

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT SPR16-25

Title

Technology: Modernization of the Rules of Court (Phase II of the Rules Modernization Project)

Action Requested

Review and submit comments by June 14, 2016

Proposed Rules, Forms, Standards, or Statutes

Amend rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.252, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392

Proposed Effective Date

January 1, 2017

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Proposed by

Information Technology Advisory Committee
Hon. Terence L. Bruiniers, Chair

Civil and Small Claims Advisory Committee
Hon. Raymond M. Cadei, Chair

Family and Juvenile Law Advisory
Committee
Hon. Jerilyn L. Borack, Cochair
Hon. Mark A. Juhas, Cochair

Executive Summary and Origin

The Information Technology Advisory Committee, the Civil and Small Claims Advisory Committee, and the Family and Juvenile Law Advisory Committee recommend amending various rules in titles 2, 3, and 5 of the California Rules of Court as part of phase II of the Rules Modernization Project. These proposed amendments are substantive changes to the rules that are intended to promote electronic filing, electronic service, and modern e-business practices.

Background

The Information Technology Advisory Committee (ITAC) is leading the Rules Modernization Project, a multiyear effort to comprehensively review and modernize the California Rules of

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

Court so that they will be consistent with and foster modern e-business practices. To ensure that each title is revised in view of any statutory requirements and policy concerns unique to that area of law, ITAC is coordinating with other advisory committees, including the Civil and Small Claims Advisory Committee (CSCAC) and the Family and Juvenile Law Advisory Committee (FJLAC), with relevant subject-matter expertise.

The Rules Modernization Project is being carried out in two phases. Last year, the advisory committees completed phase I: an initial round of technical rule amendments to address language in the rules that was incompatible with the current statutes and rules governing electronic filing and service, and with e-business practices in general. This year, the committees are undertaking phase II, which involves a more in-depth examination of any statutes and rules that may hinder electronic filing, electronic service, and modern e-business practices.

The Proposal

This proposal includes new formatting rules for electronic documents. It also includes proposed amendments to the various rules identified by the committees during phase I as requiring a substantive change, as well as technical amendments that were missed during phase I.

The proposed amendments to rules in titles 2 and 3 have been reviewed and recommended by ITAC and CSCAC; those in title 5 have been reviewed and recommended by ITAC and FJLAC.

Formatting of electronically filed documents

Rule 2.256(b) states the formatting requirements for documents that are electronically filed in the trial courts. This proposal would add references to rule 2.256(b) in rules 2.100, 2.114, and 2.104 to clarify that the formatting requirements in rule 2.256(b) apply to electronically filed “papers,” exhibits, and forms.

Text-searchable electronic “papers.” This proposal would amend rule 2.256(b) to provide that an electronically filed document must be text searchable unless it is an exhibit or Judicial Council form. This requirement would apply to “papers,” which are defined in rule 2.3(2) as “all documents except exhibits, copies of exhibits that are offered for filing in any case, but does not include Judicial Council and local court forms, records on appeal in limited civil cases, or briefs filed in appellate divisions.” This proposal is intended to discourage litigants from printing and scanning “papers” before electronically filing them, which creates documents that are not text searchable.

Because converting from a document created with word processing software to portable document format (“PDF”) may result in a slight reduction or enlargement of font size in the document, this proposal would amend rule 2.118 by adding a new subdivision (a)(3) to provide that a clerk may not reject papers for filing solely because “[t]he font size is not exactly the point size required by rules 2.104 and 2.110(c) on papers submitted electronically in portable document format (PDF). Minimal variation in font size may result from converting a document created using word processing software to PDF format.”

Electronic bookmarks for exhibits. This proposal would amend rule 3.1110(f) to require that electronic exhibits contain electronic bookmarks, unless they are submitted by a self-represented litigant. The electronic bookmarks must have (1) links to the first page of each exhibit and (2) titles that identify the exhibit number or letter and briefly describe the exhibit. This proposal would add an Advisory Committee Comment that would state that, under current technology, software programs that allow users to apply electronic bookmarks to electronic documents are available for free. In addition, this proposal would amend rule 3.1113(i) to require electronic bookmarking where authorities or cases are lodged in electronic form.

Page numbering

This proposal would amend the rules governing pagination for “papers,” motion documents, and motion memoranda—rules 2.109, 3.1110(c), and 3.1113(h)—to provide that page numbering must begin with the first page and use only Arabic numerals (e.g., 1, 2, 3) and that the page number need not appear on the first page. These proposed amendments recognize that judicial officers find it easier to navigate electronic documents when the page number in the footer matches the page number of the electronic document. To provide for consistency, this method of page numbering would apply to both electronic and paper documents, and, as a result, the pages of tables of content in memoranda will no longer be paginated using lower-case Roman numerals.¹

To ensure that the proposed amendment to rule 3.1113(h) would not alter the number of pages allowed for memoranda, this proposal would also amend rule 3.1113(d) by providing that caption pages are not counted in determining whether a memorandum exceeds the page limit. Subdivision (d) already provides that exhibits, declarations, attachments, the table of contents, the table of authorities, and the proof of service are not counted.

Proof of electronic service

This proposal would amend rule 2.251(i) to conform the requirements for proof of electronic service to the statutes and rules governing electronic service. It would also eliminate the requirement that the person filling out the proof of electronic service state the time of electronic service.

Electronic service by a party. In stating the requirements for proof of electronic service, rule 2.251(i) incorporates the requirements for proof of service by mail in Code of Civil Procedure section 1013a, subject to several exceptions. Code of Civil Procedure section 1013a requires that proof of service by mail be made by affidavit or certificate showing that the “the person making the service” is “not a party to the cause,” and subdivision (i) of rule 2.251 does not currently provide an exception to this requirement. However, subdivision (e) of rule 2.251 and the statute governing electronic service expressly allow for electronic service by a party. (See Code Civ.

¹ In an Invitation to Comment that is also circulating this rules cycle, the Information Technology Advisory Committee and the Appellate Advisory Committee have recommended similar amendments to the pagination requirements in rules 8.204(b) and 8.74(b) for appellate briefs and for documents that are electronically filed in the appellate courts.

Proc., § 1010.6(a)(1)(A).) To eliminate this internal inconsistency, this proposal would add another exception to rule 2.251(i) to recognize that parties may electronically serve documents.

Time of electronic service. This proposal would amend rule 2.251(i)(1) to remove the requirement that the proof of electronic service state the time of electronic service. In practice, this requirement has proved unworkable: the person filling out the proof of electronic service will not know the precise time of electronic service until after the document is served. Because this requirement also appears in the proof of service for fax filing, this proposal would make the same change to rule 2.306(h)(1).

Paper courtesy copies

At present, the rules are silent as to whether paper courtesy copies may be required when documents are filed electronically. This proposal would add a new subdivision (i) to 2.252 to provide that a judge may request that electronic filers submit paper courtesy copies of an electronically filed document.

“Return” of lodged records

During phase I of the Rules Modernization Project, the Judicial Council amended rule 3.1302(b) to provide for the return of materials lodged in electronic form. The advisory committees and commentators raised concerns that the rule language regarding the return of electronic materials did not necessarily mean that the court would be required to delete the electronic record maintained in its document management system. The advisory committees also expressed concerns about providing notice to the submitting party that the court no longer retained the lodged materials. Accordingly, the committees decided to revisit these rules this year and provide for a new process that addresses these concerns.

This proposal would amend the rules addressing lodged materials—rules 2.551(b)(6), 2.577(d)(4), and 3.1302(b)—to provide a new process for “returning” materials lodged in electronic form. The proposed amendment to rules 2.551(b)(6), 2.577(d)(4), and 3.1302(b) would instruct court staff to permanently delete the lodged record if in electronic form and to provide notice of the deletion to the submitting party.

Additional technical amendments to the rules

Lastly, this rules proposal would make additional technical amendments to the rules that were not identified during phase I of the Rules Modernization Project. These technical changes include the following:

- Amending rule 2.104 to clarify that the font size must be not smaller than 12 points on papers if they are filed electronically or on paper;
- Amending rule 2.110 to refer to “font” instead of “type”;
- Amending rule 2.111(1) to delete the language “if available” in reference to fax and e-mail addresses on the first page of papers;

- Amending rule 2.551(b)(3)(B) to replace language related to paper documents with language that is inclusive of electronic documents;
- Amending rules 2.551(f) and 2.577(g) to provide that if sealed records are in electronic form, the court must establish appropriate access controls to ensure that only authorized persons may access them;
- Amending rule 3.250(b) to describe the process for retaining the originals of papers that are not filed where the originals are in electronic form;
- Amending rule 3.751 to recognize that a party may agree to electronic service, or a court may require electronic service by local rule or court order, under rule 2.251 in complex civil cases;
- Amending rule 3.823(d) to cross-reference Code of Civil Procedure sections 1013 and 1010.6;
- Amending rule 3.1306 to provide that a party who requests judicial notice of material in electronic form must make arrangements to have it electronically accessible to the court at the time of the hearing;
- Amending rule 3.1362 to recognize that an attorney requesting to be relieved as counsel may serve notice of the motion, the declaration, and the proposed order by electronic means, subject to certain safeguards;
- Amending rule 5.66 to recognize that the proof of service of a response to a petition or complaint may be on *Proof of Electronic Service* (form POS-050/EFS-050);
- Amending rules 5.380(c), 5.390(e), 5.392(b), (d), and (f) to replace the term “mail” and “mailing” with “serve” and “serving”; and
- Amending rule 5.390(e) to recognize that a clerk may file a certificate of electronic service.

Alternatives Considered

In proposing amendments to individual rules, the committees considered various alternatives and have requested comment on several of these alternatives. Specifically, they are asking for comments on (1) whether electronically filed exhibits should be text searchable to the extent feasible; (2) whether the proposal to allow for paper courtesy copies by request of a judge would hinder or promote efforts to move courts toward paperless case environments; and (3) whether concerns about metadata would discourage litigants from converting papers created with word processing software to PDF and instead encourage scanning them and applying Optical Character Recognition (“OCR”) software.²

Implementation Requirements, Costs, and Operational Impacts

The committees expect that the proposed amendments would result in efficiency gains and cost savings for the courts at minimal expense, if any, to litigants. Requiring that electronic papers be text searchable would assist judicial officers and research attorneys, while also saving courts the significant cost and delay of applying OCR software to electronically filed documents. At the

² These concerns include that the metadata associated with a document created in word processing format, including prior revisions made in track changes, may be retained when the document is converted into PDF format.

same time, it is not expected to result in additional costs to litigants, who may readily convert documents created using word processing software, including open source software, to PDF. The conversion process is faster and less expensive than printing and scanning papers.

Electronic bookmarks will facilitate and expedite the review of electronic exhibits by judicial officers and research attorneys. Adding electronic bookmarks to electronic exhibits would not result in any additional costs to litigants as open source software is available. Electronic bookmarks are also cheaper and less time intensive to apply compared to tabbing or separating paper exhibits. Because self-represented parties are exempt from the bookmarking requirement, it would not negatively impact them.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committees are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the rules require that electronic exhibits be text searchable to the extent feasible?
- Does the proposal to require that “papers” be text searchable encourage converting documents created using word processing documents to PDF? Would concerns about metadata associated with the PDF instead encourage scanning and applying OCR software? Or is this concern easily mitigated by Electronic Filing Service Providers or by applying data scrubbing software?
- Would the proposed rule on paper courtesy copies hinder or promote efforts to move courts toward paperless case environments?

The advisory committees also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Proposed amendments to titles 2, pages 7–13
2. Proposed amendments to title 3, pages 14–18
3. Proposed amendments to title 5, pages 19–21

Rules 2.100, 2.103, 2.104, 2.105, 2.109, 2.110, 2.111, 2.114, 2.118, 2.140, 2.251, 2.252, 2.256, 2.306, 2.551, 2.577, 3.250, 3.751, 3.823, 3.1110, 3.1113, 3.1302, 3.1306, 3.1362, 5.66, 5.380, 5.390, and 5.392 of the California Rules of Court would be amended, effective January 1, 2017, to read:

Title 2. Trial Court Rules

Rule 2.100. Form and format of papers presented for filing in the trial courts

(a)–(b) * * *

(c) Electronic format of papers

Papers that are submitted or filed electronically must meet the requirements in rule 2.256(b).

Rule 2.103. Size, quality, and color of papers

All papers filed must be 8½ by 11 inches. All papers not filed electronically must be on opaque, unglazed paper, white or unbleached, of standard quality not less than 20-pound weight.

Rule 2.104. ~~Printing;~~ Font size; printing

Unless otherwise specified in these rules, all papers filed must be prepared using a font size not smaller than 12 points. All papers not filed electronically must be printed or typewritten or be prepared by a photocopying or other duplication process that will produce clear and permanent copies equally as legible as printing ~~in a font not smaller than 12 points.~~

Rule 2.105. Font style

The font style must be essentially equivalent to Courier, Times New Roman, or Arial.

Rule 2.109. Page numbering

Each page must be numbered consecutively at the bottom unless a rule provides otherwise for a particular type of document. The page numbering must begin with the first page and use only Arabic numerals (e.g., 1, 2, 3). The page number need not appear on the first page.

Rule 2.110. Footer

(a)–(b) * * *

1 (c) **Type Font size**

2
3 The title of the paper in the footer must be in at least 10-point type font.

4
5 **Rule 2.111. Format of first page**

6
7 The first page of each paper must be in the following form:

- 8
9 (1) In the space commencing 1 inch from the top of the page with line 1, to the left of
10 the center of the page, the name, office address or, if none, residence address or
11 mailing address (if different), telephone number, fax number and e-mail address (~~if~~
12 ~~available~~), and State Bar membership number of the attorney for the party in whose
13 behalf the paper is presented, or of the party if he or she is appearing in person. The
14 inclusion of a fax number or e-mail address on any document does not constitute
15 consent to service by fax or e-mail unless otherwise provided by law.

16
17 (2)–(11) * * *

18
19 **Rule 2.114. Exhibits**

20
21 Exhibits submitted with papers not filed electronically may be fastened to pages of the
22 specified size and, when prepared by a machine copying process, must be equal to
23 computer-processed materials in legibility and permanency of image. Exhibits submitted
24 with papers filed electronically must meet the requirements in rule 2.256(b)(1) and (2).

25
26 **Rule 2.118. Acceptance of papers for filing**

27
28 (a) **Papers not in compliance**

29
30 The clerk of the court must not accept for filing or file any papers that do not
31 comply with the rules in this chapter, except the clerk must not reject a paper for
32 filing solely on the ground that:

- 33
34 (1) It is handwritten or hand-printed; ~~or~~
35
36 (2) The handwriting or hand printing on the paper is in a color other than
37 black or blue-black; or
38
39 (3) The font size is not exactly the point size required by rules 2.104 and
40 2.110(c) on papers submitted electronically in portable document
41 format (PDF). Minimal variation in font size may result from
42 converting a document created using word processing software to PDF.
43

1 (b)–(c) * * *

2
3 **Rule 2.140. Judicial Council forms**

4
5 Judicial Council forms are governed by the rules in this chapter and chapter 4 of title
6 1. Electronic Judicial Council forms must meet the requirements in rule 2.256(b)(1) and
7 (2).

8
9 **Rule 2.251. Electronic service**

10
11 (a)–(h) * * *

12
13 (i) **Proof of service**

14
15 (1) Proof of electronic service may be by any of the methods provided in Code of
16 Civil Procedure section 1013a, ~~except that~~ with the following exceptions:

17
18 (A) The proof of electronic service does not need to state that the person
19 making the service is not a party to the case.

20
21 (B) The proof of electronic service must state:

22
23 (A) (1) The electronic service address of the person making the
24 service, in addition to that person’s residence or business address;

25
26 (B) (2) The date ~~and time~~ of the electronic service, instead of the date
27 and place of deposit in the mail;

28
29 (C) (3) The name and electronic service address of the person served,
30 in place of that person’s name and address as shown on the
31 envelope; and

32
33 (D) (4) That the document was served electronically, in place of the
34 statement that the envelope was sealed and deposited in the mail
35 with postage fully prepaid.

36
37 (2) * * *

38
39 (3) Under rule 3.1300(c), proof of electronic service of the moving papers must
40 be filed at least five court days before the hearing.

41
42 (4) * * *

43

1 (j) * * *

2
3 **Rule 2.252. General rules on electronic filing of documents**

4
5 (a)–(h) * * *

6
7 **(i) Paper courtesy copies**

8
9 A judge may request that electronic filers submit paper courtesy copies of an
10 electronically filed document.

11
12 **Rule 2.256. Responsibilities of electronic filer**

13
14 (a) * * *

15
16 **(b) Format of documents to be filed electronically**

17
18 A document that is filed electronically with the court must be in a format specified
19 by the court unless it cannot be created in that format. The format adopted by a
20 court must meet the following requirements:

21
22 (1)–(2) * * *

23
24 **(3) The document must be text searchable, unless it is an exhibit or Judicial**
25 **Council or local form.**

26
27 If a document is filed electronically under the rules in this chapter and cannot be
28 formatted to be consistent with a formatting rule elsewhere in the California Rules
29 of Court, the rules in this chapter prevail.

30
31 **Rule 2.306. Service of papers by fax transmission**

32
33 (a)–(g) * * *

34
35 **(h) Proof of service by fax**

36
37 Proof of service by fax may be made by any of the methods provided in Code of
38 Civil Procedure section 1013(a), except that:

39
40 (1) The ~~time~~, date, and sending fax machine telephone number must be used
41 instead of the date and place of deposit in the mail;

42
43 (2)–(5) * * *

1 **Rule 2.551. Procedures for filing records under seal**

2
3 (a) * * *

4
5 (b) **Motion or application to seal a record**

6
7 (1)–(2) * * *

8
9 (3) *Procedure for party not intending to file motion or application*

10
11 (A) * * *

12
13 (B) If the party that produced the documents and was served with the notice
14 under (A)(iii) fails to file a motion or an application to seal the records
15 within 10 days or to obtain a court order extending the time to file such
16 a motion or an application, the clerk must promptly ~~remove~~ transfer all
17 the documents in (A)(i) from the envelope, container, or secure
18 electronic file ~~where they are located and place them in~~ to the public
19 file. If the party files a motion or an application to seal within 10 days
20 or such later time as the court has ordered, these documents are to
21 remain conditionally under seal until the court rules on the motion or
22 application and thereafter are to be filed as ordered by the court.

23
24 (4)–(5) * * *

25
26 (6) *Return of lodged record*

27
28 If the court denies the motion or application to seal, the clerk must either (i)
29 return the lodged record if in paper form to the submitting party and or (ii)
30 permanently delete the lodged record if in electronic form and send notice of
31 the deletion to the submitting party. The clerk must not place ~~it~~ the lodged
32 record in the case file unless that party notifies the clerk in writing that the
33 record is to be filed. Unless otherwise ordered by the court, the submitting
34 party must notify the clerk within 10 days after the order denying the motion
35 or application.

36
37 (c)–(d) * * *

38
39 (e) **Order**

40
41 (1) If the court grants an order sealing a record and if the sealed record is in
42 paper format, the clerk must substitute on the envelope or container for the
43 label required by (d)(2) a label prominently stating “SEALED BY ORDER

1 OF THE COURT ON (DATE),” and must replace the cover sheet required by
2 (d)(3) with a filed-endorsed copy of the court’s order. If the sealed record is
3 in an electronic format, the clerk must file the court’s order, ~~store~~ maintain
4 the record ordered sealed in a secure manner, and clearly identify the record
5 as sealed by court order on a specified date.
6

7 (2)–(4) * * *

8
9 **(f) Custody of sealed records**

10
11 Sealed records must be securely filed and kept separate from the public file in the
12 case. If the sealed records are in electronic form, appropriate access controls must
13 be established to ensure that only authorized persons may access the sealed records.
14

15 **(g)–(h)** * * *

16
17 **Rule 2.577. Procedures for filing confidential name change records under seal**

18
19 **(a)** * * *

20
21 **(b) Application to file records in confidential name change proceedings under seal**

22
23 An application by a confidential name change petitioner to file records under seal
24 must be filed at the time the petition for name change is submitted to the court. The
25 application must be made on the *Application to File Documents Under Seal in*
26 *Name Change Proceeding Under Address Confidentiality Program (Safe at Home)*
27 *(form NC-410)* and be accompanied by a *Declaration in Support of Application to*
28 *File Documents Under Seal in Name Change Proceeding Under Address*
29 *Confidentiality Program (Safe at Home)* (form NC-420), containing facts sufficient
30 to justify the sealing.
31

32 **(c)** * * *

33
34 **(d) Procedure for lodging of petition for name change**

35
36 (1)–(3) * * *

37
38 (4) If the court denies the application to seal, the clerk must either (i) return the
39 lodged record if in paper form to the petitioner or (ii) permanently delete the
40 lodged record if in electronic form and send notice of the deletion to the
41 petitioner. The clerk ~~and~~ must not place ~~it~~ the lodged record in the case file
42 unless the petitioner notifies the clerk in writing within 10 days after the

1 order denying the application that the unsealed petition and related papers are
2 to be filed.

3
4 (e) * * *

5
6 (f) **Order**

7
8 (1)–(2) * * *

9
10 (3) For petitions transmitted in paper form, if the court grants an order sealing a
11 record, the clerk must strike out the notation required by (d)(2) on the
12 *Confidential Cover Sheet* that the matter is filed “CONDITIONALLY
13 UNDER SEAL,” add a notation to that sheet prominently stating “SEALED
14 BY ORDER OF THE COURT ON (DATE),” and file the documents under
15 seal. For petitions transmitted electronically, the clerk must file the court’s
16 order, ~~store~~ maintain the record ordered sealed in a secure manner, and
17 clearly identify the record as sealed by court order on a specified date.

18
19 (4)–(5) * * *

20
21 (g) **Custody of sealed records**

22
23 Sealed records must be securely filed and kept separate from the public file in the
24 case. If the sealed records are in electronic form, appropriate access controls must
25 be established to ensure that only authorized persons may access the sealed records.

26
27 (h) * * *

28

1 Title 3. Civil Rules

2
3 Rule 3.250. Limitations on the filing of papers

4
5 (a) * * *

6
7 (b) Retaining originals of papers not filed

8
9 (1) Unless the paper served is a response, the party who serves a paper listed in
10 (a) must retain the original with the original proof of service affixed. If
11 served electronically under rule 2.251, the proof of electronic service must
12 meet the requirements in rule 2.251(i).

13
14 (2) The original of a response must be served, and it must be retained by the
15 person upon whom it is served.

16
17 (3) An original must be retained under (1) or (2) in the paper or electronic form
18 in which it was created or received.

19
20 (4) All original papers must be retained until six months after final disposition of
21 the case, unless the court on motion of any party and for good cause shown
22 orders the original papers preserved for a longer period.

23
24 (c) * * *

25
26 Rule 3.751. Electronic service

27
28 Parties may consent to electronic service, or the court may require electronic
29 service by local rule or court order, under rule 2.251. The court may provide in a
30 case management order that documents filed electronically in a central electronic
31 depository available to all parties are deemed served on all parties.

32
33 Rule 3.823. Rules of evidence at arbitration hearing

34
35 (a)–(c) * * *

36
37 (d) Delivery of documents

38
39 For purposes of this rule, “delivery” of a document or notice may be accomplished
40 manually, by electronic means under Code of Civil Procedure section 1010.6 and
41 rule 2.251, or ~~by mail~~ in the manner provided by Code of Civil Procedure section
42 1013. If service is by electronic means, the times prescribed in this rule for delivery
43 of documents, notices, and demands are increased as provided by Code of Civil

1 **Rule 3.1113. Memorandum**

2
3 (a)–(c) * * *

4
5 **(d) Length of memorandum**

6
7 Except in a summary judgment or summary adjudication motion, no opening or
8 responding memorandum may exceed 15 pages. In a summary judgment or summary
9 adjudication motion, no opening or responding memorandum may exceed 20 pages. No
10 reply or closing memorandum may exceed 10 pages. The page limit does not include the
11 caption page, exhibits, declarations, attachments, the table of contents, the table of
12 authorities, or the proof of service.

13
14 (e)–(g) * * *

15
16 **(h) Pagination of memorandum**

17
18 ~~(1) The pages of a memorandum must be numbered consecutively beginning with~~
19 ~~the first page and using only Arabic numerals (e.g., 1, 2, 3). The page number need~~
20 ~~not appear on the first page.~~

21
22 ~~(2) Notwithstanding any other rule, a memorandum that includes a table of~~
23 ~~contents and a table of authorities must be paginated as follows:~~

24
25 ~~(A) The caption page or pages must not be numbered;~~

26
27 ~~(B) The pages of the tables must be numbered consecutively using lower-~~
28 ~~case roman numerals starting on the first page of the tables; and~~

29
30 ~~(C) The pages of the text must be numbered consecutively using Arabic~~
31 ~~numerals starting on the first page of the text.~~

32
33 **(i) Copies of authorities**

34
35 (1) A judge may require that if any authority other than California cases, statutes,
36 constitutional provisions, or state or local rules is cited, a copy of the
37 authority must be lodged with the papers that cite the authority. and If in
38 paper form, the authority must be tabbed or separated as required by rule
39 3.1110(f)(3). If in electronic form, the authority must be electronically
40 bookmarked as required by rule 3.1110(f)(4).

41
42 (2) If a California case is cited before the time it is published in the advance
43 sheets of the Official Reports, the party must include the title, case number,

1 date of decision, and, if from the Court of Appeal, district of the Court of
2 Appeal in which the case was decided. A judge may require that a copy of
3 that case must be lodged. ~~and~~ If in paper form, the copy must be tabbed or
4 separated as required by rule 3.1110(f)(3). If in electronic form, the copy
5 must be electronically bookmarked as required by rule 3.1110(f)(4).
6

7 (3) * * *

8
9 (j)–(m) * * *

10
11 **Rule 3.1302. Place and manner of filing**

12
13 (a) * * *

14
15 (b) **Requirements for lodged material**

16
17 Material lodged physically with the clerk must be accompanied by an addressed
18 envelope with sufficient postage for mailing the material. Material lodged
19 electronically must clearly specify the electronic address to which ~~the materials~~
20 ~~may be returned~~ a notice of deletion may be sent. After determination of the matter,
21 the clerk may mail or send the material if in paper form back to the party lodging it.
22 If the lodged material is in electronic form, the clerk may permanently delete it.
23 The clerk must send notice of the deletion to the party who lodged the material.
24

25 **Rule 3.1306. Evidence at hearing**

26
27 (a)–(b) * * *

28
29 (c) **Judicial notice**

30
31 A party requesting judicial notice of material under Evidence Code sections 452 or
32 453 must provide the court and each party with a copy of the material. If the
33 material is part of a file in the court in which the matter is being heard, the party
34 must:

35
36 (1) Specify in writing the part of the court file sought to be judicially noticed;
37 and

38
39 (2) Make arrangements with the clerk to have the file in the courtroom or
40 electronically accessible to the court at the time of the hearing.
41

1 **Rule 3.1362. Motion to be relieved as counsel**

2
3 (a)–(c) * * *

4
5 (d) **Service**

6
7 The notice of motion and motion, the declaration, and the proposed order must be
8 served on the client and on all other parties who have appeared in the case. The
9 notice may be by personal service, electronic service, or mail.

10
11 (1) If the notice is served on the client by mail under Code of Civil Procedure
12 section 1013, it must be accompanied by a declaration stating facts showing
13 that either:

14
15 (1A) The service address is the current residence or business address of the
16 client; or

17
18 (2B) The service address is the last known residence or business address of
19 the client and the attorney has been unable to locate a more current
20 address after making reasonable efforts to do so within 30 days before
21 the filing of the motion to be relieved.

22
23 (2) If the notice is served on the client by electronic service under Code of Civil
24 Procedure section 1010.6 and rule 2.251, it must be accompanied by a
25 declaration stating that the electronic service address is the client’s current
26 electronic service address.

27
28 As used in this rule, “current” means that the address was confirmed within 30 days
29 before the filing of the motion to be relieved. Merely demonstrating that the notice
30 was sent to the client’s last known address and was not returned or no electronic
31 delivery failure message was received is not, by itself, sufficient to demonstrate
32 that the address is current. If the service is by mail, Code of Civil Procedure section
33 1011(b) applies.

34
35 (e) * * *

1 Title 5. Family and Juvenile Rules

2
3 Rule 5.66. Proof of service

4
5 (a) Requirements to file proof of service

6
7 Parties must file with the court a completed form to prove that the other party
8 received the petition or complaint or response to petition or complaint.

9
10 (b) Methods of proof of service

11
12 (1) The proof of service of summons may be on a form approved by the Judicial
13 Council or a document or pleading containing the same information required
14 in *Proof of Service of Summons* (form FL-115).

15
16 (2) The proof of service of response to petition or complaint may be on a form
17 approved by the Judicial Council or a document or pleading containing the
18 same information required in *Proof of Service by Mail* (form FL-335)-~~or~~,
19 *Proof of Personal Service* (form FL-330), or Proof of Electronic Service
20 (form POS-050/EFS-050).

21
22 Rule 5.380. Agreement and judgment of parentage in Domestic Violence Prevention
23 Act cases

24
25 (a)–(b) * * *

26
27 (c) **Notice of Entry of Judgment**

28
29 When an Agreement and Judgment of Parentage (form DV-180) is filed, the court
30 must ~~mail~~ serve a *Notice of Entry of Judgment* (form FL-190) on the parties.

31
32 Rule 5.390. Bifurcation of issues

33
34 (a)–(d) * * *

35
36 (e) **Notice by clerk**

37
38 Within 10 days after the order deciding the bifurcated issue and any statement of
39 decision under rule 3.1591 have been filed, the clerk must ~~mail~~ serve copies to the
40 parties and file a certificate of mailing or a certificate of electronic service.

1 **Rule 5.392. Interlocutory appeals**

2
3 (a) * * *

4
5 (b) **Certificate of probable cause for appeal**

6
7 (1) * * *

8
9 (2) If it was not in the order, within 10 days after the clerk ~~mails~~ serves the order
10 deciding the bifurcated issue, a party may notice a motion asking the court to
11 certify that there is probable cause for immediate appellate review of the
12 order. The motion must be heard within 30 days after the order deciding the
13 bifurcated issue is ~~mailed~~ served.

14
15 (3) The clerk must promptly ~~mail~~ serve notice of the decision on the motion to
16 the parties. If the motion is not determined within 40 days after ~~mailing of~~
17 serving the order on the bifurcated issue, it is deemed granted on the grounds
18 stated in the motion.

19
20 (c) * * *

21
22 (d) **Motion to appeal**

23
24 (1) If the certificate is granted, a party may, within 15 days after the ~~mailing of~~
25 court serves the notice of the order granting it, serve and file in the Court of
26 Appeal a motion to appeal the decision on the bifurcated issue. On ex parte
27 application served and filed within 15 days, the Court of Appeal or the trial
28 court may extend the time for filing the motion to appeal by not more than an
29 additional 20 days.

30
31 (2)–(6) * * *

32
33 (e) * * *

34
35 (f) **Proceedings if motion to appeal is granted**

36
37 (1) * * *

38
39 (2) The partial record filed with the motion will be considered the record for the
40 appeal unless, within 10 days from the date notice of the grant of the motion
41 is ~~mailed~~ served, a party notifies the Court of Appeal of additional portions of
42 the record that are needed for the full consideration of the appeal.

43

- 1 (3)-(4) * * *
- 2
- 3 **(g)-(h)** * * *