



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 L Street, Suite 700 • Sacramento, California 95814-3393
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 415-865-4272

RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

April 16, 2010

Hon. Christine Kehoe, Chair
Senate Appropriations Committee
State Capitol, Room 5050
Sacramento, California 95814

Subject: Senate Bill 1274 (Committee on Judiciary), as amended, March 23, 2010
– Fiscal Impact Statement
Hearing: Senate Appropriations Committee – April 26, 2010

Dear Senator Kehoe:

SB 1274, which is sponsored by the Judicial Council, will improve the law governing electronic filing and service of documents by expanding the methods for providing service and clarifying the types of documents that may be served electronically. By defining electronic service to include both electronic transmission and electronic notification, SB 1274 will provide greater flexibility for litigants and the courts. SB 1274 also explicitly authorizes electronic service of all types of documents and expands the courts' ability to serve certain documents electronically.

Fiscal Impact

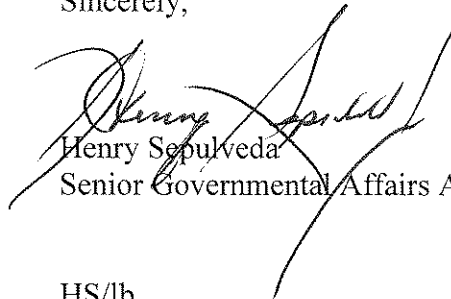
There are no costs to the courts to implement the bill's provisions. SB 1274 promotes the use of electronic service, which increases the overall efficiency of the service process for both litigants and the courts.

Hon. Christine Kehoe
April 16, 2010
Page 2

The Judicial Council will incur one-time administrative costs to develop the rules required by this measure relating to the integrity of electronic service. However, those costs are expected to be minor and absorbable within existing resources."

Please contact me at 916-323-3121 or henry.sepulveda@jud.ca.gov if you would like further information or have any questions about the fiscal impact of this legislation on the judicial branch.

Sincerely,



Henry Sepulveda
Senior Governmental Affairs Analyst

HS/lb

cc: Hon. Ellen Corbett, Member of the Senate
Kathy Banuelos, Counsel, Senate Judiciary Committee
Jacqueline Wong-Hernandez, Consultant, Senate Appropriations Committee
Matt Osterli, Minority Consultant, Senate Republican Office of Policy
Teresa Calvert, Budget Analyst, Department of Finance



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April 16, 2010

Hon. Christine Kehoe, Chair
Senate Appropriations Committee
State Capitol, Room 5050
Sacramento, California 95814

Subject: Senate Bill 1274 (Committee on Judiciary), as amended, March 23, 2010 - Support
Hearing: Senate Appropriations Committee – April 26, 2010

Dear Senator Kehoe:

SB 1274, which is sponsored by the Judicial Council, will improve the law governing electronic filing and service of documents by expanding the methods for providing service and clarifying the types of documents that may be served electronically.

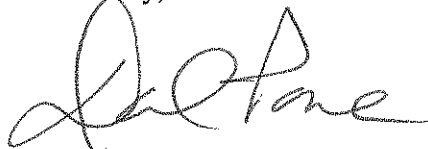
Electronic service of documents in civil cases is becoming increasingly common. In the years ahead, it is likely to become the most prevalent method of service. At least two different methods of electronic service are currently being used; the “electronic transmission” method and the “electronic notification” method. The electronic transmission method operates like traditional service, in which a document is served by sending it through the mail to a recipient; in a similar manner, electronic service is carried out by electronically transmitting (sending) a document to the person served. By contrast, under the electronic notification method, the recipient is not sent a document but is notified electronically that a document is available and is told where to access it via a hyperlink.

The statute on electronic filing and service currently authorizes service by the electronic transmission of documents but not by providing notice to other parties that a document is served and providing an Internet hyperlink to the document. A recent appellate decision has directly raised the issue whether the law needs to be changed to expressly authorize electronic service by the electronic notification method. In *InSyst, Ltd. v. Applied Materials, Inc.* (2009) 170 Cal.App.4th 1129, the court held that only the electronic transmission method constitutes valid service under current California law. The court ruled that the superior court's particular method of service, which involved sending a link where the stamped judgment could be accessed, did not legally constitute "electronic service" under Code of Civil Procedure section 1010.6 or the rules of court on electronic service.

SB 1274 addresses the *InSyst, Ltd. v. Applied Materials* decision by expressly authorizing service by electronic notification. By defining electronic service to include both electronic transmission and electronic notification, SB 1274 will provide greater flexibility for litigants and the courts. SB 1274 also explicitly authorizes electronic service of all types of documents and expands the courts' ability to serve certain documents electronically. There are no costs to the courts in implementing the bill's provisions. SB 1274 promotes the use of electronic service, which increases the overall efficiency of the service process and saves time and money for both litigants and the courts.

For these reasons, the Judicial Council urges your aye vote on SB 1274.

Sincerely,

A handwritten signature in dark ink, appearing to read "Daniel Pone", written in a cursive style.

Daniel Pone
Senior Attorney

DP/ljb

cc: Members, Senate Appropriations Committee

Ms. Jacqueline Wong-Hernandez, Consultant, Senate Appropriations Committee

Ms. Kathy Banuelos, Counsel, Senate Judiciary Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitcke, Deputy Director of Legislation, Governor's Office of Planning and Research

Mr. Mike Petersen, Consultant, Senate Republican Office of Policy



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Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

April 1, 2010

Hon. Ellen Corbett, Chair
Senate Judiciary Committee
State Capitol, Room 5108
Sacramento, California 95814

Subject: Senate Bill 1274 (Committee on Judiciary), as amended March 23, 2010 - Sponsor
Hearing: Senate Judiciary Committee – April 13, 2010

Dear Senator Corbett:

SB 1274, which is sponsored by the Judicial Council, will improve the law governing electronic filing and service of documents by expanding the methods for providing service and clarifying the types of documents that may be served electronically.

Electronic service of documents in civil cases is becoming increasingly common. In the years ahead, it is likely to become the most prevalent method of service. At least two different methods of electronic service are currently being used; the “electronic transmission” method and the “electronic notification” method. The electronic transmission method operates like traditional service, in which a document is served by sending it through the mail to a recipient; in a similar manner, electronic service is carried out by electronically transmitting (sending) a document to the person served. By contrast, under the electronic notification method, the recipient is not sent a document but is notified electronically that a document is available and is told where to access it via a hyperlink.

The statute on electronic filing and service currently authorizes service by the electronic transmission of documents but not by providing notice to other parties that a document is served and providing an Internet hyperlink to the document. A recent appellate decision has directly raised the issue whether the law needs to be changed to expressly authorize electronic service by the electronic notification method. In *InSyst, Ltd. v. Applied Materials, Inc.* (2009) 170 Cal.App.4th 1129, the court held that only the electronic transmission method constitutes valid service under current California law. The court ruled that the superior court's particular method of service, which involved sending a link where the stamped judgment could be accessed, did not legally constitute "electronic service" under Code of Civil Procedure section 1010.6 or the rules of court on electronic service.

SB 1274 addresses the *InSyst, Ltd. v. Applied Materials* decision by expressly authorizing service by electronic notification. Specifically, the bill:

- Amends Code of Civil Procedure section 1010.6 to define "electronic service" as including *both* electronic transmission and electronic notification;
- Defines "electronic transmission" to mean the electronic transmission of a document to the electronic address at or through which a party or other person has authorized electronic service;
- Defines "electronic notification" to mean the notification of the party or other person that a document is served by sending an electronic message to the electronic address at or through which the party or other person has authorized electronic service, specifying the exact name of the document served and providing a hyperlink at which the served document can be viewed and downloaded;
- Clarifies that the documents that may be served electronically are any documents in a case, not just notices and accompanying documents;
- Provides that in actions where the parties have agreed to accept electronic service or the court has ordered electronic service under the statute, the court may electronically serve any document issued by the court that is not required to be personally served;
- Makes conforming changes to the statute on the time when service of a document is complete, and modifies the statute to provide that there is a two-day extension of the time to act whenever service has been made by electronic means, not just electronic transmission; and
- Requires the Judicial Council to develop rules to ensure that electronic notification using hyperlinks is a reliable and cost effective means of service, and maintain the integrity of the document served and the process of electronic service.

Hon. Ellen Corbett

April 1, 2010

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By defining electronic service to include both electronic transmission and electronic notification, SB 1274 will provide greater flexibility for litigants and the courts. SB 1274 also explicitly authorizes electronic service of all types of documents and expands the courts' ability to serve certain documents electronically, which promotes its use and increases the overall efficiency of the service process.

For these reasons, the Judicial Council urges your aye vote on SB 1274.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Pone", written in a cursive style.

Daniel Pone
Senior Attorney

DP/ljb

cc: Members, Senate Judiciary Committee

Ms. Saskia Kim, Chief Counsel, Senate Judiciary Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research



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Chief Deputy Director

CURTIS L. CHILD
Director, Office of Governmental Affairs

May 25, 2010

Hon. Mike Feuer, Chair
Assembly Judiciary Committee
State Capitol, Room 3146
Sacramento, California 95814

Subject: Senate Bill 1274 (Committee on Judiciary), as amended March 23, 2010 - Sponsor
Hearing: Assembly Judiciary Committee – June 15, 2010

Dear Assembly Member Feuer:

SB 1274, which is sponsored by the Judicial Council, will improve the law governing electronic filing and service of documents by expanding the methods for providing service and clarifying the types of documents that may be served electronically.

Electronic service of documents in civil cases is becoming increasingly common. In the years ahead, it is likely to become the most prevalent method of service. At least two different methods of electronic service are currently being used; the “electronic transmission” method and the “electronic notification” method. The electronic transmission method operates like traditional service, in which a document is served by sending it through the mail to a recipient; in a similar manner, electronic service is carried out by electronically transmitting (sending) a document to the person served. By contrast, under the electronic notification method, the recipient is not sent a document but is notified electronically that a document is available and is told where to access it via a hyperlink.

The statute on electronic filing and service currently authorizes service by the electronic transmission of documents but not by providing notice to other parties that a document is served and providing an Internet hyperlink to the document. A recent appellate decision has directly raised the issue whether the law needs to be changed to expressly authorize electronic service by the electronic notification method. In *InSyst, Ltd. v. Applied Materials, Inc.* (2009) 170 Cal.App.4th 1129, the court held that only the electronic transmission method constitutes valid service under current California law. The court ruled that the superior court's particular method of service, which involved sending a link where the stamped judgment could be accessed, did not legally constitute "electronic service" under Code of Civil Procedure section 1010.6 or the rules of court on electronic service.

SB 1274 addresses the *InSyst, Ltd. v. Applied Materials* decision by expressly authorizing service by electronic notification. Specifically, the bill:

- Amends Code of Civil Procedure section 1010.6 to define "electronic service" as including *both* electronic transmission and electronic notification;
- Defines "electronic transmission" to mean the electronic transmission of a document to the electronic address at or through which a party or other person has authorized electronic service;
- Defines "electronic notification" to mean the notification of the party or other person that a document is served by sending an electronic message to the electronic address at or through which the party or other person has authorized electronic service, specifying the exact name of the document served and providing a hyperlink at which the served document can be viewed and downloaded;
- Clarifies that the documents that may be served electronically are any documents in a case, not just notices and accompanying documents;
- Provides that in actions where the parties have agreed to accept electronic service or the court has ordered electronic service under the statute, the court may electronically serve any document issued by the court that is not required to be personally served;
- Makes conforming changes to the statute on the time when service of a document is complete, and modifies the statute to provide that there is a two-day extension of the time to act whenever service has been made by electronic means, not just electronic transmission; and
- Requires the Judicial Council to develop rules to ensure that electronic notification using hyperlinks is a reliable and cost effective means of service, and maintain the integrity of the document served and the process of electronic service.

By defining electronic service to include both electronic transmission and electronic notification, SB 1274 will provide greater flexibility for litigants and the courts. SB 1274 also explicitly authorizes electronic service of all types of documents and expands the courts' ability to serve certain documents electronically, which promotes its use and increases the overall efficiency of the service process.

For these reasons, the Judicial Council urges your aye vote on SB 1274.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Pone', with a stylized, flowing script.

Daniel Pone
Senior Attorney

DP/ljb

cc: Members, Assembly Judiciary Committee

Mr. Drew Liebert, Chief Counsel, Assembly Judiciary Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research

Mr. Mark Redmond, Consultant, Assembly Republican Office of Policy



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CURTIS L. CHILD
Director, Office of Governmental Affairs

June 22, 2010

Hon. Felipe Fuentes, Chair
Assembly Appropriations Committee
State Capitol, Room 2114
Sacramento, California 95814

Subject: SB 1274 (Committee on Judiciary), as amended March 23, 2010 – Fiscal Impact Statement

Dear Assembly Member Fuentes:

SB 1274, which is sponsored by the Judicial Council, will improve the law governing electronic filing and service of documents by expanding the methods for providing service and clarifying the types of documents that may be served electronically. By defining electronic service to include both electronic transmission and electronic notification, SB 1274 will provide greater flexibility for litigants and the courts. SB 1274 also explicitly authorizes electronic service of all types of documents and expands the courts' ability to serve certain documents electronically.

Fiscal Impact

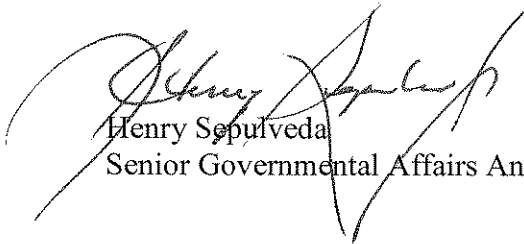
There are no costs to the courts to implement the bill's provisions. SB 1274 promotes the use of electronic service, which increases the overall efficiency of the service process for both litigants and the courts.

The Judicial Council will incur one-time administrative costs to develop the rules required by this measure relating to the integrity of electronic service. However, those costs are expected to be minor and absorbable within existing resources.

Hon. Felipe Fuentes
June 22, 2010
Page 2

Please contact me at 916-323-3121 or henry.sepulveda@jud.ca.gov if you would like further information or have any questions about the fiscal impact of this legislation on the judicial branch.

Sincerely,



Henry Sepulveda
Senior Governmental Affairs Analyst

HS/yt

cc: Hon. Ellen Corbett, Member of the Senate

Ms. Kathy Banuelos, Counsel, Senate Judiciary Committee

Mr. Chuck Nicol, Principal Consultant, Assembly Appropriations Committee

Mr. Allan Cooper, Consultant, Assembly Republican Office of Policy

Ms. Teresa Calvert, Budget Analyst, Department of Finance



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WILLIAM C. VICKREY

Administrative Director of the Courts

RONALD G. OVERHOLT

Chief Deputy Director

CURTIS L. CHILD

Director, Office of Governmental Affairs

August 9, 2010

Hon. Arnold Schwarzenegger
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: SB 1274 (Committee on Judiciary) – Request for Signature

Dear Governor Schwarzenegger:

SB 1274, which is sponsored by the Judicial Council, will improve the law governing electronic filing and service of documents by expanding the methods for providing service and clarifying the types of documents that may be served electronically.

Electronic service of documents in civil cases is becoming increasingly common. In the years ahead, it is likely to become the most prevalent method of service. At least two different methods of electronic service are currently being used; the "electronic transmission" method and the "electronic notification" method. The electronic transmission method operates like traditional service, in which a document is served by sending it through the mail to a recipient; in a similar manner, electronic service is carried out by electronically transmitting (sending) a document to the person served. By contrast, under the electronic notification method, the recipient is not sent a document but is notified electronically that a document is available and is told where to access it via a hyperlink.

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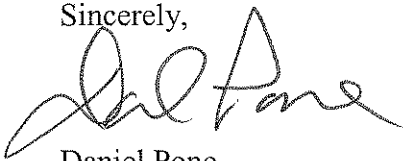
Cal.App.4th 1129, the court held that only the electronic transmission method constitutes valid service under current California law. The court ruled that the superior court's particular method of service, which involved sending a link where the stamped judgment could be accessed, did not legally constitute "electronic service" under Code of Civil Procedure section 1010.6 or the rules of court on electronic service.

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For these reasons, the Judicial Council requests your signature on SB 1274.

Sincerely,



Daniel Pone
Senior Attorney

DP/ljb

cc: Members, Senate Judiciary Committee

Ms. Kathy Banuelos, Counsel, Senate Judiciary Committee

Mr. Aaron Maguire, Deputy Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research