

Invitation to Comment

<p>Title</p>	<p>Forms for Electronic Service: <i>Consent to Electronic Service and Notice of Electronic Notification Address</i> and <i>Notice of Change of Electronic Notification Address</i> (approve forms EFS-005 and EFS-010)</p>
<p>Summary</p>	<p>California courts have begun to use electronic filing and service, and will be using them more in the years ahead. This proposal recommends the approval of two new optional forms to assist persons filing documents electronically with the courts: (1) <i>Consent to Electronic Service and Notice of Electronic Notification Address</i> (form EFS-005), to provide a means for a party to state its consent to electronic service and provide its electronic notification address to the court and other parties under rule 2.260(a) of the California Rules of Court; and (2) <i>Notice of Change of Electronic Notification Address</i> (form EFS-010), to provide a means for parties to give notice of a change in electronic notification address under rule 2.260(f).</p>
<p>Source</p>	<p>Court Technology Advisory Committee Hon. Ming W. Chin, Chair</p>
<p>Staff</p>	<p>Patrick O'Donnell, Supervising Attorney, 415-865-7665, patrick.o'donnell@jud.ca.gov</p>
<p>Discussion</p>	<p>California courts have begun to use electronic filing and will be using it more in the years ahead. As e-filing and service become increasingly available, there is a benefit to having standardized Judicial Council forms available to assist electronic filers in handling certain recurring matters.</p> <p>Two purposes for which standardized forms would be useful are (1) to provide a means for a party to state its consent to electronic service and provide its electronic notification address to the court and other parties under rule 2.260(a) of the California Rules of Court and (2) to provide a means for parties to give notice of a change in electronic notification address under rule 2.260(d)(1).</p> <p>To assist persons in filing and serving documents electronically, the Court Technology Advisory Committee recommends that the Judicial Council approve, effective January 1, 2010:</p> <p>1. <i>Consent to Electronic Service and Notice of Electronic Notification Address</i> (form EFS-005); and</p>

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

The rationale and legal basis for the two new optional forms is as follows.

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

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

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

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

The rules on electronic service provide: “A party whose electronic notification address changes while the action or proceeding is pending must promptly file a notice of change of address electronically with the court and must serve this notice electronically on all other parties.” (See Cal. Rules of Court, rule 2.260(d)(1).) There is currently a Judicial Council form for notifying the court and other parties of a change of mailing address.² But there is no comparable form available for litigants to use to provide notice of a change a change of electronic notification address.

The proposed *Notice of Change of Electronic Notification*

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

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

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

The proposed new forms are attached at pages 4–7.

Attachment

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

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> <hr/> <p style="text-align: center;">TELEPHONE NO.: FAX NO. <i>(Optional):</i></p> <p>E-MAIL ADDRESS <i>(Optional):</i></p> <p>ATTORNEY FOR <i>(Name):</i></p>	FOR COURT USE ONLY DRAFT 04-08-09 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: DEFENDANT/RESPONDENT:	CASE NUMBER: JUDICIAL OFFICER:
CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC NOTIFICATION ADDRESS	DEPT.:

1. Please take notice that:

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

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

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

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF PARTY OR ATTORNEY)

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	

PROOF OF ELECTRONIC SERVICE
CONSENT TO ELECTRONIC SERVICE AND NOTICE OF ELECTRONIC NOTIFICATION ADDRESS

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the electronic service took place.
 - a. My residence or business address is *(specify)*:

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

2. I electronically served a copy of the *Consent to Electronic Service and Notice of Electronic Notification Address* as follows:
 - a. On *(name of person served. If the person served is an attorney, the party or parties represented should also be stated)*:

 - b. To *(electronic notification address of person served)*:

 - c. On *(date)*:

 - d. At *(time)*:

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

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

Date:

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

ATTORNEY OR PARTY WITHOUT ATTORNEY <i>(Name, State Bar number, and address):</i> TELEPHONE NO.: _____ FAX NO. <i>(Optional):</i> _____ E-MAIL ADDRESS <i>(Optional):</i> _____ ATTORNEY FOR <i>(Name):</i> _____	FOR COURT USE ONLY DRAFT 04-08-09 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	
PLAINTIFF/PETITIONER: _____ DEFENDANT/RESPONDENT: _____	CASE NUMBER: _____ JUDICIAL OFFICER: _____
NOTICE OF CHANGE OF ELECTRONIC NOTIFICATION ADDRESS	DEPT.: _____

1. **Please take notice that:**

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

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

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

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

4. All notices and documents regarding the action should be sent to the new electronic notification address as of *(date):*

Date:

 (TYPE OR PRINT NAME)

▶

 (SIGNATURE OF PARTY OR ATTORNEY)

PLAINTIFF:	CASE NUMBER:
DEFENDANT:	

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

1. I am at least 18 years old and not a party to this action. I am a resident of or employed in the county where the electronic service took place.

a. My residence or business address is *(specify)*:

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

2. I electronically served a copy of the *Notice of Change of Electronic Notification Address* as follows:

a. On *(name of person served. If the person served is an attorney, the party or parties represented should also be stated)*:

b. To *(electronic notification address of person served)*:

c. On *(date)*:

d. At *(time)*:

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

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

Date:

(TYPE OR PRINT NAME OF DECLARANT)

▶

(SIGNATURE OF DECLARANT)

Item SPR09-27 Response Form

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

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

- Commenting on behalf of an organization**

Address: _____

City, State, Zip: _____

To Submit Comments

Comments may be submitted online, written on this form, or prepared in a letter format. If you are *not* commenting directly on this form, please include the information requested above and the proposal number for identification purposes. Please submit your comments online or email, mail, or fax comments. You are welcome to email your comments as an attachment.

Internet: <http://www.courtinfo.ca.gov/invitationstocomment/>

Email: invitations@jud.ca.gov

Mail: Ms. Camilla Kieliger
Judicial Council, 455 Golden Gate Avenue
San Francisco, CA 94102

Fax: (415) 865-7664, Attn: Camilla Kieliger

DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, June 17, 2009
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Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee. All comments will become part of the public record of the council's action.