6 (B) All civil cases of a specific category, such as unlimited or limited civil
7 cases;
8
9 (C) All civil cases of a specific case type, including but not limited to,
10 contract, collections, personal injury, or employment;
11
12 (D) All civil cases assigned to a judge for all purposes;
13
14 (E) All civil cases assigned to a specific department, courtroom or
15 courthouse;
16
17 (F) Any class actions, consolidated actions, or group of actions,
18 coordinated actions, or actions that are complex under rule 3.403; or
19
20 (G) Any combination of the cases described in subparagraphs (A) to (F),
21 inclusive.

- 22
23 (2) Self-represented parties or other self-represented persons are exempt from
24 any mandatory electronic filing and service requirements adopted by courts
25 under this rule and Code of Civil Procedure section 1010.6.
26
27 (3) In civil cases involving both represented and self-represented parties or other
28 persons, represented parties or other persons may be required to file and serve
29 documents electronically; however, in these cases, each self-represented
30 party or other person is to file, serve, and be served with documents by non-
31 electronic means unless the self-represented party or other person
32 affirmatively agrees otherwise.
33
34 (4) A party or other person that is required to file and serve documents
35 electronically must be excused from the requirements if the party or other
36 person shows undue hardship or significant prejudice. A court requiring the
37 electronic filing and service of documents must have a process for parties or
38 other person, including represented parties or other represented persons, to
39 apply for relief and a procedure for parties or other persons excused from
40 filing documents electronically to file them by conventional means.
41
42 (5) Any fees charged by the court or an electronic filing service provider shall be
43 consistent with the fee provisions of Code of Civil Procedure section 1010.6.

1 for no more than the cost actually incurred by the court in providing for the
2 electronic filing and service of the documents. Any fees charged by an
3 electronic filing service provider shall be reasonable.
4

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

10 ~~(7)~~(6) Any document required to be electronically filed with the court under this
11 subdivision that is received electronically after the close of business on any
12 day is deemed to have been filed on the next court day, unless by local rule
13 the court provides that any document required to be electronically filed with
14 the court under this subdivision that is received electronically before
15 midnight on a court day is deemed to have been filed on that court day, and
16 any document received electronically after midnight is deemed filed on the
17 next court day. The effective date of filing any document received
18 electronically is prescribed by Code of Civil Procedure section 1010.6. This
19 paragraph provision concerns only the effective date of filing. Any document
20 that is received electronically must be processed and satisfy all other legal
21 filing requirements to be filed as an official court record.
22

23 ~~(8)~~(7) A court that adopts a mandatory electronic filing program under this
24 subdivision must report semiannually to the Judicial Council on the operation
25 and effectiveness of the court's program.
26

27 **(c) Electronic filing and service required by court order**
28

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

34
35 ~~(A) Serve all documents electronically, except when personal service is~~
36 ~~required by statute or rule;~~

37
38 ~~(B) File~~ file all documents electronically; ~~or~~

39
40 ~~(C) Serve and file all documents electronically, except when personal~~
41 ~~service is required by statute or rule.~~
42

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

6 **Rule 2.254. Responsibilities of court**
7

8 **(a) Publication of electronic filing requirements**
9

10 Each court that permits or mandates electronic filing must publish, in both
11 electronic and print formats, the court's electronic filing requirements.
12

13 **(b) Problems with electronic filing**
14

15 If the court is aware of a problem that impedes or precludes electronic filing ~~during~~
16 ~~the court's regular filing hours~~, it must promptly take reasonable steps to provide
17 notice of the problem.
18

19 **(c) Public access to electronically filed documents**
20

21 Except as provided in rules 2.250–2.259 and 2.500–2.506, an electronically filed
22 document is a public document at the time it is filed unless it is sealed under rule
23 2.551(b) or made confidential by law.
24

25 **Rule 2.255. Contracts with electronic filing service providers**
26

27 **(a) Right to contract**
28

- 29 (1) A court may contract with one or more electronic filing service providers to
30 furnish and maintain an electronic filing system for the court.
31
32 (2) If the court contracts with an electronic filing service provider, it may require
33 electronic filers to transmit the documents to the provider.
34
35 (3) If the court contracts with an electronic service provider or the court has an
36 in-house system, the provider or system must accept filing from other
37 electronic filing service providers to the extent the provider or system is
38 compatible with them.
39

40 **(b) Provisions of contract**
41

42 ~~The court's contract with an electronic filing service provider may allow the~~
43 ~~provider to charge electronic filers a reasonable fee in addition to the court's filing~~

1 ~~fee. The contract may also allow the electronic filing service provider to make other~~
2 ~~reasonable requirements for use of the electronic filing system.~~

3
4 (1) The court's contract with an electronic filing service provider may:

5
6 (a) Allow the provider to charge electronic filers a reasonable fee in addition to
7 the court's filing fee;

8
9 (b) Allow the provider to make other reasonable requirements for use of the
10 electronic filing system.

11
12 (2) The court's contract with an electronic filing service provider must comply with
13 requirements of Code of Civil Procedure section 1010.6.

14
15 **(c) Transmission of filing to court**

16
17 An electronic filing service provider must promptly transmit any electronic filing
18 and any applicable filing fee to the court.

19
20 **(d) Confirmation of receipt and filing of document**

21
22 (1) An electronic filing service provider must promptly send to an electronic filer
23 its confirmation of the receipt of any document that the filer has transmitted
24 to the provider for filing with the court.

25
26 (2) The electronic filing service provider must send its confirmation to the filer's
27 electronic service address and must indicate the date and time of receipt, in
28 accordance with rule 2.259(a).

29
30 (3) After reviewing the documents, the court must promptly transmit to the
31 electronic filing service provider and the electronic filer the court's
32 confirmation of filing or notice of rejection of filing, in accordance with rule
33 2.259.

34
35 **(e) Ownership of information**

36
37 All contracts between the court and electronic filing service providers must
38 acknowledge that the court is the owner of the contents of the filing system and has
39 the exclusive right to control the system's use.

40
41 **Rule 2.256. Responsibilities of electronic filer**

1 **(a) Conditions of filing**

2
3 Each electronic filer must:

- 4
- 5 (1) Comply with any court requirements designed to ensure the integrity of
6 electronic filing and to protect sensitive personal information;
7
- 8 (2) Furnish information the court requires for case processing;
9
- 10 (3) Take all reasonable steps to ensure that the filing does not contain computer
11 code, including viruses, that might be harmful to the court's electronic filing
12 system and to other users of that system;
13
- 14 (4) Furnish one or more electronic service addresses, in the manner specified by
15 the court, ~~at which the electronic filer agrees to accept service.~~ This only
16 applies when the electronic filer has consented to or is required to accept
17 electronic service;
18
- 19 (5) Immediately provide the court and all parties with any change to the
20 electronic filer's electronic service address. This only applies when the
21 electronic filer has consented to or is required to accept electronic service;
22 and
23
- 24 (6) If the electronic filer uses an electronic filing service provider, provide the
25 electronic filing service provider with the electronic address at which the filer
26 is to be sent all documents and immediately notify the electronic filing
27 service provider of any change in that address.
28

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

30
31 A document that is filed electronically with the court must be in a format specified
32 by the court unless it cannot be created in that format. The format adopted by a
33 court must meet the following requirements:

- 34
- 35 (1) The software for creating and reading documents must be in the public
36 domain or generally available at a reasonable cost.
37
- 38 (2) The printing of documents must not result in the loss of document text,
39 format, or appearance.
40
- 41 (3) The document must be text searchable when technologically feasible without
42 impairment of the document's image.
43

1 If a document is filed electronically under the rules in this chapter and cannot be
2 formatted to be consistent with a formatting rule elsewhere in the California Rules
3 of Court, the rules in this chapter prevail.
4

5 **Advisory Committee Comment**
6

7 **Subdivision (b)(3).** The term “technologically feasible” does not require more than the
8 application of standard, commercially available optical character recognition (OCR) software.
9

10 **Rule 2.257. Requirements for signatures on documents**
11

12 **(a) Documents signed under penalty of perjury**
13

14 When a document to be filed electronically provides for a signature under penalty
15 of perjury, of any person, the following applies the document is deemed to have
16 been signed by that person if filed electronically provided that either of the
17 following conditions is satisfied:
18

19 (1) The declarant has signed the document using a computer or other technology
20 in accordance with procedures, standards, and guidelines established by the
21 Judicial Council; or
22

23 ~~(1)(2)~~ The declarant ~~The document is deemed signed by the declarant if, before~~
24 ~~filing, the declarant has physically signed a printed form of the document. (2)~~
25 ~~By electronically filing the document, the electronic filer certifies that (1)~~
26 ~~has been complied with and that the original, signed document is available~~
27 ~~for inspection and copying at the request of the court or any other party.~~
28 ~~Local child support agencies may maintain original, signed pleadings by way~~
29 ~~of an electronic copy in the statewide automated child support system and~~
30 ~~must maintain them only for the period of time stated in Government Code~~
31 ~~section 68152(a). If the local child support agency maintains an electronic~~
32 ~~copy of the original, signed pleading in the statewide automated child support~~
33 ~~system, it may destroy the paper original. In the event this second method of~~
34 submitting documents electronically under penalty of perjury is used, the
35 following conditions apply:
36

37 (A)~~(3)~~ At any time after the electronic version of the document is filed,
38 any other party may serve a demand for production of the
39 original signed document. The demand must be served on all
40 other parties but need not be filed with the court.
41

42 (B)~~(4)~~ Within five days of service of the demand under (3)(A), the party
43 or other person on whom the demand is made must make the

1 original signed document available for inspection and copying by
2 all other parties.

3
4 (C)(5)At any time after the electronic version of the document is filed,
5 the court may order the filing party or other person to produce the
6 original signed document in court for inspection and copying by
7 the court. The order must specify the date, time, and place for the
8 production and must be served on all parties.

9
10 (D) Notwithstanding (A)–(C), local child support agencies may
11 maintain original, signed pleadings by way of an electronic copy
12 in the statewide automated child support system and must
13 maintain them only for the period of time stated in Government
14 Code section 68152(a). If the local child support agency
15 maintains an electronic copy of the original, signed pleading in
16 the statewide automated child support system, it may destroy the
17 paper original.

18
19 **(b) Documents not signed under penalty of perjury**

20
21 If a document does not require a signature under penalty of perjury, the document
22 is deemed signed by the party if the document is filed electronically.

23
24 **(c) Documents requiring signatures of opposing parties**

25
26 When a document to be filed electronically, such as a stipulation, requires the
27 signatures of opposing parties, the following procedure applies:

- 28
29 (1) The party filing the document must obtain the signatures of all parties on a
30 printed form of the document.
31
32 (2) The party filing the document must maintain the original, signed document
33 and must make it available for inspection and copying as provided in (a)(2)
34 and Code of Civil Procedure section 1010.6. The court and any other party
35 may demand production of the original signed document in the manner
36 provided in (a)(3)–(5)(2)(A)–(C).
37
38 (3) By electronically filing the document, the electronic filer indicates that all
39 parties have signed the document and that the filer has the signed original in
40 his or her possession.

41
42 **(d) Digital signature**

1 A party is not required to use a digital signature on an electronically filed
2 document.

3
4 **(e) Judicial signatures**

5
6 If a document requires a signature by a court or a judicial officer, the document
7 may be electronically signed in any manner permitted by law.

8
9 **Advisory Committee Comment**

10
11 **Subdivision (a)(1).** The standards and guidelines for electronic signatures that satisfy the
12 requirements for an electronic signatures under penalty of perjury are [will be] contained in the
13 Trial Court Records Manual.

14
15 **Rule 2.259. Actions by court on receipt of electronic filing**

16
17 **(a) Confirmation of receipt and filing of document**

18
19 (1) *Confirmation of receipt*

20
21 When a court receives an electronically submitted document, the court must
22 promptly send the electronic filer confirmation of the court's receipt of the
23 document, indicating the date and time of receipt. A document is considered
24 received at the date and time the confirmation of receipt is created.

25
26 (2) *Confirmation of filing*

27
28 If the document received by the court under (1) complies with filing
29 requirements and all required filing fees have been paid, the court must
30 promptly send the electronic filer confirmation that the document has been
31 filed. The filing confirmation must indicate the date and time of filing and is
32 proof that the document was filed on the date and at the time specified. The
33 filing confirmation must also specify:

34
35 (A) Any transaction number associated with the filing;

36
37 (B) The titles of the documents as filed by the court; and

38
39 (C) The fees assessed for the filing.

40
41 (3) *Transmission of confirmations*

42
43 The court must send receipt and filing confirmation to the electronic filer at

1 the electronic service address the filer furnished to the court under rule
2 2.256(a)(4). The court must maintain a record of all receipt and filing
3 confirmations.

4
5 (4) *Filer responsible for verification*

6
7 In the absence of the court's confirmation of receipt and filing, there is no
8 presumption that the court received and filed the document. The electronic
9 filer is responsible for verifying that the court received and filed any
10 document that the electronic filer submitted to the court electronically.

11
12 **(b) Notice of rejection of document for filing**

13
14 If the clerk does not file a document because it does not comply with applicable
15 filing requirements or because the required filing fee has not been paid, the court
16 must promptly send notice of the rejection of the document for filing to the
17 electronic filer. The notice must state the reasons that the document was rejected
18 for filing.

19
20 ~~(e) — Document received after close of business~~

21
22 ~~A document that is received electronically by the court after the close of business is~~
23 ~~deemed to have been received on the next court day, unless the court has provided~~
24 ~~by local rule, with respect to documents filed under the mandatory electronic filing~~
25 ~~provisions in rule 2.253(b)(7), that documents received electronically before~~
26 ~~midnight on a court day are deemed to have been filed on that court day, and~~
27 ~~documents received electronically after midnight are deemed filed on the next court~~
28 ~~day. This provision concerns only the effective date of filing; any document that is~~
29 ~~electronically filed must be processed and satisfy all other legal filing requirements~~
30 ~~to be filed as an official court record.~~

31
32 **(c)(d) Delayed delivery**

33
34 If a technical problem with a court's electronic filing system prevents the court
35 from accepting an electronic filing ~~during its regular filing hours~~ on a particular
36 court day, and the electronic filer demonstrates that he or she attempted to
37 electronically file the document on that day, the court must deem the document as
38 filed on that day. This subdivision does not apply to the filing of a complaint or any
39 other initial pleading in an action or proceeding.

40
41 **(d)(e) Endorsement**

- 1 (1) The court’s endorsement of a document electronically filed must contain the
2 following: “Electronically filed by Superior Court of California, County of
3 _____, on _____ (date),” followed by the name of the court clerk.
4
- 5 (2) The endorsement required under (1) has the same force and effect as a
6 manually affixed endorsement stamp with the signature and initials of the
7 court clerk.
8
- 9 (3) A complaint or another initial pleading in an action or proceeding that is filed
10 and endorsed electronically may be printed and served on the defendant or
11 respondent in the same manner as if it had been filed in paper form.
12

13 **(e)(f) Issuance of electronic summons**

- 14
- 15 (1) On the electronic filing of a complaint, a petition, or another document that
16 must be served with a summons, the court may transmit a summons
17 electronically to the electronic filer in accordance with this subdivision (e)
18 and the Code of Civil Procedure section 1010.6.
19
- 20 (2) The electronically transmitted summons must contain an image of the court’s
21 seal and the assigned case number.
22
- 23 (3) Personal service of the printed form of a summons transmitted electronically
24 to the electronic filer has the same legal effect as personal service of a copy
25 of an original summons.
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JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
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MEMORANDUM

Date	Action Requested
January 10, 2017	Approve Proposal
To	Deadline
Information Technology Advisory Committee, Rules and Projects Subcommittee and Civil and Small Claims Advisory Committee, Unlimited Case and Complex Litigation Subcommittee	January 19, 2017
From	Contact
Patrick O'Donnell, Principal Managing Attorney Andrea Jaramillo, Attorney Legal Services	Andrea Jaramillo, Legal Services 916-293-0991 phone andrea.jaramillo@jud.ca.gov
Subject	
Legislative Proposal	

The attached proposal amends section 1719 of the Civil Code and sections 405.22, 405.23, 594, 659, 660, and 663a of the Code of Civil Procedure. The purpose of these amendments is to provide clarity about and foster the use of electronic service.

The proposed amendments to Code of Civil Procedure sections 659, 660, and 663a will conform these sections to an amendment to Code of Civil Procedure section 664.5 that the Judicial Council is sponsoring in 2017. The amendment to section 664.5 will allow notices of entry of judgment to be served electronically rather than mailed. Sections 659, 660, and 663a refer to section 664.5 and “mailing.” The proposal would replace “mailing” with “service.”

The proposed amendments to Code of Civil Procedure sections 405.22, 405.23, and 594 will authorize electronic service of certain notices, which these code sections currently require to be mailed. Similarly, the proposed amendment to Civil Code section 1719 would authorize the courts to electronically serve a written demand for payment on the drawer of a bad check when the court is the payee of the check and the drawer is already accepting electronic service in the matter to which the check pertains; currently, the demand must be mailed.

Judicial Council of California

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www.courts.ca.gov/policyadmin-invitationstocomment.htm

INVITATION TO COMMENT

[ItC prefix as assigned]-__

Title	Action Requested
Technology: Electronic Service	Review and submit comments by April 28, 2017
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a.	January 1, 2019
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

The Information Technology Advisory Committee (ITAC) recommends amending section 1719 of the Civil Code and sections 405.22, 405.23, 594, 659, 660, and 663a of the Code of Civil Procedure. This legislative proposal would (1) authorize the courts to electronically serve a written demand for payment on the drawer of a bad check when the court is the payee of the check and the drawer of the check is accepting electronic service in the matter to which the check pertains; (2) authorize a party asserting a real property claim to electronically serve a notice of pendency of the action upon other parties or owners when those parties or owners are already accepting electronic service in the action; (3) authorize electronic service of notices of intention to move for a new trial or vacate judgment; and (4) amend certain deadlines tied to dates of “mailing” to be tied instead to dates of “service.” The proposal originates from ITAC’s modernization project to amend statutes and California Rules of Court to facilitate electronic filing and service and to foster modern e-business practices.

Background

Code of Civil Procedure section 1010.6 (section 1010.6) authorizes electronic service in the superior courts. Pursuant to section 1010.6 the Judicial Council implemented rules for both permissive and mandatory electronic service. Legislation that the Judicial Council is sponsoring in 2017 will, if passed by the Legislature and signed by the governor, codify certain electronic service provisions currently covered in the rules including the addition of Code of Civil Procedure section 1013b to govern proof of electronic service. (Judicial Council of Cal., Rep. to

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 Judicial Council, Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures (Oct. 28, 2016).¹)

The Proposal

This proposal builds on prior efforts to provide clarity about and foster the use of electronic service. To these ends, the proposal amends the Civil Code to authorize the courts to electronically serve, under certain circumstances, a written demand for payment when the court is the payee of a check passed on insufficient funds. In addition, the proposal amends the Code of Civil Procedure to clearly authorize electronic service of certain notices and to amend certain deadlines tied to dates of “mailing” to be instead tied to dates of “service.”

Proposed amendment to Civil Code section 1719 would authorize the courts to electronically serve a written demand for payment when the court is the payee of a check passed on insufficient funds and the drawer of the check consents to or is required to accept electronic service

Civil Code section 1719 governs procedures and remedies available to a payee of a check passed on insufficient funds. Remedies include service charges and treble damages owed to the payee. (Civ. Code, § 1719 (a)-(b).) For damages, payees must make written demand for payment. (Civ. Code, § 1719(b).) When the payee is a court, Civil Code section 1719(g) only allows mailing the demand and, in a dispute, only allows damages when a copy of the written demand is entered into evidence along with the “certificate of mailing” in the form provided for in Code of Civil Procedure section 1013a(4).

Civil Code section 1719(g) is at odds with Code of Civil Procedure section 1010.6(a)(3), which allows courts to “electronically serve any document issued by the court” when personal service is not required and when a party has consented to or is required to accept electronic service. To resolve this incongruity between the Civil Code and Code of Civil Procedure, the proposal amends Civil Code section 1719(g) to add a provision that clearly permits a court to electronically serve a written demand on the drawer of a bad check when the check relates to an action in which the drawer has consented to accept or is required to accept electronic service. It also clarifies that proof of electronic service rather than proof of mailing is allowed. This will eliminate any need for a court to mail a demand when the drawer is already accepting electronic service of documents in the case to which the check pertains. This is a narrow exception to the requirement of mailing a demand.

The proposed amendment cross-references Code of Civil Procedure section 1013b, which will govern proof of electronic service and which is part of Judicial Council-sponsored legislation in

¹ The legislative proposal was approved as part of the Judicial Council’s consent agenda at its December 16, 2016 meeting. (Judicial Council of California, Dec. 16, 2016 Meeting Agenda, <<https://jcc.legistar.com/View.ashx?M=A&ID=463484&GUID=8E4B8E76-2D88-480D-843A-6576CC996914>> [as of Dec. 27, 2016]; Judicial Council of California, Dec. 16, 2016 Meeting Recording <http://jcc.granicus.com/MediaPlayer.php?view_id=1&clip_id=348&meta_id=18253> [as of Dec. 27, 2016] [approval of consent agenda].)

2017. (Judicial Council of Cal., Rep. to the Judicial Council, Judicial Council-sponsored Legislation: Electronic Filing, Service, and Signatures, *supra*, pp. 6-7, 13.) If the Judicial Council-sponsored legislation passes, section 1013b will supplant most of Rule of Court 2.257(i), which currently covers proof of electronic service. If the Judicial Council-sponsored legislation does not pass, this proposal can be revised to amend section 1719(g) to cross-reference the Rules of Court rather than Code of Civil Procedure section 1013b.

Proposed amendments to Code of Civil Procedure sections 405.22 and 405.23 would authorize electronic service of a notice of pendency of an action involving a claim to real property where the adverse parties or owners consent to or are required to accept electronic service

Code of Civil Procedure section 405.22 and 405.23 govern service requirements for a notice of pendency of an action involving a claims to real property. A notice of pendency may be recorded in the office of the recorder in the county (or counties) in which the real property is situated. (Code Civ. Proc., § 405.20.) Such a notice is void and invalid as to any adverse party or owner of record absent proper service and proof of service. (Code Civ. Proc., § 405.23.) Under Code of Civil Procedure sections 405.22 and 405.23, the notice of pendency must be mailed by registered or certified mail, and the proof of service must be in the form and content specified by Code of Civil Procedure section 1013a, which governs proof of service by mail.

The proposal amends Code of Civil Procedure section 405.22 to clearly authorize a claimant to use electronic service for a notice of pendency in lieu of mailed service when the parties to whom the real property claim is adverse and owners of record have consented to accept or are required to accept electronic service in the action to which the notice pertains. The proposal also amends Code of Civil Procedure section 405.23 to allow for proof of electronic service and not just proof of service by mail. These amendments are narrow in scope, but will eliminate the need for mailing a notice of pendency in situations where the persons involved are already accepting electronic service in the underlying action.

The proposed amendment to Code of Civil Procedure section 405.22 cross-references Code of Civil Procedure section 1013b, which is part of Judicial Council-sponsored legislation in 2017 and which will govern proof of electronic service. If section 1013b is not enacted into law, this proposal can be revised to amend section 405.23 to cross-reference the Rules of Court governing proof of electronic service instead.

Proposed amendment to Code of Civil Procedure section 594 would authorize electronic service of a notice of trial or hearing

Code of Civil Procedure section 594 allows a party to bring an issue to trial or hearing in the absence of the adverse party. (Code Civ. Proc., § 594(a).) When the issue to be tried is an issue of fact, however, the court must first be satisfied that the adverse party had adequate notice (15 days for most trials and 5 days for unlawful detainees). (*Ibid.*) The Code of Civil Procedure states that the notice to the adverse party “shall by served by mail” by the court clerk, but if the court clerk does not do so, any party may serve the notice “by mail.” (§ 594(b).) The proposal amends

Code of Civil Procedure section 594 to clearly authorize electronic service and proof of electronic service in accordance with Code of Civil Procedure sections 1010.6 and 1013b.

The proposed amendment to section 594 cross-references Code of Civil Procedure section 1013b, which is part of Judicial Council-sponsored legislation in 2017 and which will govern proof of electronic service. If section 1013b is not enacted into law, this proposal can be revised to amend section 594 to cross-reference the Rules of Court governing proof of electronic service instead.

Proposed amendments to Code of Civil Procedure section 659, 660, and 663a would replace “mailing” with “service” to ensure consistency between these sections and Code of Civil Procedure section 664.5

In 2017, the Judicial Council will be sponsoring legislation to amend Code of Civil Procedure section 664.5 to allow notices of entry of judgment to be electronically served rather than mailed or personally served in certain actions. (Judicial Council of Cal., Rep. to the Judicial Council, Judicial Council-Sponsored Legislation: Electronic Filing, Service, and Signatures, *supra*, pp. 6, 9.) Code of Civil Procedure sections 659, 660, and 663a all cross reference section 664.5 and the proposal amends those provisions for consistency.

Amending Code of Civil Procedure section 659. Code of Civil Procedure section 659 refers to section 664.5 in setting the deadline to file a notice of intention to move for a new trial, and specifically keys one deadline to the date of “mailing” the notice of entry of judgment. (Code Civ. Proc., § 659(a)(2).) To keep sections 664.5 and 659 of the Code of Civil Procedure consistent, the proposal strikes “mailing” from section 659 and replaces it with “service.” In addition, subsection (b) of section 659 states that the deadlines to file cannot be extended by order, stipulation, or provisions of the Code of Civil Procedure that extend time when service is by mail. Under Code of Civil Procedure section 1010.6(a)(4)(A)(i), electronic service also does not extend the time for filing a notice of intention to move for a new trial. Accordingly, the proposal amends section 659(b) to add that time also cannot be extended by electronic service.

Amending Code of Civil Procedure section 660. Code of Civil Procedure section 660 cross-references section 664.5 in setting a jurisdictional deadline for a court to rule on a motion for a new trial, and specifically keys one deadline to the date of “mailing” the notice of entry of judgment. To keep sections 664.5 and 660 of the Code of Civil Procedure consistent, the proposal strikes “mailing” from section 660 and replaces it with “service.”

Amending Code of Civil Procedure section 663a. Code of Civil Procedure section 663a refers to section 664.5 in setting the deadline to file a notice of intention to move to vacate judgment, and specifically keys one deadline to the date of “mailing” the notice of entry of judgment. (Code Civ. Proc., § 663a(a)(2).) Section 663a also cross-references section 664.5 in setting a jurisdictional deadline for a court to rule on a motion to vacate judgment, and specifically ties one deadline to the date of “mailing” the notice of entry of judgment. (Code Civ. Proc., §

663a(b). To keep sections 664.5 and 663a of the Code of Civil Procedure consistent, the proposal strikes “mailing” from section 663a and replaces it with “service.”

Finally, subsection (c) of section 663a states that the deadlines to file cannot be extended by order, stipulation, or provisions of the Code of Civil Procedure that extend time when service is by mail. Under Code of Civil Procedure section 1010.6(a)(4)(A)(ii), electronic service also does not extend the time for filing a notice of intention to move to vacate judgment. Accordingly, the proposal amends section 663a(c) to add that time also cannot be extended by electronic service.

Alternatives Considered

The alternative to the proposed amendments would be to preserve the status quo. However, the status quo is not consistent with ITAC’s project to modernize statutes to promote modern e-business practices and is also not consistent with ensuring cohesion between Judicial Council-sponsored legislation and related statutes.

Implementation Requirements, Costs, and Operational Impacts

The proposal should provide more consistency and clarity in the use of electronic service in the areas covered by Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a. The proposal is not expected to result in additional costs.

Request for Specific Comments

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

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 3.5 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Text of proposed amendments to Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a.

Section 1719 of the Civil Code and sections 405.22, 405.23, 594, 659, 660, and 663a of the Code of Civil Procedure would be amended, effective January 1, 2019, to read:

1 **Civil Code § 1719.**

2
3 (a)(1) Notwithstanding any penal sanctions that may apply, any person who passes a
4 check on insufficient funds shall be liable to the payee for the amount of the check and a
5 service charge payable to the payee for an amount not to exceed twenty-five dollars (\$25)
6 for the first check passed on insufficient funds and an amount not to exceed thirty-five
7 dollars (\$35) for each subsequent check to that payee passed on insufficient funds.
8

9 (2) Notwithstanding any penal sanctions that may apply, any person who passes a check
10 on insufficient funds shall be liable to the payee for damages equal to treble the amount
11 of the check if a written demand for payment is mailed by certified mail to the person
12 who had passed a check on insufficient funds and the written demand informs this person
13 of (A) the provisions of this section, (B) the amount of the check, and (C) the amount of
14 the service charge payable to the payee. The person who had passed a check on
15 insufficient funds shall have 30 days from the date the written demand was mailed to pay
16 the amount of the check, the amount of the service charge payable to the payee, and the
17 costs to mail the written demand for payment. If this person fails to pay in full the amount
18 of the check, the service charge payable to the payee, and the costs to mail the written
19 demand within this period, this person shall then be liable instead for the amount of the
20 check, minus any partial payments made toward the amount of the check or the service
21 charge within 30 days of the written demand, and damages equal to treble that amount,
22 which shall not be less than one hundred dollars (\$100) nor more than one thousand five
23 hundred dollars (\$1,500). When a person becomes liable for treble damages for a check
24 that is the subject of a written demand, that person shall no longer be liable for any
25 service charge for that check and any costs to mail the written demand.
26

27 (3) Notwithstanding paragraphs (1) and (2), a person shall not be liable for the service
28 charge, costs to mail the written demand, or treble damages if he or she stops payment in
29 order to resolve a good faith dispute with the payee. The payee is entitled to the service
30 charge, costs to mail the written demand, or treble damages only upon proving by clear
31 and convincing evidence that there was no good faith dispute, as defined in subdivision
32 (b).
33

34 (4) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for
35 the service charge if, at any time, he or she presents the payee with written confirmation
36 by his or her financial institution that the check was returned to the payee by the financial
37 institution due to an error on the part of the financial institution.
38

39 (5) Notwithstanding paragraph (1), a person shall not be liable under that paragraph for
40 the service charge if the person presents the payee with written confirmation that his or
41 her account had insufficient funds as a result of a delay in the regularly scheduled transfer
42 of, or the posting of, a direct deposit of a social security or government benefit assistance
43 payment.

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1 (6) As used in this subdivision, to “pass a check on insufficient funds” means to make,
2 utter, draw, or deliver any check, draft, or order for the payment of money upon any
3 bank, depository, person, firm, or corporation that refuses to honor the check, draft, or
4 order for any of the following reasons:
5

6 (A) Lack of funds or credit in the account to pay the check.
7

8 (B) The person who wrote the check does not have an account with the drawee.
9

10 (C) The person who wrote the check instructed the drawee to stop payment on the check.
11

12 (b)-(c) * * *

13
14 (d) In the case of a stop payment, a court may not award damages or costs under this
15 section unless the court receives into evidence a copy of the written demand that, in that
16 case, shall have been sent to the drawer and a signed certified mail receipt showing
17 delivery, or attempted delivery if refused, of the written demand to the drawer's last
18 known address.
19

20 (e)-(f) * * *

21
22 (g) (1) Notwithstanding subdivision (a), if the payee is the court, the written demand for
23 payment described in subdivision (a) may be mailed to the drawer by the court clerk.
24 Notwithstanding subdivision (d), in the case of a stop payment where the demand is
25 mailed by the court clerk, a court may not award damages or costs pursuant to
26 subdivision (d), unless the court receives into evidence a copy of the written demand, and
27 a certificate of mailing by the court clerk in the form provided for in subdivision (4) of
28 Section 1013a of the Code of Civil Procedure for service in civil actions.
29

30 (2) In lieu of the mailing provisions of (g)(1), if the payee is the court and the check
31 passed on insufficient funds relates to an action in which the drawer has consented to
32 accept or is required to accept electronic service pursuant to Section 1010.6 of the Code
33 of Civil Procedure, the court clerk may serve the written demand electronically.
34 Notwithstanding subdivision (d), in the case of a stop payment where the demand is
35 electronically served by the court clerk, a court may not award damages or costs pursuant
36 to subdivision (d), unless the court receives into evidence a copy of the written demand,
37 and a certificate of electronic service by the court clerk in the form provided for in
38 subdivision (4) of Section 1013a of the Code of Civil Procedure as modified for
39 electronic service in accordance with Section 1013b of the Code of Civil Procedure.
40

41 (3) For purposes of this subdivision, in courts where a single court clerk serves more than
42 one court, the clerk shall be deemed the court clerk of each court.
43

1 (h)-(k) * * *

2
3 **Code of Civil Procedure § 405.22.**
4

5 (a) Except in actions subject to Section 405.6, the claimant shall, prior to recordation of
6 the notice, cause a copy of the notice to be mailed, by registered or certified mail, return
7 receipt requested, to all known addresses of the parties to whom the real property claim is
8 adverse and to all owners of record of the real property affected by the real property
9 claim as shown by the latest county assessment roll. If there is no known address for
10 service on an adverse party or owner, then as to that party or owner a declaration under
11 penalty of perjury to that effect may be recorded instead of the proof of service required
12 above, and the service on that party or owner shall not be required. Immediately
13 following recordation, a copy of the notice shall also be filed with the court in which the
14 action is pending. Service shall also be made immediately and in the same manner upon
15 each adverse party later joined in the action.
16

17 (b) In lieu of the mailing provisions of (a), a claimant may serve the notice electronically
18 in accordance with Section 1010.6 upon the parties to whom the real property claim is
19 adverse and owners of record provided that the parties to whom the real property claim is
20 adverse and owners of record have consented to accept or are required to accept
21 electronic service pursuant to Section 1010.6 in the action to which the notice pertains.
22

23 **Code of Civil Procedure § 405.23.**
24

25 Any notice of pendency of action shall be void and invalid as to any adverse party or
26 owner of record unless the requirements of Section 405.22 are met for that party or owner
27 and a proof of service in the form and content specified in Section 1013a for service by
28 mail or Section 1013b for electronic service has been recorded with the notice of
29 pendency of action.
30

31 **Code of Civil Procedure § 594.**
32

33 (a) In superior courts either party may bring an issue to trial or to a hearing, and, in the
34 absence of the adverse party, unless the court, for good cause, otherwise directs, may
35 proceed with the case and take a dismissal of the action, or a verdict, or judgment, as the
36 case may require; provided, however, if the issue to be tried is an issue of fact, proof shall
37 first be made to the satisfaction of the court that the adverse party has had 15 days' notice
38 of such trial or five days' notice of the trial in an unlawful detainer action as specified in
39 subdivision (b). If the adverse party has served notice of trial upon the party seeking the
40 dismissal, verdict, or judgment at least five days prior to the trial, the adverse party shall
41 be deemed to have had notice.
42

1 (b) The notice to the adverse party required by subdivision (a) shall be served
2 electronically in accordance with Section 1010.6 or by mail on all the parties by the clerk
3 of the court not less than 20 days prior to the date set for trial. In an unlawful detainer
4 action where notice is served electronically in accordance with Section 1010.6 or by mail
5 that service shall be electronically served or mailed not less than 10 days prior to the date
6 set for trial. If notice is not served by the clerk as required by this subdivision, it may be
7 served electronically in accordance with Section 1010.6 or by mail by any party on the
8 adverse party not less than 15 days prior to the date set for trial, and in an unlawful
9 detainer action where notice is served electronically in accordance with Section 1010.6 or
10 by mail that service shall be electronically served or mailed not less than 10 days prior to
11 the date set for trial. The time provisions of Section 1010.6 and Section 1013 shall not
12 serve to extend the notice of trial requirements under this subdivision for unlawful
13 detainer actions. If notice is served by the clerk, proof thereof may be made by
14 introduction into evidence of the clerk's certificate pursuant to subdivision (3) of Section
15 1013a, compliance with Section 1013b when service is electronic, or other competent
16 evidence. If notice is served by a party, proof may be made by introduction into evidence
17 of an affidavit or certificate pursuant to subdivision (1) or (2) of Section 1013a,
18 compliance with Section 1013b when service is electronic, or other competent evidence.
19 The provisions of this subdivision are exclusive.

20
21 **Code of Civil Procedure § 659.**

22
23 (a) The party intending to move for a new trial shall file with the clerk and serve upon
24 each adverse party a notice of his or her intention to move for a new trial, designating the
25 grounds upon which the motion will be made and whether the same will be made upon
26 affidavits or the minutes of the court, or both, either:

27
28 (1) After the decision is rendered and before the entry of judgment.

29
30 (2) Within 15 days of the date of ~~mailing~~ service of the notice of entry of judgment by the
31 clerk of the court pursuant to Section 664.5, or service upon him or her by any party of
32 written notice of entry of judgment, or within 180 days after the entry of judgment,
33 whichever is earliest; provided, that upon the filing of the first notice of intention to move
34 for a new trial by a party, each other party shall have 15 days after the service of that
35 notice upon him or her to file and serve a notice of intention to move for a new trial.

36
37 (b) That notice of intention to move for a new trial shall be deemed to be a motion for a
38 new trial on all the grounds stated in the notice. The times specified in paragraphs (1) and
39 (2) of subdivision (a) shall not be extended by order, ~~or~~ stipulation, ~~or by~~ those provisions
40 of Section 1013 that extend the time for exercising a right or doing an act where service
41 is by mail, or those provisions of Section 1010.6 that extend the time for exercising a
42 right or doing an act where service is electronic.

1 **Code of Civil Procedure § 660.**

2
3 On the hearing of such motion, reference may be had in all cases to the pleadings and
4 orders of the court on file, and when the motion is made on the minutes, reference may
5 also be had to any depositions and documentary evidence offered at the trial and to the
6 report of the proceedings on the trial taken by the phonographic reporter, or to any
7 certified transcript of such report or if there be no such report or certified transcript, to
8 such proceedings occurring at the trial as are within the recollection of the judge; when
9 the proceedings at the trial have been phonographically reported, but the reporter's notes
10 have not been transcribed, the reporter must upon request of the court or either party,
11 attend the hearing of the motion and shall read his notes, or such parts thereof as the
12 court, or either party, may require.

13
14 The hearing and disposition of the motion for a new trial shall have precedence over all
15 other matters except criminal cases, probate matters and cases actually on trial, and it
16 shall be the duty of the court to determine the same at the earliest possible moment.

17
18 Except as otherwise provided in Section 12a of this code, the power of the court to rule
19 on a motion for a new trial shall expire 60 days from and after the ~~mailing~~ service of the
20 of notice of entry of judgment by the clerk of the court pursuant to Section 664.5 or 60
21 days from and after service on the moving party by any party of written notice of the
22 entry of the judgment, whichever is earlier, or if such notice has not theretofore been
23 given, then 60 days after filing of the first notice of intention to move for a new trial. If
24 such motion is not determined within said period of 60 days, or within said period as thus
25 extended, the effect shall be a denial of the motion without further order of the court. A
26 motion for a new trial is not determined within the meaning of this section until an order
27 ruling on the motion (1) is entered in the permanent minutes of the court or (2) is signed
28 by the judge and filed with the clerk. The entry of a new trial order in the permanent
29 minutes of the court shall constitute a determination of the motion even though such
30 minute order as entered expressly directs that a written order be prepared, signed and
31 filed. The minute entry shall in all cases show the date on which the order actually is
32 entered in the permanent minutes, but failure to comply with this direction shall not
33 impair the validity or effectiveness of the order.

34
35 **Code of Civil Procedure § 663a.**

36
37 (a) A party intending to make a motion to set aside and vacate a judgment, as described in
38 Section 663, shall file with the clerk and serve upon the adverse party a notice of his or
39 her intention, designating the grounds upon which the motion will be made, and
40 specifying the particulars in which the legal basis for the decision is not consistent with
41 or supported by the facts, or in which the judgment or decree is not consistent with the
42 special verdict, either:
43

1 (1) After the decision is rendered and before the entry of judgment.

2
3 (2) Within 15 days of the date of mailing service of the of notice of entry of judgment by
4 the clerk of the court pursuant to Section 664.5, or service upon him or her by any party
5 of written notice of entry of judgment, or within 180 days after the entry of judgment,
6 whichever is earliest.

7
8 (b) Except as otherwise provided in Section 12a, the power of the court to rule on a
9 motion to set aside and vacate a judgment shall expire 60 days from the mailing service
10 of the of notice of entry of judgment by the clerk of the court pursuant to Section 664.5,
11 or 60 days after service upon the moving party by any party of written notice of entry of
12 the judgment, whichever is earlier, or if that notice has not been given, then 60 days after
13 filing of the first notice of intention to move to set aside and vacate the judgment. If that
14 motion is not determined within the 60-day period, or within that period, as extended, the
15 effect shall be a denial of the motion without further order of the court. A motion to set
16 aside and vacate a judgment is not determined within the meaning of this section until an
17 order ruling on the motion is (1) entered in the permanent minutes of the court, or (2)
18 signed by the judge and filed with the clerk. The entry of an order to set aside and vacate
19 the judgment in the permanent minutes of the court shall constitute a determination of the
20 motion even though that minute order, as entered, expressly directs that a written order be
21 prepared, signed, and filed. The minute entry shall, in all cases, show the date on which
22 the order actually is entered in the permanent minutes, but failure to comply with this
23 direction shall not impair the validity or effectiveness of the order.

24
25 (c) The provisions of Section 1013 extending the time for exercising a right or doing an
26 act where service is by mail and the provisions of Section 1010.6 extending the time for
27 exercising a right or doing an act where service is electronic shall not apply to extend the
28 times specified in paragraphs (1) and (2) of subdivision (a).

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30 (d)-(e) * * *

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**Information Technology Advisory Committee (ITAC)
Rules and Policy Subcommittee Work Plan—2017**

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
8.	<p>Modernize Rules of Court for the Trial Courts</p> <p>Modernize Trial Court Rules to Support E-Business</p> <p><i>Major Tasks:</i></p> <p>(a) In collaboration with other advisory committees, continue review of rules and statutes in a systematic manner and develop recommendations for more comprehensive changes to align with modern business practices (e.g., eliminating paper dependencies).</p> <p>Note: Projects include proposals to amend rules to conform to Judicial Council-sponsored legislation to be introduced in 2017. For example if the legislation is enacted, the rules on e-filing and e-service (Cal. Rules of Court, rule 2.250-2.275) to be amended by January 1, 2018 to replace the current “close of business” provisions in the rules. Additional codes sections that would benefit from review and amendments to modernizing them include Code Civ. Proc. § 405.23, 594, 680.010-724.260; Civ. Code § 1719; Gov. Code § 915.2; and Labor Code § 3082.</p>	2	<p><i>Judicial Council Direction:</i></p> <p>Tactical Plan for Technology Goal 4: Identify New Policy, Rule, and Legislation Change</p> <p><i>Origin of Project:</i></p> <p>Tactical Plan; standing item on annual agenda.</p> <p><i>Resources:</i></p> <p><i>ITAC:</i> Rules & Policy Subcommittee</p> <p><i>Judicial Council Staffing:</i> Legal Services, Information Technology, Office of Governmental Affairs, Center for Families, Children and the Courts (CFCC), Criminal Justice Services</p> <p><i>Collaborations:</i> ITAC Joint Appellate Technology Subcommittee; Appellate Advisory Committee, Civil & Small Claims, Criminal Law, Traffic, Family and Juvenile Law, and Probate and Mental Health advisory committees; TCPJAC, CEAC and their Joint Technology, Rules, and Legislative Subcommittees</p> <p><i>Key Objective Supported:</i> Goal 4</p>	Ongoing	Rule and/or Legislative Proposal(s), if appropriate

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
9.	<p>Standards, Rules and/or Legislation for E-Signatures</p> <p>Develop Legislation, Rules, and Standards for Electronic Signatures on Documents Filed by Parties and Attorneys</p> <p><i>Major Tasks:</i></p> <p>(a) Develop rule proposal to amend Code of Civil Procedure section 1010.6(b)(2) and Cal. Rules of Court, rule 2.257, to authorize electronic signatures on documents filed by the parties and attorneys.</p> <p>(b) CEAC Records Management Subcommittee to develop standards governing electronic signatures for documents filed into the court to be included in the "Trial Court Records Manual" with input from the Court Information Technology Managers Forum (CIOs). Rules & Policy Subcommittee to review.</p>	2	<p><i>Judicial Council Direction:</i></p> <p>Tactical Plan for Technology Goal 4: Identify New Policy, Rule, and Legislation Change</p> <p><i>Origin of Project:</i></p> <p>Tactical Plan; next phase and expansion of 2014, 2015, and 2016 Annual Agenda items. Recommendation by Department of Child Support Services and attorney, Tim Perry.</p> <p><i>Resources:</i></p> <p><i>ITAC:</i> Rules & Policy Subcommittee</p> <p><i>Judicial Council Staffing:</i> Legal Services, Information Technology</p> <p><i>Collaborations:</i> ITAC Joint Appellate Technology Subcommittee; CEAC Subcommittee on Records Management, CEAC, TCPJAC, and their Joint Rules and Legislative Subcommittees; Civil & Small Claims Advisory Committee, and the Court Information Technology Managers Forum (CITMF)</p> <p><i>Key Objective Supported:</i> Goal 4</p>	December 2017, effective January 2018 (2 years)	<p>Rule and/or Legislative Proposal, if appropriate</p> <p>Recommendation of Standards for Electronic Signatures (Update to the "Trial Court Records Manual")</p>

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
10.	<p>Rules for Remote Access to Records for Justice Partners</p> <p>Develop Rule Proposal to Facilitate Remote Access to Trial Court Records by Local Justice Partners</p> <p><i>Major Tasks:</i></p> <p>(a) In collaboration with the Criminal Law Advisory Committee, amend trial court rules to facilitate remote access to trial court records by state and local justice partners, parties, and their attorneys.</p>	1	<p><i>Judicial Council Direction:</i></p> <p>Tactical Plan for Technology Goal 4: Identify New Policy, Rule, and Legislation Change</p> <p><i>Origin of Project:</i></p> <p>Carryover from 2016 Annual Agenda. Rules and Policy Subcommittee discussion/recommendation. Currently, the trial court rules recognize remote electronic access of trial court records in criminal cases and certain civil cases by parties, their attorneys, and persons or entities authorized by statute or rule. This rules proposal would facilitate remote access to trial court records by local justice partners.</p> <p><i>Resources:</i></p> <p><i>ITAC:</i> Rules & Policy Subcommittee</p> <p><i>Judicial Council Staffing:</i> Legal Services, Information Technology, Criminal Justice Services, Center for Families, Children & the Courts</p> <p><i>Collaborations:</i> Criminal Law Advisory Committee, CEAC, TCPJAC, and their Joint Technology Subcommittee; Family & Juvenile Law and Traffic Law Advisory Committee</p> <p><i>Key Objective Supported:</i> Goal 4</p>	December 2017, effective January 2018 (2 years)	Rule Proposal

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
11.	<p>Standards for Electronic Court Records as Data</p> <p>Develop Standards for Electronic Court Records Maintained as Data</p> <p><i>Major Tasks:</i></p> <p>(a) CEAC Records Management Subcommittee -- in collaboration with the Data Exchange Workstream governance body (TBD) -- to develop standards and proposal to allow trial courts to maintain electronic court records as data in their case management systems to be included in the "Trial Court Records Manual" with input from the Court Information Technology Managers Forum (CITMF). Rules & Policy Subcommittee to review.</p> <p>(b) Determine what statutory and rule changes may be required to authorize and implement the maintenance of records in the form of data; develop proposals to satisfy these changes.</p>	1	<p><i>Judicial Council Direction:</i></p> <p>Tactical Plan for Technology Goal 4: Identify New Policy, Rule, and Legislation Change</p> <p><i>Origin of Project:</i></p> <p>Carryover from 2016 Annual Agenda. Court Executives Advisory Committee (CEAC); Government Code section 68150 provides that court records may be maintained in electronic form so long as they satisfy standards developed by the Judicial Council. These standards are contained in the Trial Court Records Manual. However, the current version of the manual addresses maintaining electronic court records only as documents, not data.</p> <p><i>Resources:</i></p> <p><i>ITAC:</i> Rules & Policy Subcommittee</p> <p><i>Judicial Council Staffing:</i> Information Technology, Legal Services</p> <p><i>Collaborations:</i> Data Exchange governance body (TBD); CEAC, TCPJAC, and their Joint Technology Subcommittee</p> <p><i>Key Objective Supported:</i> Goal 4</p>	December 2018 (2 years)	<p>Recommend Statutes and Rules to be Developed</p> <p>Adoption of Standards for Maintaining Electronic Court Records as Data (Update to the "Trial Court Records Manual")</p>

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
12.	<p>Rules for E-Filing</p> <p>Evaluate Current E-Filing Laws and Rules, and Recommend Appropriate Changes</p> <p><i>Major Tasks:</i></p> <p>(a) Evaluate current e-filing laws, rules, and amendments. Projects may include reviewing statutes and rules governing Electronic Filing Service Providers (EFSP) and filing deadlines.</p> <p>(b) Develop rule proposals to implement the legislative proposal developed in 2016, which amends e-filing laws and rules (Code of Civil Procedure section 1010.6 and California Rules of Court, rule 2.250 et seq.).</p> <p>Note: This effort will be informed by the E-Filing and SRL E-Services Workstreams, and the CMS Data Exchange governance body (TBD) for any additional rules development needed.</p>	2	<p>Judicial Council Direction:</p> <p>Tactical Plan for Technology Goal 4: Identify New Policy, Rule, and Legislation Change</p> <p>Origin of Project:</p> <p>Tactical Plan; carry over project from 2015 and 2016 Annual Agenda.</p> <p>Resources:</p> <p><i>ITAC:</i> Rules & Policy Subcommittee</p> <p><i>Judicial Council Staffing:</i> Legal Services, Information Technology</p> <p><i>Collaborations:</i> ITAC E-Filing and SRL Workstreams; DX governance body (TBD); TCPJAC/CEAC Joint Technology, Rules and Legislative Subcommittees; also Criminal Law, Civil and Small Claims, Family and Juvenile Law, and Appellate Advisory Committees</p> <p>Key Objective Supported: Goal 4</p>	December 2017, effective January 2018 (2 years)	Legislative and Rule Proposal(s)

#	Project	Priority	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
13.	<p>Privacy Policy</p> <p>Develop Branch and Model Court Privacy Policies on Electronic Court Records and Access in Trial and Appellate Courts</p> <p><i>Major Tasks:</i></p> <p>(a) Continue development of a comprehensive statewide privacy policy addressing electronic access to court records and data to align with both state and federal requirements.</p> <p>(b) Continue development of a model (local) court privacy policy, outlining the key contents and provisions to address within a local court's specific policy.</p>	2	<p><i>Judicial Council Direction:</i></p> <p>Tactical Plan for Technology Goal 4: Promote Rule and Legislative Changes</p> <p><i>Origin of Project:</i></p> <p>Tactical Plan; carryover from Annual Agenda 2014, 2015 and 2016. Code Civ. Proc., § 1010.6 (enacted in 1999) required the Judicial Council to adopt uniform rules on access to public records; subsequently the rules have been amended in response to changes in the law and technology, requests from the courts, and suggestions from members of CTAC, the bar, and the public.</p> <p><i>Resources:</i></p> <p><i>ITAC:</i> Rules & Policy Subcommittee, Joint Appellate Technology Subcommittee</p> <p><i>Judicial Council Staffing:</i> Legal Services, Information Technology</p> <p><i>Collaborations:</i> Identity Management Working Group; Appellate Advisory Committee, CEAC, TCPJAC, and their Joint Technology Subcommittee; Criminal Law Advisory Committee, and the Department of Justice</p> <p><i>Key Objective Supported:</i> Goal 4</p>	December 2018 (2 years)	<p>Recommendation of Branch Privacy Policy</p> <p>Recommendation of Model Local Court Privacy Policy</p>