



Judicial Council of California · Administrative Office of the Courts

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: January 24, 2012

Title	Agenda Item Type
Civil Practice and Procedure: Service of Double-Sided Papers	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 2.117	July 1, 2012
Recommended by	Date of Report
Civil and Small Claims Advisory Committee	August 19, 2011
Hon. Dennis M. Perluss, Chair	Contact
Hon. Patricia M. Lucas, Vice Chair	Susan R. McMullan, 415-865-7990
	susan.mcmullan@jud.ca.gov

Executive Summary

The Civil and Small Claims Advisory Committee recommends amending rule 2.117 of the California Rules of Court to provide that parties may agree to accept service of double-sided papers. This would result in a reduction in paper use and storage space required and, for documents served by mail, reduced postage.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council amend rule 2.117 to authorize service of double-sided papers with the agreement of the party being served. The text of the amended rule is attached at page 4.

Previous Council Action

The Judicial Council adopted a rule governing the form and format of papers effective January 1, 1949. The rule has been amended many times and currently numerous short rules, including rule 2.117, address matters such as type style, margins, and conformed copies of papers that are filed.

Rationale for Recommendation

An attorney suggested that rule 2.102, which specifies that only one side of each page of a paper may be used, be amended to allow the service of double-sided copies of papers. Because rule 2.102 governs only filing and not service of papers, the Civil and Small Claims Advisory Committee instead recommends amending rule 2.117 to provide that parties may agree to accept service of double-sided papers. Rule 2.102 states, “On papers, only one side of each page may be used.” The rule applies only to papers to be filed, as it is under division 2, Papers and Forms to Be Filed. Rule 2.117 applies to papers that are served. It states, “All copies of papers served must conform to the original papers filed, including the numbering of lines, pagination, additions, deletions, and interlineations.”

To permit the service of double-sided papers, rule 2.117 would be amended to add “except, with the agreement of the other party, a party may serve that other party with papers printed on both sides of the page.” This would allow each party to stipulate with each other party to serve and receive double-sided papers but would not require the agreement of all parties in a multiparty case to receive double-sided papers in order for any two parties to agree to do so. Use of double-sided papers for service copies would mean that filed papers would differ in appearance and size from those served (a half-inch of filed papers would result in about a quarter-inch of served papers, for example), although pagination and other characteristics would remain the same. The benefits of permitting service of double-sided papers are a reduction in paper use and storage space required and, for documents served by mail, reduced postage.

Comments, Alternatives Considered, and Policy Implications

This proposal was circulated for public comment during the spring 2011 comment cycle. Thirteen comments were received.¹ Commentators included superior courts, attorneys (individually and on behalf of legal organizations and clinics), county counsel, a city attorney’s office, a sheriff’s department, Consumer Attorneys of California, two committees of the State Bar of California, and a local bar association. All but one commentator were in favor of the proposal. The Los Angeles County Sheriff’s Department disagreed with the proposal, stating that levying officers prefer one-sided documents for purposes of document imaging and that additional hardware and software are necessary to automatically scan two-sided documents. Los Angeles County Sheriff’s Department employees could continue to receive single-sided papers under this rule. Because the rule amendment would allow service of double-sided papers only with the agreement of the other party, sheriff’s department employees without access to equipment that would allow double-sided scanning may decline to agree to receive double-sided papers.

Many other commentators expressed their support for the proposal. Some representative comments include the following: the amendment will reduce printing and postage costs and unnecessary clutter; it will significantly reduce overhead expenses for copying, postage, etc.; it

¹ A chart containing all comments and the proposed committee responses is on pages 5–12.

will save paper and mailing costs; in addition to less paper, postage, and energy, the rule change will provide an even greater benefit to the environment in preserving natural resources.

As an alternative, the rule could remain unchanged, requiring parties to serve single-sided papers. None of the benefits of reduced use of paper, postage, and storage would be realized if the rule were not amended. A different alternative was considered last year when a subcommittee of the Civil and Small Claims Advisory Committee discussed and ultimately rejected a proposal that would have permitted the filing of double-sided documents. That subcommittee had concerns about how the proposal would affect courts and therefore decided not to proceed with it. The concerns about that earlier proposal do not apply to this proposal, which permits only service of double-sided papers. This proposal would affect only attorneys and have little or no effect on courts. Moreover, the proposed amended rule requires the receiving party's consent before another party may serve double-sided documents on that party.

Implementation Requirements, Costs, and Operational Impacts

There would be no implementation requirements, costs, or operational impacts for courts. A party filing a document that had been served in a double-sided format would have to file it as a single-sided copy. (Cal. Rules of Court, rule 2.102.)

Attachments

1. Cal Rules of Court, rule 2.117, at page 4
2. Chart of comments, at pages 5–11

Rule 2.117 of the Cal. Rules of Court is amended effective July 1, 2012, to read:

1 **Rule 2.117. Conformed copies of papers**

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3 All copies of papers served must conform to the original papers filed, including the
4 numbering of lines, pagination, additions, deletions, and interlineations except that, with
5 the agreement of the other party, a party may serve that other party with papers printed on
6 both sides of the page.

SPR11-16**Civil Practice and Procedure: Service of Double-Sided Papers** (amend Cal. Rules of Court, rule 2.117)

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

	Commentator	Position	Comment	Committee Response
1.	Juliet Brodie, Clinic Director Stanford Community Law Clinic	A	I support the proposed changes as a modest attempt to reduce the negative environmental impact of litigation.	No response necessary.
2.	David J. Cook, Attorney at Law Cook Collection Attorneys, PLC San Francisco	A	<p>As indicated, I am the attorney who has sought the change to Rule 2.117 allowing attorneys to double-side copy service papers. This rule does not change the requirement that papers filed with the court be single-sided. This rule is optional, and not mandatory.</p> <p>This rule will benefit law firms, both large and small, in reducing their copy costs, postage, storage, and energy. This rule will benefit the environment in reducing the consumption of paper products and energy. This rule also will coincide with the recent movement to reduce the unnecessary consumption of natural resources and adhere to core values to protect the environment as best as possible.</p> <p>In federal court, nearly all service is done electronically. Bankruptcy court likewise follows that general rule, save and except service upon parties who do not receive papers electronically. This might consist of a mass of creditors, numbering in the thousands, or even tens of thousands. Service upon these parties is still done by mail. Bankruptcy practitioners routinely double-side all mailings.</p> <p>Double-side copying makes good sense in that parties to certain types of litigation have a limited interest, and therefore, their involvement with the case is to determine whether or not</p>	The committee thanks Mr. Cook for the suggestion that led to this proposal.

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			<p>their limited rights would or would not be adversely impacted. Therefore, the double-sided service avoids the production of voluminous documents served on parties who are truly marginal or token.</p> <p>As an exemplar, e.g., we have multi-page documents which, if single-sided, would cost \$4.95 to mail. This document consists of 100 pages. We double-sided the document and the postage is \$2.28 consisting of 50 pages. While the savings of \$2.47 does not appear to be significant, the savings becomes extremely significant multiplied daily, and moreover, by every law firm, corporate law departments, and other governmental agencies. The savings of paper would be enormous and literally clear palettes from service every day.</p> <p>In closing, this rule change benefits everybody, and maybe even the post office. Lawyers might complain somewhat the physical handling of two-sided document might be cumbersome, however, this change is optional and not mandatory, and like all changes, counsel will readily acclimate themselves to this change in light of the financial and environmental benefit.</p>	
3.	Consumer Attorneys of California Paloma Pérez Associate Legislative Counsel	A	Consumer Attorneys of California has reviewed the proposed revisions to Rule 2.117. The amendments provide that parties may agree to accept service of double-sided papers. Please accept the following comments on behalf of the association.	No response necessary.

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			<p>The amendment proposed to 2.117 of the California Rules of Court would allow parties the flexibility to accept service of double-sided papers, but does not <i>require</i> them to accept service of double-sided papers. During an era where society is attempting to become economically pragmatic and to reduce waste, the amendment will reduce printing and postage costs and unnecessary clutter, which is an advantage to both parties. If for some reason, a party wishes to receive service on single-sided paper, she will have the freedom to do so.</p> <p>For these reasons, Consumer Attorneys of California supports the proposed changes to Rule 2.117. If you wish to discuss the issue further, please do not hesitate to contact me.</p>	
4.	Commercial Law League of America Oliver P. Yandle, Executive Vice President	A	<p>The Commercial Law League of America (“League”), founded in 1895, is the nation's oldest organization of attorneys, collection agencies, judges, accountants, trustees, turn around managers and other experts in credit and finance actively engaged in the fields of commercial law, bankruptcy and insolvency. Its membership of more than 2,000 individuals has long been associated with the representation of creditor interests, while at the same time seeking fair, equitable and efficient treatment of all parties in interest. The League is comprised of professionals from around the globe, particularly attorneys who concentrate their practice in the areas of complex commercial law and litigation, collections, Uniform Commercial</p>	No response necessary.

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			<p>Code issues, and corporate organization and transactions. CLLA has offered testimony and comments on a broad range of legal issues and is widely respected as an expert on commercial and bankruptcy matters.</p> <p>The Commercial Law League of America supports the proposed rule change. League members practicing in California can significantly reduce overhead expenses for copying, postage, etc. by being allowed to use both sides of the document page.</p> <p>This technique has been utilized successfully by many courts, including the bankruptcy courts of several states - where all of the documents coming from the Court utilize two-sided printing, to obtain a significant cost saving without any loss of quality control.</p> <p>It is hoped that California adopting this rule will stimulate other jurisdictions to also consider this and other means to assist litigants and the courts in reducing the costs for printing, postage, and storage which are a necessary expense in a litigation practice.</p>	
5.	County of San Diego Office of County Counsel Thomas E. Montgomery	A	The Office of County Counsel of San Diego agrees with the proposed change to Cal. Rules of Court, rule 2117, which would allow service of double-sided papers. County Counsel employs 43 full time litigators in our civil and Juvenile Dependency divisions. The potential cost savings to our office, and consequently to the San Diego taxpayers, would be appreciable.	No response necessary.

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6.				No response necessary.
7.	Tony Klein Process Server Institute Attorney Service of San Francisco	A	<p>A proposed amendment to California Rule of Court (CRC) § 2.117 suggests that service of documents printed double-sided should be allowed, with consent from the opposing side. The current rule requires that document served must conform to the original document on file with the court, which is printed only on one side of the page.</p> <p>I am in favor of the rule relating to the double-sided service copies, and don't know why it is necessary to elicit consent from opposing counsel to before serving it.</p> <p>I am in favor if this proposal, and would allow it irrespective of the consent from the other party, UNLESS the other party objected and requested single-sided copies. It will save paper, mailing costs, and will not diminish the consent of the documents served. Allowing double-sided service copies without consent will allow service of original process (summons and complaint).</p>	<p>The committee believes the rule will function best if mutual consent to double-sided copies is required before service.</p>
8.	Los Angeles County Michael Torres Sheriff's Department	N	Levying officers prefer numbered one-sided documents rather than double-sided documents for document imaging. Additional hardware and software is required to automatically scan two-sided document.	Under the rule, a party that prefers single-sided documents may decline to agree to receive double-sided documents.
9.	Orange County Bar Association John Hueston, President	A	No narrative comments submitted.	No response necessary.

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10.	San Francisco, City of Dennis J. Herrera, City Attorney Jerry Threet, Deputy City Attorney	A	<p>The City Attorney of the City of San Francisco maintains a very significant case load ranging the entire gamut of civil litigation, both as plaintiff and defendant. The majority of our cases are in state court, as opposed to federal court, compelling us to serve papers on the other side, as opposed to the efficient, fair and budget conscious electronic filings system allowed in federal court. Given the unique status of the City Attorney, we are involved in very significant cases involving many parties, often with voluminous filings. These filings would necessarily result in the service of moving or responding papers upon those interested parties, some of whom have a major or minor stake in the outcome of the case.</p> <p>As a large law office, we face the same budgetary and financial issues of private law firms in spending our resources on postage, paper, copy charges, energy and paper storage. In addition, like most local government entities, we face difficult budget challenges in the current economic climate and for the foreseeable future.</p> <p>The proposed change to Rule of Court 2.117 would enable the City Attorney to serve double-sided copies on consenting parties. This would be of enormous benefit to our office and to other governmental legal offices in reducing costs incurred in service of papers on adverse parties. Clearly, we would be using less paper, less postage, and less energy. Because our office</p>	No response necessary.

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			would save money, so would the taxpayers of the City of San Francisco. In addition, the rule change would provide an even greater benefit to the environment in preserving our natural resources. Given that this rule will not adversely affect the administration of justice through our court system, and that parties must “opt in” before they are affected by it, we strongly recommend the adoption of these changes to Rule 2.117.	
11.	The State Bar of California Committee on Administration of Justice	A	CAJ supports this proposal.	No response necessary.
12.	The Sturdevant Law Firm Whitney Stark, Attorney San Francisco	A	The proposed changes would save significant costs for firms, like ours, who undertake complex class action cases. As we often serve low-income and indigent clients, lowering our costs will enable us to better serve those clients who otherwise might not have access to the legal system.	No response necessary.
13.	Superior Court of California, County of Monterey Minnie Monarque, Director of Civil & Family Law Division	A	Agree with proposed changes	No response necessary.
14.	Superior Court California, County of Sacramento	NI		
15.	Superior Court California, County of	A	No narrative comments submitted.	No response necessary.

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	Commentator	Position	Comment	Committee Response
	San Diego Mike Roddy, Executive Officer			