



JUDICIAL COUNCIL  
OF CALIFORNIA

TECHNOLOGY COMMITTEE

[www.courts.ca.gov/jctc.htm](http://www.courts.ca.gov/jctc.htm)  
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**JUDICIAL COUNCIL TECHNOLOGY COMMITTEE**

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING WILL BE CONDUCTED BY TELECONFERENCE

THIS MEETING WILL BE RECORDED

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**Date:** July 10, 2017  
**Time:** 12:00 noon - 1:00 p.m.  
**Public Call-in Number:** 1-877-820-7831 Passcode: 3511860

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Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

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

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**Call to Order and Roll Call**

**Approval of Minutes**

Approve minutes of the June 12, 2017 meeting.

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

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**Written Comment**

In accordance with California Rules of Court, rule 10.75(k)(1), public comments about any agenda item must be submitted by June 9, 2017, 12:00 noon. Written comments should be e-mailed to [jctc@jud.ca.gov](mailto:jctc@jud.ca.gov) or mailed or delivered to 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Jessica Craven Goldstein. Only written comments received by July 7, 2017, 12:00 noon will be provided to advisory body members prior to the start of the meeting.

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**III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-7)**

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**Item 1**

**Chair Report**

Provide update on activities of or news from the Judicial Council, advisory bodies, courts, and/or other justice partners.

Presenter: Hon. Marsha G. Slough, Chair, Judicial Council Technology Committee

**Item 2**

**Update/Report on Information Technology Advisory Committee (ITAC)**

An update and report on ITAC will be provided; this will include the activities of the workstreams.

Presenter: Hon. Sheila F. Hanson, Chair, Information Technology Advisory Committee

**Item 3**

**Update on V3 Case Management System**

An update and report on the work to date related to V3 since receiving the funding for civil case management system replacement.

Presenter: Ms. Kathy Fink, Manager, Judicial Council Information Technology

**Item 4**

**Update on Sustain Justice Edition Case Management System**

An update and report on the work related to the Sustain Justice Edition case management system.

Presenter: Mr. Richard Feldstein, JCTC member

**Item 5**

**Update on the Placer Court Hosting Center**

An update and report on the Placer Court Hosting Center (PCHC) project, a consortium project supported by branch-level funding. Once complete, the PCHC will host six courts that previously received hosting services from the Judicial Council via the Technology Center.

Presenter: Mr. Jake Chatters, Court Executive Officer, Placer Court Superior Court

**Item 6**

**Update/Report on the Statewide Technology Summit**

An update and report on the upcoming Statewide Technology Summit to be held in conjunction with the Statewide Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executive Advisory Committee (CEAC) that will be held in August 2017. A facilitated discussion to gather additional input from members to follow.

Presenter: Mr. Robert Oyung, Chief Information Officer, Judicial Council of California

Facilitator: Hon. Daniel J. Buckley, Vice-Chair, JCTC

**Item 7**

**Review Legislative Proposal to Amend Civil Code Section 1719 and Code of Civil Procedure Sections 405.22, 405.23, 594, 659, 660, and 663a (Action Required)**

Review public comments and decide whether to recommend proposed amendments to the Civil Code and Code of Civil Procedure. The purpose of the legislative amendments is to provide clarity about and foster the use of electronic service. The proposed amendments authorize electronic service for certain demands and notices. The proposal also clarifies


that the broader term “service” is applicable rather than “mailing” in certain code sections.

Presenter: Ms. Andrea Jaramillo, Attorney, Legal Services

**A D J O U R N M E N T**

**Adjourn**

# Judicial Council Technology Committee Open Meeting



July 10, 2017

# Call to Order and Roll Call

- Welcome
- Open Meeting Script

*Hon. Marsha G. Slough, Chair, Judicial Council Technology  
Committee*



JUDICIAL COUNCIL  
OF CALIFORNIA

# Chair Report

*Hon. Marsha G. Slough*



JUDICIAL COUNCIL  
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# Update: Information Technology Advisory Committee (ITAC)

*Hon. Sheila F. Hanson, Chair, Information Technology  
Advisory Committee*



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# Update: V3 Case Management System

*Ms. Kathy Fink, Manager, Judicial Council Information Technology*





# Update: Sustain Justice Edition Case Management System

*Mr. Richard D. Feldstein, JCTC member*



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# Update: Placer Court Hosting Center

*Mr. Jake Chatters, Court Executive Officer, Placer Superior  
Court*



JUDICIAL COUNCIL  
OF CALIFORNIA

# Update: Small Court Technology Summit

## Discussion and Brainstorming Session

*Mr. Robert Oyung, Chief Information Officer*

*Facilitator: Hon. Daniel J. Buckley, Vice-Chair, JCTC*



JUDICIAL COUNCIL  
OF CALIFORNIA

# Action: Review Legislative Proposal to Amend Civil Code Section 1719 and Code of Civil Procedure Sections 405.22, 405.23, 594, 659, 660, and 663a

*Ms. Andrea Jaramillo, Attorney, Legal Services*



JUDICIAL COUNCIL  
OF CALIFORNIA

# Adjourn

*A//*



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# JUDICIAL COUNCIL OF CALIFORNIA

TECHNOLOGY COMMITTEE

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## JUDICIAL COUNCIL TECHNOLOGY COMMITTEE

### MINUTES OF OPEN MEETING

June 12 2017  
12:00 - 1:00 PM  
Teleconference

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**Advisory Body Members Present:** Hon. Marsha G. Slough, Chair; Hon. Daniel J. Buckley, Vice-Chair; Hon. Kyle S. Brodie; Mr. Jake Chatters; Hon. Ming W. Chin; David E. Gunn; Mr. Rick Feldstein; Ms. Audra Ibarra; and Hon. Gary Nadler

**Advisory Body Members Absent:** Ms. Debra Elaine Pole

**Liaison Members Present:** Hon. Sheila F. Hanson

**Others Present:** Mr. John Wordlaw; Mr. Robert Oyung, Ms. Jessica Goldstein; Mr. Zlatko Theodorovic; Mr. David Koon; Ms. Kathy Fink; Ms. Jamel Jones and Ms. Maureen Dumas

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#### OPEN MEETING

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##### Call to Order and Roll Call

The chair called the meeting to order, took roll call, and advised no public comments were received.

##### Approval of Minutes

The advisory body reviewed and approved the minutes of the May 8, 2017 and May 17, 2017 meetings.

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#### DISCUSSION AND ACTION ITEMS

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##### Item 1

##### Chair Report

**Update:** Hon. Marsha Slough, Chair of the Judicial Council Technology Committee (JCTC), welcomed and thanked everyone for attending. Justice Slough reviewed the agenda for the meeting, as well as provided updates on recent meetings in which she and other members represented the JCTC or reported on the JCTC activities.

## Item 2

### **Update/Report on Information Technology Advisory Committee (ITAC)**

**Update:** Hon. Sheila F. Hanson, Chair of ITAC, provided an update and report on the activities of the advisory committee, its subcommittees, and its workstreams.

**Action:** The committee discussed the activities of ITAC and received the report.

## Item 3

### **Request to Amend Annual Agenda of the Information Technology Advisory Committee (ITAC) to add the Digital Evidence Workstream**

**Update:** Judge Hanson and Mr. Robert Oyung, Chief Information Officer for the Judicial Council, provided an update and report on the request from ITAC that the JCTC amend the advisory committee's Annual Agenda to authorize it to form a new workstream on the topic of digital evidence.

**Action:** The committee received and discussed the report. The committee voted to approve the amendment to the annual agenda.

## Item 4

### **Small Court Technology Summit and Statewide Technology Summit**

**Update:** Mr. Rick Feldstein, JCTC member, and Mr. Robert Oyung provided an update and report on the Small Court Technology Summit that was sponsored by the California Trial Court Consortium (CTCC) and the JCTC and held in May 2017. They also provided an update and report on the upcoming Statewide Technology Summit to be held in conjunction with the Statewide Trial Court Presiding Judges Advisory Committee (TCPJAC) and the Court Executive Advisory Committee (CEAC) that will be held in August 2017.

**Action:** The committee received and discussed the report.

## Item 5

### **Technology Innovations Grants**

**Update:** Ms. Maureen Dumas, a Principal Manager in the Judicial Council's Special Projects office and Mr. Robert Oyung provided an update and report on the technology related Innovations Grants.

**Action:** The committee received and discussed the report.

## **A D J O U R N M E N T**

There being no further business, the meeting was adjourned.



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date

June 23, 2017

Action Requested

Please review

To

Judicial Council Technology Committee  
Hon. Marsha G. Slough, Chair

Deadline

July 10, 2017

From

Information Technology Advisory Committee  
Hon. Sheila F. Hanson, Chair

Contact

Andrea L. Jaramillo  
916-263-0991 phone  
andrea.jaramillo@jud.ca.gov

Subject

Proposal for Judicial Council-Sponsored  
Legislation: Modernization of Civil Statutes  
(amend Civil Code section 1719 and Code of  
Civil Procedure sections 405.22, 405.23, 594,  
659, 660, and 663a)

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#### Background

This spring, the Information Technology Advisory Committee (ITAC) circulated for public comment a legislative proposal that would amend section 1719 of the Civil Code and sections 405.22, 405.23, 594, 659, 660, and 663a of the Code of Civil Procedure. Specifically, 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 on 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. ITAC worked with the Civil and Small Claims Advisory Committee (CSCAC) in developing the proposal.

Four commenters submitted specific comments in response to the Invitation to Comment. On May 23, 2017, ITAC’s Rules and Policy Subcommittee and CSCAC’s Unlimited Case and Complex Subcommittee held a joint meeting to review the comments received and staff analysis of those comments. The subcommittees agreed with the staff analysis and recommendations, and voted to recommend ITAC and CSCAC consider the proposal for Judicial Council sponsorship. Based on the subcommittees’ remarks and vote, the staff updated the comment chart with proposed committee responses. On June 9, 2017, ITAC and CSCAC met and voted in favor of the subcommittees’ recommendation to advance the proposal for the Judicial Council’s consideration.

#### Assembly Bill 976 Impact on Proposal

AB 976 incorporates Judicial Council-sponsored language, approved by the council last year, to make statutory amendments concerning electronic filing and electronic service. The Legislature has also incorporated statutory amendments in AB 976 independent of the Judicial Council-sponsored language. In relevant part to this proposal, AB 976 amends Code of Civil Procedure sections 664.5, 1010.6, and 1020, and also adds Code of Civil Procedure section 1013b.

This proposal largely conforms to AB 976. After this proposal circulated for comment, ITAC and CSCAC approved a nonsubstantive, technical revision to the language in the proposed amendment to Civil Code section 1719(g)(2) to conform to a nonsubstantive Assembly edit in AB 976.

There is one aspect of this proposal that does not conform to the current version of AB 976, the outcome of which is unknown as of the date of this memorandum. AB 976 may impact the amendments to Code of Civil Procedure sections 405.22 and 405.23 in this proposal. Staff have been monitoring the status of AB 976, discussing provisions of AB 976 with the Office of Government Affairs and legislative staff, and updating the committees. AB 976 passed the Assembly, was amended in the Senate effective June 15, 2017, and is presently pending in the Senate. The Senate amendments do not change the provisions that would impact the amendments to Code of Civil Procedure sections 405.22 and 405.23.

The amendments to Code of Civil Procedure sections 405.22 and 405.23 permit electronic service of a notice that must currently be served by registered or certified mail, but the current version of AB 976 amends Code of Civil Procedure section 1010.6 to add new subdivision

(a)(2)(B), which states, “If a document is required to be served by certified or registered mail, electronic service of the document is not authorized.” Similarly, AB 976 amends Code of Civil Procedure section 1020 to add subdivision (b), which also states, “Electronic service is not authorized for a notice that requires certified or registered mail.”

At this time, it is unknown whether the Legislature’s new prohibition against electronic service of notices that must currently be served by registered or certified mail will remain in AB 976. If it is not in the final version of the bill, no action is needed to conform this proposal. However, if it is in the final version of the bill, this legislative proposal’s amendments to Code of Civil Procedure sections 405.22 and 405.23 would need to be changed to either (1) remove the amendments from the proposal, or (2) revise the amendments to include language excepting sections 405.22 and 405.23 from the prohibition, e.g., “Notwithstanding the provisions of Code of Civil Procedure sections 1010.6(a)(2)(B) and 1020(b). . . .”

Option (1) would drop only the Code of Civil Procedure sections 405.22 and 405.23 portions of the proposal and maintain the status quo for service of a notice of pendency. Option (2) would preserve Code of Civil Procedure sections 405.22 and 405.23 portions of the proposal, but may create a challenge to obtaining sponsorship in the Legislature next year because it would carve out an exception to a recent express prohibition by the Legislature. Given this uncertainty, it may be more desirable to choose Option (1) and drop the amendments to Code of Civil Procedure sections 405.22 and 405.23 from the proposal if the prohibition remains in the final version of the bill.

The last day for the Legislature to pass bills is September 15, 2017. Accordingly, it is more likely than not that the final version of AB 976 will be known by the time Policy Coordination and Liaison Committee (PCLC) meets on September 14, 2017. In the unlikely event that the final version is not known by September 14, 2017, it will definitely be known by the time the Judicial Council meets in November 2017.

### Recommendation

Approve the attached memorandum to PCLC recommending the proposal for Judicial Council sponsorship subject to the outcome of AB 976. If the prohibition against electronic service for documents that must currently be served by registered or certified mail is in the final bill, the amendments to Code of Civil Procedure sections 405.22 and 405.23 are not approved and staff will provide a written or verbal update to PCLC, whichever is feasible with PCLC’s schedule. In the unlikely event that the final version of AB 976 is unknown by the time PCLC meets, staff will provide PCLC with a verbal update on the status with a recommendation to approve the proposal subject to the outcome of AB 976.

Judicial Council Technology Committee

June 23, 2017

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**Attachments**

Memorandum to PCLC with text of proposed amendments to Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a, and comment chart attached.



## JUDICIAL COUNCIL OF CALIFORNIA

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### MEMORANDUM

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Date

June 23, 2017

Action Requested

Recommend for Judicial Council  
Sponsorship

To

Members of the Policy Coordination and  
Liaison Committee

Deadline

September 14, 2017

From

Information Technology Advisory Committee  
Hon. Sheila F. Hanson, Chair

Contact

Andrea L. Jaramillo  
916-263-0991 phone  
andrea.jaramillo@jud.ca.gov

Subject

Proposal for Judicial Council-Sponsored  
Legislation: Modernization of Civil Statutes  
(amend Civil Code section 1719 and Code of  
Civil Procedure sections 405.22, 405.23, 594,  
659, 660, and 663a)

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#### **Executive Summary**

The Information Technology Advisory Committee (ITAC) recommends that the Judicial Council sponsor legislation to amend 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; (2) authorize a party asserting a real property claim to electronically serve a notice of pendency of 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.” In developing this proposal, ITAC worked with the Civil and Small Claims Advisory Committee (CSCAC).

## **Recommendation**

The Information Technology Advisory Committee recommends that the Judicial Council sponsor legislation to:

1. Amend Civil Code section 1719 to add new subdivision (g)(2), which would allow a court 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 already accepting electronic service in the matter to which the check pertains.
2. Amend Code of Civil Procedure sections 405.22 and 405.23. The amendment to section 405.22 would add new subdivision (b), which would allow a claimant in a real property action to serve a notice of pendency of the action electronically instead of by mail on other parties or owners when those parties or owners are already accepting electronic service in the action. The amendment to section 405.23 adds a provision for proof of electronic service of the notice of pendency.
3. Amend Code of Civil Procedure section 594 to include electronic service as an option for service of a notice of a trial or hearing.
4. Amend Code of Civil Procedure section 659 to amend subdivisions (a)(2) and (b). The amendment to subdivision (a)(2) would strike “mailing” and replace it with “service” to ensure consistency with Code of Civil Procedure section 664.5, which section 659 cross-references. The amendment to subdivision (b) would add language that time to file a notice of intention to move for a new trial is not extended by electronic service, which is consistent with Code of Civil Procedure section 1010.6(a)(4)(A)(i).
5. Amend Code of Civil Procedure section 660 to strike “mailing” and replace it with “service” to ensure consistency with Code of Civil Procedure section 664.5, which section 660 cross-references.
6. Amend Code of Civil Procedure section 663a to amend subdivisions (a)(2), (b) and (c). The amendments to subdivisions (a)(2) and (b) would strike references to “mailing” and replace them with “service” to ensure consistency with Code of Civil Procedure section 664.5, which section 663a cross-references. The amendment to subdivision (c) would add language that electronic service does not extend time for exercising a right or doing an act, consistent with Code of Civil Procedure section 1010.6(a)(4)(A)(ii).

## **Previous Council Action**

Code of Civil Procedure section 1010.6 (section 1010.6) authorizes electronic service in the superior courts. Under section 1010.6, the Judicial Council implemented rules for both permissive and mandatory electronic service. Legislation that the Judicial Council sponsored in 2017 (found in Assem. Bill 976 [Berman]) will 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.

### **Rationale for Recommendation**

This proposal builds on prior Judicial Council efforts to modernize court procedures and, more specifically, provide clarity about and foster the use of electronic service.

### **Proposed amendments 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) allows only mailing of the demand and, in a dispute, allows damages only 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 or is required to accept electronic service. To resolve this incongruity, 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 court is the payee of a check passed on insufficient funds and the check relates to an action in which the drawer has consented or is required to accept electronic service. It also clarifies that proof of electronic service rather than proof of mailing is allowed. These changes will eliminate the 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 is part of Judicial Council-sponsored legislation found in AB 976.

### **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 or are required to accept electronic service**

Code of Civil Procedure sections 405.22 and 405.23 govern service requirements for a notice of pendency of an action involving a claim 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 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 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 of 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 found in AB 976 and will govern proof of electronic service.

**Proposed amendments 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 detainers). (*Ibid.*) The Code of Civil Procedure states that the notice to the adverse party “shall be 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).) This proposal amends 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 found in AB 976 and which will govern proof of electronic service.

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

As a part of the 2017 Judicial Council-sponsored legislation found in AB 976, Code of Civil Procedure section 664.5 will be amended to allow notices of entry of judgment to be electronically served rather than mailed or personally served in certain actions. 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.*** 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” of the notice of entry of judgment. (Code Civ. Proc., § 659(a)(2).) To keep sections 664.5 and 659 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 cannot be extended by electronic service.

***Amending Code of Civil Procedure section 660.*** 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” of the notice of entry of judgment. To keep sections 664.5 and 660 consistent, the proposal strikes “mailing” from section 660 and replaces it with “service.”

***Amending Code of Civil Procedure section 663a.*** 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” of 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” of the notice of entry of judgment. (Code Civ. Proc., § 663a(b).) To keep sections 664.5 and 663a 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 cannot be extended by electronic service.

## **Comments, Alternatives Considered, and Policy Implications**

The legislative proposal was circulated for public comment on the spring 2017 cycle. Four commenters submitted comments on the proposal. Most of the comments supported the legislation, a couple comments included suggested modifications to specific portions of the proposal, and one comment disagreed with one portion of the proposal. Both ITAC and CSCAC considered the comments.

One commenter agreed with the amendment to Civil Code section 1719(g), but raised a concern that if the drawer of a bad check was a party represented by counsel, the demand would be sent to counsel’s electronic service address rather than the party’s. ITAC and CSCAC considered the comment, but declined to alter the proposal. The committees determined that counsel’s



professional ethical obligations should be sufficient to ensure counsel communicates with the client.

One commenter disagreed with the amendments to Code of Civil Procedure sections 405.22 and 405.23 and stated that the amendments may provide no real benefit and it was likely most notices of pendency would still be served by mail. ITAC and CSCAC considered this concern and, while the proposal would likely be applicable to only a narrow subset of litigants, the committees found it reasonable to allow an electronic option for notice where the litigants are already dealing electronically with one another. The same commenter raised a concern that electronic service may be lacking because the current requirement for registered mail provides “heightened requirements” that provide for tracking and evidence of receipt. ITAC and CSCAC considered these issues, but found that electronic service provides sufficient record of transmission of the notice.

Two commenters discussed timing issues related to Code of Civil Procedure section 594(b), which requires that service of a notice of trial be served within different time frames depending on whether a party or the court clerk serves the notice and depending on whether the action is an unlawful detainer. The commenters suggested altering the time frames. ITAC and CSCAC determined that these comments were beyond the scope of the proposal as the proposal is intended to add electronic service as a mechanism for service of a notice of new trial, not alter statutory time frames.

After the proposal circulated for comment, ITAC and CSCAC approved a nonsubstantive, technical revision to the language in the proposed amendment to Civil Code section 1719(g)(2), which cross-references Code of Civil Procedure section 1013b. The purpose of this revision was to conform the proposal to a nonsubstantive edit made this year by the Legislature in AB 976 to Code of Civil Procedure section 1013b.

With respect to alternatives considered, the alternative to the proposed amendments would be to preserve the status quo. However, the status quo is inconsistent with ITAC’s project to modernize statutes to promote modern e-business practices and with the goal to ensure 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 unlikely to result in additional costs. The proposal provides the option of electronic service, but does not add any new requirement to use electronic service.

## **Relevant Strategic Plan Goals**

The proposal is consistent with “Goal 4: Promote Rule and Legislative Changes” in the *California Courts Strategic Plan for Technology 2014–2018*. Under Goal 4, the judicial branch will drive modernization of statutes, rules, and procedures to facilitate use of technology in court operations and delivery of court services. Goal 4 is strongly aligned with the judicial branch’s strategic plan overarching goals for (1) access, fairness, and diversity; (2) independence and accountability; (3) modernization of management and administration; and (4) quality of justice and service to the public.

## **Attachments**

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, at pages 8–13.
2. Chart of comments, at pages 14–21.

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.  
44

45 (6) As used in this subdivision, to “pass a check on insufficient funds” means to make,  
46 utter, draw, or deliver any check, draft, or order for the payment of money upon any

1 bank, depository, person, firm, or corporation that refuses to honor the check, draft, or  
2 order for any of the following reasons:

3  
4 (A) Lack of funds or credit in the account to pay the check.

5  
6 (B) The person who wrote the check does not have an account with the drawee.

7  
8 (C) The person who wrote the check instructed the drawee to stop payment on the check.

9  
10 (b)–(c) \* \* \*

11  
12 (d) In the case of a stop payment, a court may not award damages or costs under this  
13 section unless the court receives into evidence a copy of the written demand that, in that  
14 case, shall have been sent to the drawer and a signed certified mail receipt showing  
15 delivery, or attempted delivery if refused, of the written demand to the drawer’s last  
16 known address.

17  
18 (e)–(f) \* \* \*

19  
20 (g)(1) Notwithstanding subdivision (a), if the payee is the court, the written demand for  
21 payment described in subdivision (a) may be mailed to the drawer by the court clerk.  
22 Notwithstanding subdivision (d), in the case of a stop payment where the demand is  
23 mailed by the court clerk, a court may not award damages or costs pursuant to  
24 subdivision (d), unless the court receives into evidence a copy of the written demand, and  
25 a certificate of mailing by the court clerk in the form provided for in subdivision (4) of  
26 Section 1013a of the Code of Civil Procedure for service in civil actions.

27  
28 (2) In lieu of the mailing provisions of (g)(1), if the payee is the court and the check  
29 passed on insufficient funds relates to an action in which the drawer has consented to  
30 accept or is required to accept electronic service pursuant to Section 1010.6 of the Code  
31 of Civil Procedure, the court clerk may serve the written demand electronically.  
32 Notwithstanding subdivision (d), in the case of a stop payment where the demand is  
33 electronically served by the court clerk, a court may not award damages or costs pursuant  
34 to subdivision (d) unless the court receives into evidence a copy of the written demand,  
35 and a certificate of electronic service by the court clerk in the form provided for in  
36 subdivision (a)(4) of Section 1013b of the Code of Civil Procedure.

37  
38 (3) For purposes of this subdivision, in courts where a single court clerk serves more  
39 than one court, the clerk shall be deemed the court clerk of each court.

40  
41 (h)–(k) \* \* \*

42  
43 **Code of Civil Procedure, § 405.22.**

44  
45 (a) Except in actions subject to Section 405.6, the claimant shall, prior to recordation of  
46 the notice, cause a copy of the notice to be mailed, by registered or certified mail, return

1 receipt requested, to all known addresses of the parties to whom the real property claim is  
2 adverse and to all owners of record of the real property affected by the real property  
3 claim as shown by the latest county assessment roll. If there is no known address for  
4 service on an adverse party or owner, then as to that party or owner a declaration under  
5 penalty of perjury to that effect may be recorded instead of the proof of service required  
6 above, and the service on that party or owner shall not be required. Immediately  
7 following recordation, a copy of the notice shall also be filed with the court in which the  
8 action is pending. Service shall also be made immediately and in the same manner upon  
9 each adverse party later joined in the action.

10  
11 (b) In lieu of the mailing provisions of (a), a claimant may serve the notice electronically  
12 in accordance with Section 1010.6 upon the parties to whom the real property claim is  
13 adverse and the owners of record provided that the parties to whom the real property  
14 claim is adverse and the owners of record have consented to accept or are required to  
15 accept electronic service pursuant to Section 1010.6 in the action to which the notice  
16 pertains.

17  
18 **Code of Civil Procedure, § 405.23.**

19  
20 Any notice of pendency of action shall be void and invalid as to any adverse party or  
21 owner of record unless the requirements of Section 405.22 are met for that party or owner  
22 and a proof of service in the form and content specified in Section 1013a for service by  
23 mail or Section 1013b for electronic service has been recorded with the notice of  
24 pendency of action.

25  
26 **Code of Civil Procedure, § 594.**

27  
28 (a) In superior courts either party may bring an issue to trial or to a hearing, and, in the  
29 absence of the adverse party, unless the court, for good cause, otherwise directs, may  
30 proceed with the case and take a dismissal of the action, or a verdict, or judgment, as the  
31 case may require; provided, however, if the issue to be tried is an issue of fact, proof shall  
32 first be made to the satisfaction of the court that the adverse party has had 15 days' notice  
33 of such trial or five days' notice of the trial in an unlawful detainer action as specified in  
34 subdivision (b). If the adverse party has served notice of trial upon the party seeking the  
35 dismissal, verdict, or judgment at least five days prior to the trial, the adverse party shall  
36 be deemed to have had notice.

37  
38 (b) The notice to the adverse party required by subdivision (a) shall be served  
39 electronically in accordance with Section 1010.6 or by mail on all the parties by the clerk  
40 of the court not less than 20 days prior to the date set for trial. In an unlawful detainer  
41 action where notice is served electronically in accordance with Section 1010.6 or by mail,  
42 that service shall be electronically served or mailed not less than 10 days prior to the date  
43 set for trial. If notice is not served by the clerk as required by this subdivision, it may be  
44 served electronically in accordance with Section 1010.6 or by mail by any party on the  
45 adverse party not less than 15 days prior to the date set for trial, and in an unlawful  
46 detainer action where notice is served electronically in accordance with Section 1010.6 or

1 by mail, that service shall be electronically served or mailed not less than 10 days prior to  
2 the date set for trial. The time provisions of Section 1010.6 and Section 1013 shall not  
3 serve to extend the notice of trial requirements under this subdivision for unlawful  
4 detainer actions. If notice is served by the clerk, proof thereof may be made by  
5 introduction into evidence of the clerk's certificate pursuant to subdivision (3) of Section  
6 1013a, compliance with Section 1013b when service is electronic, or other competent  
7 evidence. If notice is served by a party, proof may be made by introduction into evidence  
8 of an affidavit or certificate pursuant to subdivision (1) or (2) of Section 1013a,  
9 compliance with Section 1013b when service is electronic, or other competent evidence.  
10 The provisions of this subdivision are exclusive.

11  
12 **Code of Civil Procedure, § 659.**

13  
14 (a) The party intending to move for a new trial shall file with the clerk and serve upon  
15 each adverse party a notice of his or her intention to move for a new trial, designating the  
16 grounds upon which the motion will be made and whether the same will be made upon  
17 affidavits or the minutes of the court, or both, either:

18  
19 (1) After the decision is rendered and before the entry of judgment.

20  
21 (2) Within 15 days of the date of ~~mailing~~ service of the notice of entry of judgment by the  
22 clerk of the court pursuant to Section 664.5, or service upon him or her by any party of  
23 written notice of entry of judgment, or within 180 days after the entry of judgment,  
24 whichever is earliest; provided, that upon the filing of the first notice of intention to move  
25 for a new trial by a party, each other party shall have 15 days after the service of that  
26 notice upon him or her to file and serve a notice of intention to move for a new trial.  
27

28 (b) That notice of intention to move for a new trial shall be deemed to be a motion for a  
29 new trial on all the grounds stated in the notice. The times specified in paragraphs (1) and  
30 (2) of subdivision (a) shall not be extended by order, ~~or~~ stipulation, ~~or by~~ those provisions  
31 of Section 1013 that extend the time for exercising a right or doing an act where service  
32 is by mail, or those provisions of Section 1010.6 that extend the time for exercising a  
33 right or doing an act where service is electronic.  
34

35 **Code of Civil Procedure, § 660.**

36  
37 On the hearing of such motion, reference may be had in all cases to the pleadings and  
38 orders of the court on file, and when the motion is made on the minutes, reference may  
39 also be had to any depositions and documentary evidence offered at the trial and to the  
40 report of the proceedings on the trial taken by the phonographic reporter, or to any  
41 certified transcript of such report or if there be no such report or certified transcript, to  
42 such proceedings occurring at the trial as are within the recollection of the judge; when  
43 the proceedings at the trial have been phonographically reported, but the reporter's notes  
44 have not been transcribed, the reporter must upon request of the court or either party,  
45 attend the hearing of the motion and shall read his notes, or such parts thereof as the  
46 court, or either party, may require.

1  
2 The hearing and disposition of the motion for a new trial shall have precedence over all  
3 other matters except criminal cases, probate matters and cases actually on trial, and it  
4 shall be the duty of the court to determine the same at the earliest possible moment.  
5

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

23 **Code of Civil Procedure, § 663a.**  
24

25 (a) A party intending to make a motion to set aside and vacate a judgment, as described in  
26 Section 663, shall file with the clerk and serve upon the adverse party a notice of his or  
27 her intention, designating the grounds upon which the motion will be made, and  
28 specifying the particulars in which the legal basis for the decision is not consistent with  
29 or supported by the facts, or in which the judgment or decree is not consistent with the  
30 special verdict, either:  
31

32 (1) After the decision is rendered and before the entry of judgment.  
33

34 (2) Within 15 days of the date of ~~mailing~~ service of the notice of entry of judgment by the  
35 clerk of the court pursuant to Section 664.5, or service upon him or her by any party of  
36 written notice of entry of judgment, or within 180 days after the entry of judgment,  
37 whichever is earliest.  
38

39 (b) Except as otherwise provided in Section 12a, the power of the court to rule on a  
40 motion to set aside and vacate a judgment shall expire 60 days from the ~~mailing~~ service  
41 of the notice of entry of judgment by the clerk of the court pursuant to Section 664.5, or  
42 60 days after service upon the moving party by any party of written notice of entry of the  
43 judgment, whichever is earlier, or if that notice has not been given, then 60 days after  
44 filing of the first notice of intention to move to set aside and vacate the judgment. If that  
45 motion is not determined within the 60-day period, or within that period, as extended, the  
46 effect shall be a denial of the motion without further order of the court. A motion to set

1 aside and vacate a judgment is not determined within the meaning of this section until an  
2 order ruling on the motion is (1) entered in the permanent minutes of the court, or (2)  
3 signed by the judge and filed with the clerk. The entry of an order to set aside and vacate  
4 the judgment in the permanent minutes of the court shall constitute a determination of the  
5 motion even though that minute order, as entered, expressly directs that a written order be  
6 prepared, signed, and filed. The minute entry shall, in all cases, show the date on which  
7 the order actually is entered in the permanent minutes, but failure to comply with this  
8 direction shall not impair the validity or effectiveness of the order.

9  
10 (c) The provisions of Section 1013 extending the time for exercising a right or doing an  
11 act where service is by mail and the provisions of Section 1010.6 extending the time for  
12 exercising a right or doing an act where service is electronic shall not apply to extend the  
13 times specified in paragraphs (1) and (2) of subdivision (a).

14  
15 (d)–(e) \* \* \*  
16  
17



## LEG 17-05

### Proposed Legislation (Technology): Electronic Service (amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a)

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

	Commentator	Position	Comment	Committee Response
1.	Aderant By Victoria Katz, Rules Attorney www.aderant.com Email: <b>victoria.katz@aderant.com</b>	NI	<p>We have reviewed the Invitation to Comment LEG 17-05 and write to request that the proposed amendment to CCP 594(b) be further clarified with respect to the calculation of the 15 and 10-day deadlines for a party to serve notice provided therein.</p> <p>As proposed, CCP 594(b) states, in part:</p> <p>If notice is not served by the clerk as required by this subdivision, it may be served electronically in accordance with Section 1010.6 or by mail by any party on the adverse party not less than 15 days prior to the date set for trial, and in an unlawful detainer action where notice is served electronically in accordance with Section 1010.6 or by mail, that service shall be electronically served or mailed not less than 10 days prior to the date set for trial. The time provisions of Section 1010.6 and Section 1013 shall not serve to extend the notice of trial requirements under this subdivision for unlawful detainer actions.</p>	The committees appreciate the comment, but the modification suggested in the comment goes beyond the scope of the proposal. The proposal adds electronic service as a mechanism to serve the notice of trial, but is not intended to alter statutory time frames applicable to specific case types.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**LEG 17-05**

**Proposed Legislation (Technology): Electronic Service** (amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a)

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

	Commentator	Position	Comment	Committee Response
			<p>CCP 1010.6(a)(4) says, “[A]ny period of notice, or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended after service by electronic means by two court days....”</p> <p>CCP 1013(a) provides, “[A]ny period of notice and any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended . . . 20 calendar days if either the place of mailing or the place of address is outside the United States....”</p> <p>The statement that the time provisions in CCP 1010.6 and 1013 shall not “extend the notice of trial requirements under this subdivision for unlawful detainer actions,” makes the calculation for non-unlawful detainer actions ambiguous, because it seems to imply that they <i>do</i> serve to extend the notice of trial requirements in those cases.</p>	

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**LEG 17-05**

**Proposed Legislation (Technology): Electronic Service** (amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a)

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	Commentator	Position	Comment	Committee Response
			<p>For example, in a non-unlawful detainer actions, amended CCP 594(b) seems to require notice to be electronically served 15 days + 2 court days prior to the date of trial, pursuant to CCP 594(b) and CCP 1010.6. Similarly, notice served by mail outside of California and outside of the United States, would need to be served 20 and 30 days prior to the date of trial, respectively. Is this correct? Or should the deadline for service of notice in non-unlawful detainer actions served by either method simply be 15 days prior to trial?</p> <p>If the deadline is meant to be only 15 days before trial, we respectfully request that CCP 594(b) be further amended to eliminate the reference to unlawful detainer actions in the sentence regarding the time provisions of CCP 1010.6 and 1013: “The time provisions of Section 1010.6 and Section 1013 shall not serve to extend the notice of trial requirements under this subdivision <del>for unlawful detainer actions.</del>”</p> <p>If extra time under CCP 1010.6 and 1013 is meant to be added to the notice deadline, we</p>	

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**LEG 17-05**

**Proposed Legislation (Technology): Electronic Service** (amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			respectfully request that CCP 594(b) be further amended to clarify this fact. For example, the time provision sentence could be changed to read, “Except for unlawful detainer actions, the time provisions of Section 1010.6 and Section 1013 shall serve to extend the notice of trial requirements under this subdivision.”	
2.	Lomax, Mark W. Pasadena CA, Email: <a href="mailto:mlomax1074@gmail.com">mlomax1074@gmail.com</a>	AM	C.C.P. section 411.20 requires the clerk to mail notice regarding a dishonored check for a filing fee, and C.C.P. section 411.21 requires the clerk to mail notice regarding partial payment of a filing fee. I recommend that both sections be amended to permit the notices to be served electronically or by postal mail.	The committees appreciate the comment, but it is beyond the scope of this proposal. The committees may consider the suggestion as part of a future proposal.
3.	Orange County Bar Association By Michael L. Baroni, President P.O. Box 6130 Newport Beach, CA 92658	A, AM, N	Agree as Modified - As to the proposed changes to CC section 1719, the following modifications are suggested.  With very limited exception, parties who have agreed to accept, or who are required to accept, electronic service of documents pursuant to the provisions of CCP section 1010.6, are represented by counsel. For these parties, the email address on file with	The committees appreciate the comment, but decline to alter the proposal. If the drawer’s counsel receives the notice, that should be sufficient in light of professional ethical obligations that counsel would owe the drawer as client.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**LEG 17-05**

**Proposed Legislation (Technology): Electronic Service** (amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a)

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

	Commentator	Position	Comment	Committee Response
			<p>the court is that of their respective counsel and not that of the actual party. Consequently, a drawer of a check may appear to be a party subject to electronic service in the underlying action, but whose personal email is not the one in the court records. While there is no disagreement with the idea behind the proposal, it is suggested that the proposed language adding subsection (2) to CC section 1719(g) be modified in some manner to ensure that the drawer’s personal email address is used and that permission for its use by the court is obtained. To do anything less would result in an insufficient and failed demand under CC section 1719(g).</p> <p>Disagree – As to the proposed changes to CCP sections 405.22 and 405.23, the following observations are made.</p> <p>As a practical matter, it is difficult to see how allowing the service electronically of a notice of pendency of action would be of real benefit. At the time a plaintiff, for example, would want to serve the notice, it would seem unlikely that an adverse party even if required to be served electronically,</p>	<p>The committees appreciate the comment, but decline to alter the proposal at this time. While the proposed amendments would be applicable to only a narrow subset of litigants, it is reasonable to allow an electronic option for the notice where the litigants are already dealing electronically with one another. Electronic service also provides a sufficient record of transmission.</p>

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**LEG 17-05**

**Proposed Legislation (Technology): Electronic Service** (amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a)

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

	Commentator	Position	Comment	Committee Response
			<p>would have responded so as to have its electronic contact information on file. In that all affected owners of record also must be served notice, it would seem even more unlikely that their respective electronic contact information or consent would be known to the plaintiff. Finally, in that service must be made “immediately” upon each adverse party later joined per CCP section 405.22, it would seem most unlikely their electronic contact information would have been provided. For these reasons, based on the timing considerations involved, the likelihood exists that most if not all of these notices would still be served by mail.</p> <p>Beyond the practical considerations, there are differences in the very nature of a notice of pendency of action which set it apart from a pleading, for example. These differences are not just rooted in tradition, but in actual distinction. The use and impact of these notices is serious which is, perhaps, the reason for the heightened requirements associated with their service (these heightened requirements would be lost, of course, were electronic service</p>	

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**LEG 17-05**

**Proposed Legislation (Technology): Electronic Service** (amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a)

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

	Commentator	Position	Comment	Committee Response
			<p>allowed). Pleadings simply may be mailed, but these notices must be sent registered or certified mail, return receipt requested. Both of these methods allow for tracking and evidence of receipt. Pleadings are filed with the court, while notices are recorded with the county recorder, and require a notary’s seal and acknowledgment. Pleading and notices are both public records, but the notice appears in the chain of title giving constructive notice to all who come after. In short, a notice of pendency of action is surrounded by unique considerations, and it should not be equated with, treated like, or served in the manner of a subsequent pleading.</p> <p>Agree – As to the proposed changes to CCP sections 594, 659, 660, and 663a.</p> <p><b>Request for Specific Comments:</b></p> <p>Does the proposal appropriately address the stated purpose?            Yes, in light of the modernization project which seeks to “facilitate electronic filing and service and to foster modern e-business practices.” It is believed, however,</p>	<p>The committees appreciate the support.</p> <p>The committees appreciate the comment.</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

**LEG 17-05**

**Proposed Legislation (Technology): Electronic Service** (amend Civil Code section 1719 and Code of Civil Procedure sections 405.22, 405.23, 594, 659, 660, and 663a)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			that the anticipated benefits of these efforts should be carefully weighed against certain implications and ramifications for litigants.	
4.	Superior Court of Los Angeles County 111 N. Hill Street Los Angeles, CA 90012	AM	<p><b>Suggested modifications:</b></p> <p><b>Code of Civil Procedure § 594(b)</b></p> <p><b>Page 9, lines 1 through 3</b> - In order to clarify that the 20 day provision only applies to service by mail, not electronic service, change:</p> <p>“...shall be served electronically in accordance with Section 1010.6 or by mail on all parties by the clerk of the court not less than 20 days prior to the date set for trial.”</p> <p><b>to</b></p> <p>“...shall be served by mail on all parties by the clerk of the court not less than 20 days prior to the date set for trial or electronically in accordance with Section 1010.6.”</p>	The committees appreciate the comment, but the modification suggested in the comment goes beyond the scope of the proposal. The proposal adds electronic service as a mechanism to serve the notice of trial, but is not intended to alter the 20 day time frame.
5.	Superior Court of San Diego County By Mike Roddy, Court Executive Officer County Courthouse 220 West Broadway San Diego, CA 92101	A	No specific comments.	The committees appreciate the support.

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