



JUDICIAL COUNCIL OF CALIFORNIA

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MEMORANDUM

Date January 6, 2021	Action Requested Please review
To Information Technology Advisory Committee, Rules and Policy Subcommittee	Deadline January 12, 2021
From Andrea L. Jaramillo, Attorney Legal Services, Judicial Council	Contact Andrea Jaramillo 916-263-0991 phone andrea.jaramillo@jud.ca.gov
Subject Rule Proposal to Add Reference to Penal Code section 690.5 to the Electronic Filing and Service Rules	

At its December 7, 2020 meeting, the Information Technology Advisory Committee (ITAC) included an item on its annual agenda for the Rules and Policy Subcommittee (RPS) to develop a proposal to include references to Penal Code section 690.5 in the electronic filing and electronic service rules of the California Rules of Court.

Penal Code section 690.5 expressly authorizes electronic filing and electronic service in criminal actions. This applies only to permissive electronic filing and electronic service by consent. Penal Code section 690.5 also requires the Judicial Council to adopt rules for electronic filing and electronic service of documents in criminal matters.

Draft Proposal Language

The proposal would add references to Penal Code section 690.5 to the electronic filing and electronic service rules of court to expressly bring Penal Code section 690.5 within the scope of those rules. The rule provisions on mandatory electronic filing and mandatory electronic service

clarify, where needed, that they apply only to civil actions, consistent with Penal Code section 690.5.

The following amendments are included with the proposal:

- **Rule 2.251(a):** This provision generally authorizes electronic service and states that service may be made electronically under Code of Civil Procedure section 1010.6 and the California Rules of Court. The amendment adds Penal Code section 690.5.
- **Rule 2.251(c)(1)–(2):** These provisions govern electronic service required by local rule or court order. The amendments specify that courts may only require electronic service in civil actions.
- **Rule 2.251(k):** This provision authorizes a court to serve documents electronically under Code of Civil Procedure section 1010.6 and the California Rules of Court. The amendment adds Penal Code section 690.5.
- **Rule 2.252(a):** This provision generally authorizes electronic filing as provided under Code of Civil Procedure section 1010.6 and the California Rules of Court. The amendment adds Penal Code section 690.5.
- **Rule 2.253(a):** This provision specifically authorizes courts to permit electronic filing by local rule subject to the conditions in Code of Civil Procedure section 1010.6 and the California Rules of Court. The amendment adds Penal Code section 690.5.
- **Rule 2.258:** This rule governs the payment of filing fees. The amendment specifies the rule applies to civil actions as criminal actions do not have filing fees.

Though the draft only includes the amendments noted above, all the electronic filing and electronic service rules are included with the draft proposal attachment for RPS's consideration for full context. The amendments are underlined and highlighted in yellow. In the version circulated for public comment, the proposal will be pared down to include only the amendments rather than the full text of the electronic filing and electronic service rules.

Staff recommend seeking feedback from the Criminal Law Advisory Committee before the proposal is sent to ITAC.

Subcommittee's Tasks

- Consider the draft proposal language and decide what language, if any, to recommend for ITAC's consideration.
- Determine which questions, if any, to recommend ITAC include in a request for specific comments in an invitation to comment.

Attachments and Links

1. Draft proposal to amend rules 2.251, 2.252, 2.253, and 2.258 of the California Rules of Court, pages 4–27.
2. Link A: Penal Code section 690.5,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=690.5&lawCode=PEN.

Chapter 2. Filing and Service by Electronic Means

Rule 2.250. Construction and definitions

Rule 2.251. Electronic service

Rule 2.252. Documents that may be filed electronically

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

Rule 2.254. Responsibilities of court

Rule 2.255. Contracts with electronic filing service providers

Rule 2.256. Responsibilities of electronic filer

Rule 2.257. Requirements for signatures on documents

Rule 2.258. Payment of filing fees

Rule 2.259. Actions by court on receipt of electronic filing

Rule 2.261. Authorization for courts to continue modifying forms for the purpose of electronic filing and forms generation

Rule 2.250. Construction and definitions

(a) Construction of rules

The rules in this chapter must be construed to authorize and permit filing and service by electronic means to the extent feasible.

(Subd (a) adopted effective January 1, 2011.)

(b) Definitions

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

- (1) A “document” is a pleading, a declaration, an exhibit, or another writing submitted by a party or other person, or by an agent of a party or other person on the party’s or other person’s behalf. A document is also a notice, order, judgment, or other issuance by the court. A document may be in paper or electronic form.
- (2) “Electronic service” has the same meaning as defined in Code of Civil Procedure section 1010.6.
- (3) “Electronic transmission” has the same meaning as defined in Code of Civil Procedure section 1010.6.
- (4) “Electronic notification” has the same meaning as defined in Code of Civil Procedure section 1010.6.

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- (5) “Electronic service address” means the electronic address at or through which the party or other person has authorized electronic service.
- (6) An “electronic filer” is a party or other person filing a document in electronic form directly with the court, by an agent, or through an electronic filing service provider.
- (7) “Electronic filing” is the electronic transmission to a court of a document in electronic form. For the purposes of this chapter, this definition concerns the activity of filing and does not include the processing and review of the document, and its entry into the court records, which are necessary for a document to be officially filed.
- (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 other 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.

(Subd (b) amended effective January 1, 2019; adopted as unlettered subd effective January 1, 2003; previously amended and lettered effective January 1, 2011; previously amended effective July 1, 2013, and January 1, 2018.)

Rule 2.250 amended effective January 1, 2019; adopted as rule 2050 effective January 1, 2003; previously amended and renumbered effective January 1, 2007; previously amended effective January 1, 2006, January 1, 2008, January 1, 2011, July 1, 2013, and January 1, 2018.

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.

1 **Rule 2.251. Electronic service**

2
3 **(a) Authorization for electronic service**

4
5 When a document may be served by mail, express mail, overnight delivery, or fax
6 transmission, the document may be served electronically under Code of Civil
7 Procedure section 1010.6, Penal Code section 690.5, and the rules in this chapter.

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9 *(Subd (a) amended effective July 1, 2013; previously amended effective January 1, 2007,*
10 *January 1, 2008, and January 1, 2011.)*

11
12 **(b) Electronic service by express consent**

13
14 (1) A party or other person indicates that the party or other person agrees to
15 accept electronic service by:

16
17 (A) Serving a notice on all parties and other persons that the party or other
18 person accepts electronic service and filing the notice with the court.
19 The notice must include the electronic service address at which the
20 party or other person agrees to accept service; or

21
22 (B) Manifesting affirmative consent through electronic means with the
23 court or the court's electronic filing service provider, and concurrently
24 providing the party's electronic service address with that consent for
25 the purpose of receiving electronic service. A party or other person may
26 manifest affirmative consent by serving notice of consent to all parties
27 and other persons and either:

28
29 (i) Agreeing to the terms of service with an electronic filing service
30 provider, which clearly states that agreement constitutes consent
31 to receive electronic service; or

32
33 (ii) Filing Consent to Electronic Service and Notice of Electronic
34 Service Address (form EFS-005-CV).

35
36 (2) A party or other person that has consented to electronic service under (1) and
37 has used an electronic filing service provider to serve and file documents in a
38 case consents to service on that electronic filing service provider as the
39 designated agent for service for the party or other person in the case, until
40 such time as the party or other person designates a different agent for service.
41

1 (Subd (b) amended effective January 1, 2020; adopted as part of subd (a); previously
2 amended and relettered effective July 1, 2013; previously amended effective January 1,
3 2007, January 1, 2008, January 1, 2011, January 1, 2018, and January 1, 2019.)
4

5 **(c) Electronic service required by local rule or court order**
6

- 7 (1) A court may require parties to serve documents electronically in specified
8 **civil** actions by local rule or court order, as provided in Code of Civil
9 Procedure section 1010.6 and the rules in this chapter.
10
11 (2) A court may require other persons to serve documents electronically in
12 specified **civil** actions by local rule, as provided in Code of Civil Procedure
13 section 1010.6 and the rules in this chapter.
14
15 (3) Except when personal service is otherwise required by statute or rule, a party
16 or other person that is required to file documents electronically in an action
17 must also serve documents and accept service of documents electronically
18 from all other parties or persons, unless:
19
20 (A) The court orders otherwise, or
21
22 (B) The action includes parties or persons that are not required to file or
23 serve documents electronically, including self-represented parties or
24 other self-represented persons; those parties or other persons are to be
25 served by non-electronic methods unless they affirmatively consent to
26 electronic service.
27
28 (4) Each party or other person that is required to serve and accept service of
29 documents electronically must provide all other parties or other persons in the
30 action with its electronic service address and must promptly notify all other
31 parties, other persons, and the court of any changes under (g).
32

33 (Subd (c) amended effective January 1, 2018; adopted effective July 1, 2013.)
34

35 **(d) Additional provisions for electronic service required by court order**
36

- 37 (1) If a court has adopted local rules for permissive electronic filing, then the
38 court may, on the motion of any party or on its own motion, provided that the
39 order would not cause undue hardship or significant prejudice to any party,
40 order all parties in any class action, a consolidated action, a group of actions,
41 a coordinated action, or an action that is complex under rule 3.403 to serve all
42 documents electronically, except when personal service is required by statute
43 or rule.

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- (2) A court may combine an order for mandatory electronic service with an order for mandatory electronic filing as provided in rule 2.253(c).
- (3) If the court proposes to make any order under (1) on its own motion, the court must mail notice to any parties that have not consented to receive electronic service. The court may electronically serve the notice on any party that has consented to receive electronic service. Any party may serve and file an opposition within 10 days after notice is mailed, electronically served, or such later time as the court may specify.
- (4) If the court has previously ordered parties in a case to electronically serve documents and a new party is added that the court determines should also be ordered to do so under (1), the court may follow the notice procedures under (2) or may order the party to electronically serve documents and in its order state that the new party may object within 10 days after service of the order or by such later time as the court may specify.

(Subd (d) adopted effective January 1, 2018.)

(e) Maintenance of electronic service lists

A court that permits or requires electronic filing in a case must maintain and make available electronically to the parties and other persons in the case an electronic service list that contains the parties’ or other persons’ current electronic service addresses, as provided by the parties or other persons that have filed electronically in the case.

(Subd (e) amended and relettered effective January 1, 2018; adopted effective January 1, 2008 as subd (b); previously amended and relettered as subd (d) effective July 1, 2013; previously amended effective January 1, 2010, and January 1, 2011.)

(f) Service by the parties and other persons

- (1) Notwithstanding (e), 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. A party or other person may serve documents electronically directly, by an agent, or through a designated electronic filing service provider.
- (2) A document may not be electronically served on a nonparty unless the nonparty consents to electronic service or electronic service is otherwise provided for by law or court order.

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2 *(Subd (f) amended and relettered effective January 1, 2018; adopted as subd (c) effective*
3 *January 1, 2008; previously amended and relettered as subd (e) effective July 1, 2013;*
4 *previously amended effective January 1, 2011.)*
5

6 **(g) Change of electronic service address**
7

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

22 *(Subd (g) amended and relettered effective January 1, 2018; adopted as subd (d) effective*
23 *January 1, 2008; previously relettered as subd (f) effective July 1, 2013; previously*
24 *amended effective January 1, 2011.)*
25

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

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

- 30
31 (1) Ensure that the documents served can be viewed and downloaded using the
32 hyperlink provided;
33
34 (2) Preserve the document served without any change, alteration, or modification
35 from the time the document is posted until the time the hyperlink is
36 terminated; and
37
38 (3) Maintain the hyperlink until either:
39
40 (A) All parties in the case have settled or the case has ended and the time
41 for appeals has expired; or
42

1 (B) If the party or 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 *(Subd (h) amended and relettered effective January 1, 2018; adopted as subd (e) effective*
8 *January 1, 2011, previously relettered as subd (g) effective July 1, 2013.)*
9

10 **(i) When service is complete**
11

- 12 (1) Electronic service of a document is complete as provided in Code of Civil
13 Procedure section 1010.6 and the rules in this chapter.
14
15 (2) If an electronic filing service provider is used for service, the service is
16 complete at the time that the electronic filing service provider electronically
17 transmits the document or sends electronic notification of service.
18

19 *Subd (i) amended and relettered effective January 1, 2018; adopted as subd (b); previously*
20 *amended effective January 1, 2007; previously relettered as subd (e) effective January 1,*
21 *2008; previously amended and relettered as subd (f) effective January 1, 2011, and as subd*
22 *(h) effective July 1, 2013.)*
23

24 **(j) Proof of service**
25

- 26 (1) Proof of electronic service shall be made as provided in Code of Civil
27 Procedure section 1013b.
28
29 (2) Under rule 3.1300(c), proof of electronic service of the moving papers must
30 be filed at least five court days before the hearing.
31
32 (3) If a person signs a printed form of a proof of electronic service, the party or
33 other person filing the proof of electronic service must comply with the
34 provisions of rule 2.257(a).
35

36 *(Subd (j) amended and relettered effective January 1, 2018; adopted as subd (c);*
37 *previously amended effective January 1, 2007, January 1, 2009, July 1, 2009, January 1,*
38 *2010; and January 1, 2017; previously amended and relettered as subd (g) effective*
39 *January 1, 2011; previously relettered as subd (f) effective January 1, 2008, and as subd*
40 *(i) effective July 1, 2013.)*
41

42 **(k) Electronic service by or on court**
43

1 (1) The court may electronically serve documents as provided in Code of Civil
2 Procedure section 1010.6, Penal Code section 690.5, and the rules in this
3 chapter.

4
5 (2) A document may be electronically served on a court if the court consents to
6 electronic service or electronic service is otherwise provided for by law or
7 court order. A court indicates that it agrees to accept electronic service by:

8
9 (A) Serving a notice on all parties and other persons in the case that the
10 court accepts electronic service. The notice must include the electronic
11 service address at which the court agrees to accept service; or

12
13 (B) Adopting a local rule stating that the court accepts electronic service.
14 The rule must indicate where to obtain the electronic service address at
15 which the court agrees to accept service.

16
17 *(Subd (k) amended and relettered effective January 1, 2018; adopted as subd (e);*
18 *previously amended effective January 1, 2007, and January 1, 2016; previously relettered*
19 *as subd (g) effective January 1, 2008, as subd (h) effective January 1, 2011, and as subd (j)*
20 *effective July 1, 2013.)*

21
22 *Rule 2.251 amended effective January 1, 2020; adopted as rule 2060 effective January 1, 2003;*
23 *previously amended and renumbered as rule 2.260 effective January 1, 2007, and as rule 2.251*
24 *effective January 1, 2011; previously amended effective January 1, 2008, January 1, 2009, July 1,*
25 *2009, January 1, 2010, July 1, 2013, January 1, 2016, January 1, 2017, January 1, 2018, and*
26 *January 1, 2019.*

27 28 **Advisory Committee Comment**

29
30 **Subdivision (b)(1)(B).** The rule does not prescribe specific language for a provision of a term of
31 service when the filer consents to electronic service, but does require that any such provision be
32 clear. *Consent to Electronic Service and Notice of Electronic Service Address* (form EFS-005-
33 CV) provides an example of language for consenting to electronic service.

34
35 **Subdivisions (c)–(d).** Court-ordered electronic service is not subject to the provisions in Code of
36 Civil Procedure section 1010.6 requiring that, where mandatory electronic filing and service are
37 established by local rule, the court and the parties must have access to more than one electronic
38 filing service provider.

39 40 **Rule 2.252. General rules on electronic filing of documents**

41
42 **(a) In general**

1 A court may provide for electronic filing of documents in actions and proceedings
2 as provided under Code of Civil Procedure section 1010.6, **Penal Code section**
3 **690.5**, and the rules in this chapter.

4
5 *(Subd (a) amended effective July 1, 2013; previously amended effective January 1, 2007.)*

6
7 **(b) Direct and indirect electronic filing**

8
9 Except as otherwise provided by law, a court may provide for the electronic filing
10 of documents directly with the court, indirectly through one or more approved
11 electronic filing service providers, or through a combination of direct and indirect
12 means.

13
14 *(Subd (b) adopted effective July 1, 2013.)*

15
16 **(c) No effect on filing deadline**

17
18 Filing a document electronically does not alter any filing deadline.

19
20 *(Subd (c) amended effective January 1, 2018; adopted effective July 1, 2013.)*

21
22 **(d) Filing in paper form**

23
24 When it is not feasible for a party or other person to convert a document to
25 electronic form by scanning, imaging, or another means, a court may allow that
26 party or other person to file the document in paper form.

27
28 *(Subd (d) amended effective January 1, 2018; adopted effective July 1, 2013.)*

29
30 **(e) Original documents**

31
32 In a proceeding that requires the filing of an original document, an electronic filer
33 may file an electronic copy of a document if the original document is then filed
34 with the court within 10 calendar days.

35
36 *(Subd (e) relettered effective July 1, 2013; adopted as subd (b); previously amended*
37 *effective January 1, 2011.)*

38
39 **(f) Application for waiver of court fees and costs**

40
41 The court must permit electronic filing of an application for waiver of court fees
42 and costs in any proceeding in which the court accepts electronic filings.

43

1 *(Subd (f) amended effective January 1, 2018; adopted as subd (c); previously relettered as*
2 *subd (f) effective July 1, 2013; previously amended effective January 1, 2007.)*

3
4 **(g) Orders and judgments**

5
6 The court may electronically file any notice, order, minute order, judgment, or
7 other document prepared by the court.

8
9 *(Subd (g) relettered effective July 1, 2013; adopted as subd (d).)*

10
11 **(h) Proposed orders**

12
13 Proposed orders may be filed and submitted electronically as provided in rule
14 3.1312.

15
16 *(Subd (h) relettered effective July 1, 2013; adopted as subd (e) effective January 1, 2011.)*

17
18 *Rule 2.252 amended effective January 1, 2018; adopted as rule 2052 effective January 1, 2003;*
19 *previously amended and renumbered effective January 1, 2007; previously amended effective*
20 *January 1, 2011, and July 1, 2013.*

21
22 **Rule 2.253. Permissive electronic filing, mandatory electronic filing, and electronic**
23 **filing by court order**

24
25 **(a) Permissive electronic filing by local rule**

26
27 A court may permit parties by local rule to file documents electronically in any
28 types of cases, subject to the conditions in Code of Civil Procedure section 1010.6,
29 Penal Code section 690.5, and the rules in this chapter.

30
31 *(Subd (a) amended effective January 1, 2018; adopted effective July 1, 2013.)*

32
33 **(b) Mandatory electronic filing by local rule**

34
35 A court may require parties by local rule to electronically file documents in civil
36 actions directly with the court, or directly with the court and through one or more
37 approved electronic filing service providers, or through more than one approved
38 electronic filing service provider, subject to the conditions in Code of Civil
39 Procedure section 1010.6, the rules in this chapter, and the following conditions:

- 40
41 (1) The court must specify the types or categories of civil actions in which
42 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 persons, 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.

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(6) The effective date of filing any document received electronically is prescribed by Code of Civil Procedure section 1010.6. This provision concerns only the effective date of filing. Any document that is received electronically must be processed and satisfy all other legal filing requirements to be filed as an official court record.

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

(Subd (b) amended effective January 1, 2018; adopted effective July 1, 2013.)

(c) Electronic filing by court order

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

(2) A court may combine an order for mandatory electronic filing with an order for mandatory electronic service as provided in rule 2.252(d).

(3) If the court proposes to make any order under (1) on its own motion, the court must mail notice to any parties that have not consented to receive electronic service. The court may electronically serve the notice on any party that has consented to receive electronic service. Any party may serve and file an opposition within 10 days after notice is mailed or electronically served or such later time as the court may specify.

(4) If the court has previously ordered parties in a case to electronically file documents and a new party is added that the court determines should also be ordered to do so under (1), the court may follow the notice procedures under (2) or may order the party to electronically file documents and in its order state that the new party may object within 10 days after service of the order or by such later time as the court may specify.

(5) The court's order may also provide that:

(A) Documents previously filed in paper form may be resubmitted in electronic form; and

1
2 (B) When the court sends confirmation of filing to all parties, receipt of the
3 confirmation constitutes service of the filing if the filed document is
4 available electronically.
5

6 *(Subd (c) amended effective January 1, 2018; adopted as subd (a) and part of subd (b);*
7 *previously amended and relettered as subd (c) effective July 1, 2013; previously amended*
8 *effective January 1, 2007, January 1, 2008, and January 1, 2011.)*
9

10 *Rule 2.253 amended effective January 1, 2018; adopted as rule 2053 effective January 1, 2003;*
11 *previously amended and renumbered effective January 1, 2007; previously amended effective*
12 *January 1, 2008, January 1, 2011, and July 1, 2013.*
13

14 **Advisory Committee Comment** 15

16 **Subdivision (b)(1).** This subdivision allows courts to institute mandatory electronic filing and
17 service in any type of civil case for which the court determines that mandatory electronic filing is
18 appropriate. The scope of this authorization is meant to be broad. It will enable courts to
19 implement mandatory electronic filing in a flexible yet expansive manner. However, in initiating
20 mandatory electronic filing, courts should take into account the fact that some civil case types
21 may be easier and more cost-effective to implement at the outset while other types may require
22 special procedures or other considerations (such as the need to preserve the confidentiality of
23 filed records) that may make them less appropriate for inclusion in initial mandatory e-filing
24 efforts.
25

26 **Subdivision (b)(2).** Although this rule exempts self-represented parties from any mandatory
27 electronic filing and service requirements, these parties are encouraged to participate voluntarily
28 in electronic filing and service. To the extent feasible, courts and other entities should assist self-
29 represented parties to electronically file and serve documents.
30

31 **Subdivision (c).** Court-ordered electronic filing under this subdivision is not subject to the
32 provisions in (b) and Code of Civil Procedure section 1010.6 requiring that, where mandatory
33 electronic filing and service are established by local rule, the court and the parties must have
34 access to more than one electronic filing service provider.
35

36 **Rule 2.254. Responsibilities of court** 37

38 **(a) Publication of electronic filing requirements** 39

40 Each court that permits or mandates electronic filing must publish, in both
41 electronic and print formats, the court's electronic filing requirements.
42

1 *(Subd (a) amended effective July 1, 2013; adopted as subd (b); previously amended*
2 *effective January 1, 2007; previously relettered effective January 1, 2011.)*

3
4 **(b) Problems with electronic filing**

5
6 If the court is aware of a problem that impedes or precludes electronic filing, it
7 must promptly take reasonable steps to provide notice of the problem.

8
9 *(Subd (b) amended effective January 1, 2018; adopted as subd (c); previously relettered as*
10 *subd (b) effective January 1, 2011; previously amended effective January 1, 2007.)*

11
12 **(c) Public access to electronically filed documents**

13
14 Except as provided in rules 2.250–2.259 and 2.500–2.506, an electronically filed
15 document is a public document at the time it is filed unless it is sealed under rule
16 2.551(b) or made confidential by law.

17
18 *(Subd (c) amended and relettered effective January 1, 2011; adopted as subd (d);*
19 *previously amended effective January 1, 2007.)*

20
21 *Rule 2.254 amended effective January 1, 2018; adopted as rule 2054 effective January 1, 2003;*
22 *previously amended and renumbered effective January 1, 2007; previously amended effective*
23 *January 1, 2011, and July 1, 2013.*

24
25 **Rule 2.255. Contracts with electronic filing service providers and electronic filing**
26 **managers**

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

- 29
30 (1) A court may contract with one or more electronic filing service providers to
31 furnish and maintain an electronic filing system for the court.
32
33 (2) If the court contracts with an electronic filing service provider, it may require
34 electronic filers to transmit the documents to the provider.
35
36 (3) A court may contract with one or more electronic filing managers to act as an
37 intermediary between the court and electronic filing service providers.
38
39 (4) If the court contracts with an electronic service provider or the court has an
40 in-house system, the provider or system must accept filing from other
41 electronic filing service providers to the extent the provider or system is
42 compatible with them.
43

1 (Subd (a) amended effective January 1, 2019; previously amended effective January 1,
2 2007, and January 1, 2011.)

3
4 **(b) Provisions of contract**

- 5
6 (1) The court's contract with an electronic filing service provider may:
7
8 (A) Allow the provider to charge electronic filers a reasonable fee in
9 addition to the court's filing fee;
10
11 (B) Allow the provider to make other reasonable requirements for use of
12 the electronic filing system.
13
14 (2) The court's contract with an electronic filing service provider must comply
15 with the requirements of Code of Civil Procedure section 1010.6.
16
17 (3) The court's contract with an electronic filing manager must comply with the
18 requirements of Code of Civil Procedure section 1010.6.
19

20 (Subd (b) amended effective January 1, 2019; previously amended effective January 1,
21 2018.)

22
23 **(c) Transmission of filing to court**

- 24
25 (1) An electronic filing service provider must promptly transmit any electronic
26 filing, any applicable filing fee, and any applicable acceptance of consent to
27 receive electronic service to the court directly or through the court's
28 electronic filing manager.
29
30 (2) An electronic filing manager must promptly transmit an electronic filing, any
31 applicable filing fee, and any applicable acceptance of consent to receive
32 electronic service to the court.
33

34 (Subd (c) amended effective January 1, 2020; previously amended effective January 1, 2011, and
35 January 1, 2019.)

36
37 **(d) Confirmation of receipt and filing of document**

- 38
39 (1) An electronic filing service provider must promptly send to an electronic filer
40 its confirmation of the receipt of any document that the filer has transmitted
41 to the provider for filing with the court.
42

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

4
5 (3) After reviewing the documents, the court must promptly transmit to the
6 electronic filing service provider and the electronic filer the court's
7 confirmation of filing or notice of rejection of filing, in accordance with rule
8 2.259.

9
10 *(Subd (d) amended effective January 1, 2011; previously amended effective January 1,*
11 *2007.)*

12
13 **(e) Ownership of information**

14
15 All contracts between the court and electronic filing service providers or the court
16 and electronic filing managers must acknowledge that the court is the owner of the
17 contents of the filing system and has the exclusive right to control the system's use.

18
19 *(Subd (e) amended effective January 1, 2019; previously amended effective January 1,*
20 *2007.)*

21
22 **(f) Establishing a filer account with an electronic filing service provider**

23
24 (1) An electronic filing service provider may not require a filer to provide a
25 credit card, debit card, or bank account information to create an account with
26 the electronic filing service provider.

27
28 (2) This provision applies only to the creation of an account and not to the use of
29 an electronic filing service provider's services. An electronic filing service
30 provider may require a filer to provide a credit card, debit card, or bank
31 account information before rendering services unless the services are within
32 the scope of a fee waiver granted by the court to the filer.

33
34 *(Subd (f) adopted effective January 1, 2019.)*

35
36 *Rule 2.255 amended effective January 1, 2020; adopted as rule 2055 effective January 1, 2003; previously*
37 *amended and renumbered effective January 1, 2007; previously amended effective January 1, 2011,*
38 *January 1, 2018, and January 1, 2019.*

39
40 **Rule 2.256. Responsibilities of electronic filer**

41
42 **(a) Conditions of filing**

1 Each electronic filer must:

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

25 *(Subd (a) amended effective January 1, 2018; previously amended effective January 1,*
26 *2007, January 1, 2011, and July 1, 2013.)*
27

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

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

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

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 *(Subd (b) amended effective January 1, 2017; previously amended effective January 1,*
6 *2006, January 1, 2008, and January 1, 2010.)*

7
8 *Rule 2.256 amended effective January 1, 2018; adopted as rule 2056 effective January 1, 2003;*
9 *previously amended and renumbered effective January 1, 2007; previously amended effective*
10 *January 1, 2006, January 1, 2008, January 1, 2010, January 1, 2011, July 1, 2013, and January*
11 *1, 2017.*

12 13 **Advisory Committee Comment**

14
15 **Subdivision (b)(3).** The term “technologically feasible” does not require more than the
16 application of standard, commercially available optical character recognition (OCR) software.

17 18 **Rule 2.257. Requirements for signatures on documents**

19 20 **(a) Electronic signature**

21
22 An electronic signature is an electronic sound, symbol, or process attached to or
23 logically associated with an electronic record and executed or adopted by a person
24 with the intent to sign a document or record created, generated, sent,
25 communicated, received, or stored by electronic means.

26
27 *(Subd (a) adopted effective January 1, 2019.)*

28 29 **(b) Documents signed under penalty of perjury**

30
31 When a document to be filed electronically provides for a signature under penalty
32 of perjury of any person, the document is deemed to have been signed by that
33 person if filed electronically provided that either of the following conditions is
34 satisfied:

- 35
36 (1) The declarant has signed the document using an electronic signature and
37 declares under penalty of perjury under the laws of the state of California that
38 the information submitted is true and correct. If the declarant is not the
39 electronic filer, the electronic signature must be unique to the declarant,
40 capable of verification, under the sole control of the declarant, and linked to
41 data in such a manner that if the data are changed, the electronic signature is
42 invalidated; or

1 (2) The declarant, before filing, has physically signed a printed form of the
2 document. By electronically filing the document, the electronic filer certifies
3 that the original, signed document is available for inspection and copying at
4 the request of the court or any other party. In the event this second method of
5 submitting documents electronically under penalty of perjury is used, the
6 following conditions apply:
7

8 (A) At any time after the electronic version of the document is filed, any
9 party may serve a demand for production of the original signed
10 document. The demand must be served on all other parties but need not
11 be filed with the court.
12

13 (B) Within five days of service of the demand under (A), the party or other
14 person on whom the demand is made must make the original signed
15 document available for inspection and copying by all other parties.
16

17 (C) At any time after the electronic version of the document is filed, the
18 court may order the filing party or other person to produce the original
19 signed document in court for inspection and copying by the court. The
20 order must specify the date, time, and place for the production and must
21 be served on all parties.
22

23 (D) Notwithstanding (A)–(C), local child support agencies may maintain
24 original, signed pleadings by way of an electronic copy in the statewide
25 automated child support system and must maintain them only for the
26 period of time stated in Government Code section 68152(a). If the local
27 child support agency maintains an electronic copy of the original,
28 signed pleading in the statewide automated child support system, it may
29 destroy the paper original.
30

31 *(Subd (b) amended effective January 1, 2020; adopted as subd (a); previously amended*
32 *effective January 1, 2007, July 1, 2016, and January 1, 2018; previously relettered and*
33 *amended as subd (b) effective January 1, 2019.)*
34

35 **(c) Documents not signed under penalty of perjury**
36

37 (1) If a document does not require a signature under penalty of perjury, the
38 document is deemed signed by person who filed it electronically.
39

40 (2) When a document to be filed electronically, such as a stipulation, requires the
41 signatures of opposing parties or persons other than the filer not under
42 penalty of perjury, the following procedures apply:
43

1 (A) The opposing party or other person has signed a printed form of the
2 document before, or on the same day as, the date of filing. The
3 electronic filer must maintain the original, signed document and must
4 make it available for inspection and copying as provided in (b)(2) of
5 this rule and Code of Civil Procedure section 1010.6. The court and any
6 other party may demand production of the original signed document in
7 the manner provided in (b)(2)(A)–(C). By electronically filing the
8 document, the electronic filer indicates that all parties have signed the
9 document and that the filer has the signed original in his or her
10 possession; or

11
12 (B) The opposing party or other person has signed the document using an
13 electronic signature and that electronic signature is unique to the person
14 using it, capable of verification, under the sole control of the person
15 using it, and linked to data in such a manner that if the data are
16 changed, the electronic signature is invalidated.

17
18 *(Subd (c) amended effective January 1, 2020; adopted as subd (b); previously amended*
19 *effective January 1, 2007; relettered as subd (c) effective January 1, 2019.)*
20

21
22 **(d) Digital signature**

23
24 A party or other person is not required to use a digital signature on an electronically
25 filed document.

26
27 *(Subd (d) amended and relettered effective January 1, 2020; adopted as subd (d);*
28 *previously relettered as subd (e) effective January 1, 2019.)*
29

30 **(e) Judicial signatures**

31
32 If a document requires a signature by a court or a judicial officer, the document
33 may be electronically signed in any manner permitted by law.

34
35 *(Subd (e) relettered effective January 1, 2020; adopted as subd (e) effective January 1,*
36 *2008; previously relettered as subd (f) effective January 1, 2019.)*
37

38 *Rule 2.257 amended effective January 1, 2020; adopted as rule 2057 effective January 1, 2003;*
39 *previously amended and renumbered effective January 1, 2007; previously amended effective*
40 *January 1, 2008, July 1, 2016, January 1, 2018, and January 1, 2019.*
41

42 **Advisory Committee Comment**

1 The requirements for electronic signatures that are compliant with the rule do not impair the
2 power of the courts to resolve disputes about the validity of a signature.

3
4 **Rule 2.258. Payment of filing fees in civil actions**

5
6 **(a) Use of credit cards and other methods**

7
8 A court may permit the use of credit cards, debit cards, electronic fund transfers, or
9 debit accounts for the payment of civil filing fees associated with electronic filing,
10 as provided in Government Code section 6159, rule 10.820, and other applicable
11 law. A court may also authorize other methods of payment.

12
13 *(Subd (a) amended effective January 1, 2007.)*

14
15 **(b) Fee waivers**

16
17 Eligible persons may seek a waiver of court fees and costs, as provided in
18 Government Code sections 68630–68641, rule 2.252(f), and division 2 of title 3 of
19 these rules.

20
21 *(Subd (b) amended effective July 1, 2013; previously amended effective January 1, 2007,
22 and January 1, 2010.)*

23
24 *Rule 2.258 amended effective July 1, 2013; adopted as rule 2058 effective January 1, 2003;
25 previously amended and renumbered effective January 1, 2007; previously amended effective
26 January 1, 2010.*

27
28 **Rule 2.259. Actions by court on receipt of electronic filing**

29
30 **(a) Confirmation of receipt and filing of document**

31
32 **(1) Confirmation of receipt**

33
34 When a court receives an electronically submitted document, the court must
35 promptly send the electronic filer confirmation of the court’s receipt of the
36 document, indicating the date and time of receipt. A document is considered
37 received at the date and time the confirmation of receipt is created.

38
39 **(2) Confirmation of filing**

40
41 If the document received by the court under (1) complies with filing
42 requirements and all required filing fees have been paid, the court must
43 promptly send the electronic filer confirmation that the document has been

1 filed. The filing confirmation must indicate the date and time of filing and is
2 proof that the document was filed on the date and at the time specified. The
3 filing confirmation must also specify:

- 4
5 (A) Any transaction number associated with the filing;
6
7 (B) The titles of the documents as filed by the court; and
8
9 (C) The fees assessed for the filing.

10
11 (3) *Transmission of confirmations*

12
13 The court must send receipt and filing confirmation to the electronic filer at
14 the electronic service address the filer furnished to the court under rule
15 2.256(a)(4). The court must maintain a record of all receipt and filing
16 confirmations.

17
18 (4) *Filer responsible for verification*

19
20 In the absence of the court's confirmation of receipt and filing, there is no
21 presumption that the court received and filed the document. The electronic
22 filer is responsible for verifying that the court received and filed any
23 document that the electronic filer submitted to the court electronically.

24
25 *(Subd (a) amended effective January 1, 2011; previously amended effective January 1,*
26 *2007, and January 1, 2008.)*

27
28 **(b) Notice of rejection of document for filing**

29
30 If the clerk does not file a document because it does not comply with applicable
31 filing requirements or because the required filing fee has not been paid, the court
32 must promptly send notice of the rejection of the document for filing to the
33 electronic filer. The notice must state the reasons that the document was rejected
34 for filing.

35
36 *(Subd (b) amended effective January 1, 2007.)*

37
38 **(c) Delayed delivery**

39
40 If a technical problem with a court's electronic filing system prevents the court
41 from accepting an electronic filing on a particular court day, and the electronic filer
42 demonstrates that he or she attempted to electronically file the document on that
43 day, the court must deem the document as filed on that day. This subdivision does

1 not apply to the filing of a complaint or any other initial pleading in an action or
2 proceeding.

3
4 *(Subd (c) amended and relettered effective January 1, 2018; adopted as subd (d);*
5 *previously amended effective January 1, 2007.)*

6
7 **(d) Endorsement**

- 8
9 (1) The court’s endorsement of a document electronically filed must contain the
10 following: “Electronically filed by Superior Court of California, County of
11 _____, on ____ (date),” followed by the name of the court clerk.
12
13 (2) The endorsement required under (1) has the same force and effect as a
14 manually affixed endorsement stamp with the signature and initials of the
15 court clerk.
16
17 (3) A complaint or another initial pleading in an action or proceeding that is filed
18 and endorsed electronically may be printed and served on the defendant or
19 respondent in the same manner as if it had been filed in paper form.
20

21 *(Subd (d) relettered effective January 1, 2018; adopted as subd (e); previously amended*
22 *effective January 1, 2007.)*

23
24 **(e) Issuance of electronic summons**

- 25
26 (1) On the electronic filing of a complaint, a petition, or another document that
27 must be served with a summons, the court may transmit a summons
28 electronically to the electronic filer in accordance with this subdivision and
29 Code of Civil Procedure section 1010.6.
30
31 (2) The electronically transmitted summons must contain an image of the court’s
32 seal and the assigned case number.
33
34 (3) Personal service of the printed form of a summons transmitted electronically
35 to the electronic filer has the same legal effect as personal service of a copy
36 of an original summons.
37

38 *(Subd (e) amended and relettered effective January 1, 2018; adopted as subd (f);*
39 *previously amended effective January 1, 2007.)*

40
41 *Rule 2.259 amended effective January 1, 2018; adopted as rule 2059 effective January 1, 2003;*
42 *previously amended and renumbered effective January 1, 2007; previously amended effective*
43 *January 1, 2008, January 1, 2011, and July 1, 2013.*

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Rule 2.261. Authorization for courts to continue modifying forms for the purpose of electronic filing and forms generation

Courts that participated in pilot projects for electronic filing and forms generation under former rule 981.5 are authorized to continue to modify Judicial Council forms for the purpose of accepting electronic filing or providing electronic generation of court documents provided that the modification of the forms is consistent with the rules in this chapter.

Rule 2.261 amended and renumbered effective January 1, 2007; adopted as rule 2061 effective July 1, 2004.

DRAFT