

Panel Attorney Agreement for Electronic Service With San Diego County District Attorney's Office

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 County District Attorney's Office.¹ The agreement is effective April 1, 2015.

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 the recipient's computer. (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).)

SDCDA's Electronic Service Address is DA.Appellate@sdcdca.org.

Panel Attorney's Electronic Service Address is provided to ADI, and ADI in turn notifies SDCDA.

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.

ADI maintains a list of panel attorneys approved for electronic service and their Electronic Service Addresses and will provide addresses to SDCDA in a manner agreed to by SDCDA and ADI. SDCDA will notify ADI of any change in its address, and ADI will notify SDCDA 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 SDCDA. Panel Attorney remains responsible for notices of changes in other kinds of address. The form in the Appendix, *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 SDCDA. In each Fourth Appellate District, Division One, case in which Panel Attorney is counsel of record and SDCDA is either attorney or record for the People or required to be served as a "nonparty public officer or agency," Panel Attorney agrees to e-serve SDCDA all documents requiring service. (Rules 2.251(b), 8.29(a), 8.71(a) & 8.360(d)(1).)

E-service will be at the address: DA.Appellate@sdcca.org 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 SDCDA's Agreement for Electronic Service on request to ADI.

Service from SDCDA. In each Fourth Appellate District, Division One, case in which Panel Attorney and SDCDA are counsel of record, Panel Attorney agrees to accept from SDCDA e-service of all documents requiring service. Service will be sent to Panel Attorney's Electronic Service Address as provided by ADI. SDCDA 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 SDCDA (or any other person/party designated by SDCDA to e-serve) are responsible for formatting each document and e-serving it on Panel Attorney as described in this MOU.

By this Agreement, Panel Attorney waives any additional copies otherwise required by the Rules of Court.

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 5:00 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 SDCDA and ADI and be provided to the Fourth Appellate District Court of Appeal, once ADI has given notice of the change to Panel Attorney.

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.

Signed on behalf of panel attorneys:

Elaine A. Alexander

Elaine A. Alexander
Executive Director
Appellate Defenders, Inc.

Dated:

03/25/2015

APPENDIX

NOTICE OF CHANGE OF ELECTRONIC SERVICE ADDRESS

San Diego County District Attorney's Office		
Current Electronic Service Address:	Change to:	Contact Name & Phone Number:

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

PROOF OF SERVICE BY MAIL

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

(CASE NAME AND NUMBER)

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 **(ADDRESS)**.

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): **(DOCUMENT)** by placing a true copy of each document in a separate envelope addressed to each addressee, respectively, as follows:

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 **(E-SERVICE ADDRESS)**, the **same referenced above document** on **(DATE)** at **(TIME)** to the following entities:

APPELLATE DEFENDERS INC, eservice-criminal@adi-sandiego.com

or

SAN DIEGO COUNTY DISTRICT ATTORNEY'S OFFICE, DA.Appellate@sdcdca.org

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