



CA State Rule Changes – Civil

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Summary of Changes

The following slides summarize changes to rules listed effective January 1, 2018:

California Codes of Civil Procedure – Civil

California Rules of Court – Trial

California Rules of Court – Appellate



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Judicial Council Resources

- **2017 Summary of Court-Related Legislation**

http://www.courts.ca.gov/documents/2017_LegSummary.pdf

- **Text of new and amended California Rules of Court**

<http://www.courts.ca.gov/documents/2017-11-17-rules.pdf>

- **List of new and revised Judicial Council Forms**

<http://www.courts.ca.gov/documents/00PublishersList.pdf>



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California Codes of Civil Procedure

CCP § 415.20 (c) Service of Summons [amended]: provides that if the only address “reasonably known” for the person to be served is a private mailbox obtained through a commercial mail receiving agency (CMRA), allows service of process to be effected on the first delivery attempt by leaving a copy of the summons and complaint with the commercial mail receiving agency, as specified in the Business and Professions Code.



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California Codes of Civil Procedure

CCP § 2016.080 Discovery Status Conference [new]: until January 1, 2023, authorizes a court to conduct an informal discovery conference upon request by a party or on the court's own motion to discuss discovery matters in dispute between the parties. A court that grants or orders an informal discovery conference may toll the deadline for filing a discovery motion, or make any other appropriate discovery order. Any conference not held within 30 calendar days from the date the court granted the request will be deemed denied and any tolling period previously ordered by the court would continue to apply. The outcome of a conference does not bar a party from filing a discovery motion or prejudice the disposition of a discovery motion. In addition, parties are not prevented from stipulating to the timing of discovery proceedings as described in 2024.060.



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California Codes of Civil Procedure

CCP § 435.5 Motion to Strike; and CCP § 439 Motion for Judgment on the Pleadings [repealed; new]: until January 1, 2021, extends the meet and confer requirements under the demurrer statute to both a motion for judgment on the pleadings and a motion to strike.

Requires a party that intends to file a motion to strike or a motion for judgment on the pleadings to first meet and confer with the party who filed the relevant pleading in person or by phone, according to specified timelines and procedures. Allows courts to order conferences of the parties after successful motions to strike or motions for judgment on the pleadings, if amended pleadings or subsequent motions in response to those pleadings are filed. Places certain limitations on amended pleadings or subsequent motions. Makes conforming changes to CCP §472.



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CCP § 222.5 Jury Selection [amended]: requires that the parties be provided reasonable time to evaluate the responses to a questionnaire, if utilized, before oral questioning commences. Authorizes the parties to submit questions to the trial judge before he or she conducts voir dire and authorizes the judge to include these questions if he or she deems them proper. Modifies the scope of questioning allowed by the parties, requires a trial judge to consider specific factors in conducting voir dire, and prohibits the judge from establishing an inflexible time limit policy for voir dire. Also requires a judge to, at the earliest practical time, provide the parties with both the alphabetical list and the list of prospective jurors in the order in which they will be called.



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CCP § 271 Court Reporters/Electronic Transcripts [repealed; new]: requires court reporters to provide transcripts to appellate courts, parties, or any other person entitled to a transcript in an electronic format that complies with the California Rules of Court, unless a paper copy is requested. Provides a five-year grace period for courts and reporters to modernize their equipment and overall technical abilities.



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CCP § 387 Interventions [amended]: clarifies the procedures for seeking leave to intervene and service of papers. Any petition for leave to intervene shall be by noticed motion or ex parte application. Among other things, allows an intervenor the option of filing an answer in intervention rather than a complaint in intervention.



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CCP § 1033.5 (a) (13) Costs [amended]: authorizes a prevailing party to recover fees for the costs associated with the electronic presentation of exhibits, including costs of rental equipment and electronic formatting.



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CCP § 877.6 (a)(2) Good Faith Settlement/Method of Service [amended]: provides that the notice, application, and proposed order of settlement in an action with multiple parties may be served by certified mail, return receipt requested, or by personal service.



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CCP § 2016.050 Discovery/Methods of Service [amended]: applies existing procedures governing personal service of documents to methods of discovery or to the service of a discovery motion.



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CCP § 2034.260 (a) Expert Witness Exchange/Methods of Service [amended]: revises the service methods by which parties may exchange expert witness information. Parties may serve by any method specified in CCP § §1011 or 1013.



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CCP § 1020 Service by Registered Mail [amended]: specifies that electronic service is not authorized for a notice that requires certified or registered mail.



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California Codes of Civil Procedure

CCP § 1010.6 Service by Electronic Means [amended]: clarifies and modifies electronic filing and service requirements relating to timing, notice, transmission, and electronic signatures as detailed in **Appendix A**. The most notable changes are:

- (a)(5), (b)(3) Authorizes electronic filing and service to occur until midnight
- (a)-(b) Authorizes electronic filing and service by and on persons other than parties
- (b)(2)(B) Authorizes use of electronic signatures on electronically filed documents signed under penalty of perjury (pending Judicial Council action)



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CCP § 1013b Proof of Service by Electronic Means [new]: codifies proof of electronic service requirements. Specifies the methods by which the proof of electronic service may be made. **See Appendix A.**



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California Rules of Court - Trial

CRC Rules 2.250 – 2.259 Electronic Filing/Electronic Service [amended]: makes changes to comport with the amendments to CCP § 1010.6 and addition of CCP § 1013b. Generally, makes changes to improve consistency and reduce redundancy between the Rules and the Code of Civil Procedure.



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California Rules of Court – Appellate

CRC Rule 8.144 Form of the Record [amended]: makes changes to comport with the amendments to CCP § 271. Provides additional guidance regarding the format for reporters' transcripts delivered in electronic format. Specifies that the transcript must be in full-text searchable PDF; include electronic bookmarks; and permit users to copy and paste, keeping the original formatting.

CIVIL LEGISLATION

AB 976 (BERMAN), CH. 319 EFFECTIVE/OPERATIVE DATE: JANUARY 1, 2018 ELECTRONIC FILING AND SERVICE

Clarifies electronic filing and service requirements relating to timing, notice, transmission, and electronic signatures, and expands permissive electronic filing and service to specified case types, as detailed below.

CIVIL

Specifically, among other things:

1. Maintains current law, for cases filed on or before December 31, 2018, which provides that if a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is not authorized unless a party or other person has agreed to accept electronic service in that specific action or the court has ordered electronic service on a represented party or other represented person.
2. Provides, for cases filed on or after January 1, 2019, that:
 - Electronic service of a document is not authorized unless a party or other person has expressly consented to receive electronic service in that specific action or the court has ordered electronic service on a represented party; and
 - Express consent to electronic service may be accomplished either by serving a notice on all the parties and filing the notice with the court, or manifesting affirmative consent through electronic means with the court or the court's electronic filing service provider and concurrently providing the party's electronic address with that consent for the purpose of receiving electronic service.
3. Specifies that the act of electronic filing alone does not amount to express consent.
4. Precludes the use of electronic service for a document or notice that is required to be served by certified or registered mail.
5. Clarifies that electronic service of a document that may be served by mail, express mail, overnight delivery, or facsimile transmission is deemed complete at the time of the electronic transmission of the document or at the time that the electronic notification of service of the document is sent.
6. Extends the filing deadline by providing that any document that is received electronically by the court between midnight and 11:59:59 p.m. on a court day shall be deemed filed on that court day. Specifies that any document that is received electronically on a noncourt day shall be deemed filed on the next court day.
7. Provides that a party or other person who has provided express consent to accept service electronically may withdraw consent at any time by completing and filing with the court the appropriate Judicial Council form, which the council is required to adopt by January 1, 2019.
8. Specifies that consent or the withdrawal of consent to receive electronic service may be completed only by a party or other person entitled to service, or by that person's attorney.
9. Provides that confidential or sealed records shall be electronically served through encrypted methods to ensure that these documents are not improperly disclosed.
10. Specifies that when a document to be filed requires the signature to be under penalty of perjury, the document shall be deemed to have been signed if either:
 - The person has signed a printed form of the document before or on the same day as the date of filing, or the attorney or other person filing the document represents, by the act of filing, that the declarant has complied with this section; or

- The person has signed a document using a computer or other technology under the procedures stated in a rule of court to be adopted by the Judicial Council by January 1, 2019.
11. Requires the attorney or other person filing the above document to maintain the printed form of the document bearing the original signature until final disposition of the case and to make it available for review and copying on the request of the court or any party to the action or proceeding in which it is filed.
 12. Clarifies that if a trial court, by local rule, requires electronic filing and service in civil actions, certain conditions apply, including that unrepresented persons are exempt from mandatory electronic filing and service.
 13. Clarifies that the court shall have a procedure for the filing of nonelectronic documents to prevent the program from causing undue hardship or significant prejudice to any party in an action, including, but not limited to, unrepresented parties.
 14. Requires the Judicial Council to make a form available to allow a party to seek exemption from mandatory electronic filing and service on the above grounds.
 15. Exempts, until January 1, 2019, a local child support agency, as defined, from a trial court's mandatory electronic filing and service requirements, unless the Department of Child Support Services and the local child support agency determine that it has the capacity and functionality to comply with the trial court's mandatory electronic filing and service requirements.
 16. Clarifies that, if service is made by electronic service, it shall be made under section 1010.6 of the Code of Civil Procedure and applicable rules on electric service in the California Rules of Court.
 17. Specifies that proof of electronic service may be made by any of the following methods:
 - An affidavit stating the exact title of the document served and filed in the cause, showing the name and residence or business address of the person making the service, showing that he or she is a resident of or employed in the county where the filing occurs, and showing that he or she is over the age of 18 years.
 - A certificate stating the exact title of the document served and filed in the cause, showing the name and business address of the person making the service, and showing that he or she is an active member of the State Bar of California.
 - An affidavit stating the exact title of the document served and filed in the cause, showing the name and residence or business address of the person making the service, that he or she is a resident of or employed in the county where the filing occurs, that he or she is over the age of 18 years and readily familiar with the business's practice for filing electronically, and that the document would be electronically filed that same day in the ordinary course of business following ordinary business practices.
 - In case of service by the clerk of a court of record, a certificate by that clerk stating the exact title of the document served and filed in the cause, showing the name of the clerk and the name of the court of which he or she is the clerk.
 18. Provides that proof of electronic service shall include the electronic service address and residence or business address of the person making the electronic service, the date of electronic service, the name and electronic service address of the person served, and a statement that the document was served electronically.
 19. Provides that proof of electronic service shall be signed, as specified, and may be in electronic form and filed electronically with the court.

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Among other things:

1. Authorizes permissive electronic filing and service of documents in criminal actions, except as otherwise provided in section 959.1 (which authorizes the commencement of a criminal prosecution by the electronic filing of an accusatory pleading with the court) or any other provision of the Penal Code.
2. Requires the Judicial Council to adopt uniform implementing rules of court.