

Panel Attorney Agreement for Electronic Service

By this Agreement for Electronic Service Panel Attorney agrees to the use of electronic service to send filings to, and receive filings from, the San Diego Office of the Attorney General, Appeals, Writs & Trials Sections (AG-AWT).¹ Electronic service “is authorized when a party has agreed to accept service electronically in that action.” (Code Civ. Proc., § 1010.6, subd. (a)(2).) California Rules of Court, rules 2.250, 2.251, 2.256, relating to filing and service of documents in cases at the trial court level, and 8.70, et seq., relating to electronic service in the Supreme Court and the Courts of Appeal, are referenced as guidelines for purposes of each party serving and/or receiving documents by electronic service.²

Documents and Format. “A ‘document’ is a pleading, a paper, a declaration, an exhibit, or another filing submitted by a party or by an agent of a party on the party’s behalf. A document may be in paper or electronic form.” (Rules 2.250(b)(1); see also 8.70(d)(2)(A) [A “document” is “(A) Any filing submitted to the reviewing court, including a brief, a petition, an appendix, or a motion . . .”].) For purposes of this MOU it also includes a brief or other document in an appellate case.

It is the responsibility of the e-server to ensure all e-served documents are converted to a PDF file format that allows for full text searching, unless it cannot be created in that format. (Rules 2.256(b) & 8.76(a).) Furthermore, an e-server will have the same responsibilities as an “electronic filer” per rules 2.256 and 8.76 to ensure the integrity of the document and protect sensitive personal information including taking all reasonable steps to ensure the e-served document does not contain computer code, such as viruses, that might be harmful to any user of that computer service. (Rules 2.256(a) & 8.76(a).)

Electronic Service Address. “An ‘electronic service address’ of a party means the electronic address at or through which the party has authorized electronic service.” (Rules 2.250(b)(5) & 8.70(d)(6).)

AG-AWT’s Electronic Service Address is ADIEService@doj.ca.gov.

¹ “Electronic service” is “service of a document on a party or other person by either electronic transmission or electronic notification.” (Cal. Rules of Court, rules 2.250(b)(2) & 8.70(d)(3).)

² All citations to rules are to the California Rules of Court.

Panel Attorney's Electronic Service Address is provided to ADI, and ADI in turn notifies AG-AWT and the court.

ADI and AG-AWT will both maintain a list of panel attorneys approved for electronic service and their Electronic Service Addresses. AG-AWT will notify ADI of any change in its address, and ADI will notify AG-AWT of any change in a panel attorney's address. Panel Attorney agrees ADI may act as his or her agent for purposes of exchanging notices of changes of Electronic Service Address with AG-AWT; Panel Attorney remains responsible for notices of changes in other kinds of address. Appendix A, *Notice of Change of Electronic Service Address*, may be used for future additions or changes to any electronic service address but is not required.

Service upon AG-AWT. In each Fourth Appellate District case in which Panel Attorney and AG-AWT are counsel of record, Panel Attorney agrees to e-serve AG-AWT all documents requiring service. (Rules 2.251(b) & 8.71(a).)

E-service will be at the address: ADIEService@doj.ca.gov. The "Subject" line of the e-mail will state the Court of Appeal Case No. and Case Name, with appropriate initials identifying the type of document e-served (i.e., "D053742, John Smith AOB").

Panel Attorney may review AG-AWT's Agreement for Electronic Service on request to ADI.

Service from AG-AWT. In each Fourth Appellate District case in which Panel Attorney and AG-AWT are counsel of record, Panel Attorney agrees to accept from AG-AWT e-service of all documents requiring service. Service will be sent to Panel Attorney's Electronic Service Address as provided by ADI. AG-AWT has agreed to name the "Subject" line of the e-mail using the Court of Appeal Case No. and Case Name, with appropriate initials identifying the type of document e-served (i.e., "D053742, John Smith RB"). Legal secretaries assigned to AG-AWT (or any other person/party designated by AG-AWT to e-serve) are responsible for formatting each document and e-serving it on Panel Attorney as described in this MOU.

Time and Record of E-Service. Service is complete at the time of transmission as long as it is before the close of business, which is agreed to be 5 p.m. (Rules 2.250(b)(10), 2.251(h)(1) & (4).) A record of the e-service transmission will be kept by the e-server.

Proof of Service Form. Proof of service (POS) must state:

“(A) . . . electronic service address of the person making the service, in addition to that person’s residence or business address;

“(B) . . . date and time of the electronic service, instead of the date and place of the deposit in the mail;

“(C) . . . name and electronic service address of the person served, in place of that person’s name and address as shown on the envelope; and

“(D) [t]hat the document was served electronically in place of the statement that the envelope was sealed and deposited in the mail with postage fully prepaid.”

(Rule 2.251(i)(1)(A)-(D) & 8.71(f)(1)(A)-(D).) Attached is a proposed POS that includes the necessary language.

Amendments to This Agreement. Panel Attorney agrees that ADI may authorize changes in this agreement on his or her behalf and agrees to be bound by such changes when notified of them by ADI. Any change in the agreement will be signed by AG-AWT and ADI and be mailed to the Court of Appeal, once ADI has given notice of the change to the Panel Attorney.

This authority to approve changes extends to adding to or deleting from the list of documents requiring service in paper form. Appendix B, Change of Documents To Be Served in Paper Form, is attached as an optional way of making future changes to the list.

The Agreement for Electronic Service applies only to the Office of Attorney General, Appeals, Writs & Trials-San Diego, and does not include any other geographic office or section of the Attorney General’s Office. Each provision has been read and agreed upon. Panel Attorney agrees to commence electronic service upon notice from ADI.

Panel Attorney’s Agreement. Consent to the terms of this Agreement is required for membership on the ADI panel. By remaining on the ADI panel, Panel Attorney agrees to the terms set forth above. If the Panel Attorney does not agree to these terms, Panel Attorney must notify ADI immediately.

APPENDIX A

NOTICE OF CHANGE OF ELECTRONIC SERVICE ADDRESS

Office of the Attorney General, Appeals, Writs & Trial-San Diego		
Current Electronic Service Address:	Change to:	Contact Name & Phone Number:

Panel Attorney		
Current Electronic Service Address:	Change to:	Contact Name & Phone Number:

APPENDIX B

CHANGE OF DOCUMENTS TO BE SERVED IN PAPER FORM

The following documents are agreed to be added to or deleted from the list that ADI or AG-AWT is responsible for serving in paper form:

Hard copies are no longer required. All documents will be served electronically only.

Date: _____

Signature: _____

Elaine A. Alexander
Executive Director
Appellate Defenders, Inc

Date: _____

Signature: _____

Julie L. Garland
Senior Assistant Attorney General
Office of the Attorney General
Appeals, Writs & Trials-San Diego

PROOF OF SERVICE BY MAIL

(Cal. Rules of Court, rules 1.21, 8.50.)

(4th Civil No. ; In re)

I, **(SERVER NAME)**, declare that: I am over the age of 18 years and not a party to the case; I am employed in, or am a resident of, the County of San Diego, California, where the mailing occurs; and my business address is 110 West “A” Street, suite 1100, San Diego, California 92101.

I further declare that I am readily familiar with the business practice for collection and processing of correspondence for mailing with the United States Postal Service; and that the correspondence shall be deposited with the United States Postal Service this same day in the ordinary course of business.

I caused to be served the following document(s): by placing a true copy of each document in a separate envelope addressed to each addressee, respectively, as follows:

CLERK OF THE SUPERIOR COURT

I then sealed each envelope and, with the postage thereon fully prepaid, I placed each for deposit in the United States Postal Service, this same day, at my business address shown above, following ordinary business practices.

PROOF OF SERVICE BY ELECTRONIC SERVICE

(Cal. Rules of Court, rules 2.251(i)(1)(A)-(D) & 8.71(f)(1)(A)-(D).)

Furthermore, I, **(SERVER NAME)**, declare I electronically served from my electronic service address of the **same referenced above document** on **(DATE)** at **(TIME)** to the following entities:

APPELLATE DEFENDERS INC, e-service-criminal@adi-sandiego.com

ATTORNEY GENERAL’S OFFICE, ADIEService@doj.ca.gov

COURT OF APPEAL, FOURTH APPELLATE DISTRICT, via e-submission.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **CURRENT DATE**

SERVER NAME