

San Diego County District Attorney's Office
Agreement for Electronic Service with
Appellate Defenders, Inc., Panel Attorneys

By this Agreement for Electronic Service the San Diego County District Attorney's office (SDCDA) agrees to the use of electronic service to send filings to, and receive filings from, those attorneys on the panel of the Fourth Appellate District who are approved by Appellate Defenders, Inc. (ADI) for such service.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

Each panel attorney is deemed to have consented to electronic service to and from SDCDA as a condition of panel membership, according to the terms of a written Panel Attorney Agreement for Electronic Service. SDCDA has been given a copy of the Panel Attorney Agreement for Electronic Service.

SDCDA agrees to commence with electronic service to and from ADI panel attorneys effective April 1, 2015.

Approved Panel Attorneys. An attorney is approved for electronic service when ADI sends a notice and an electronic service address to SDCDA. The attorney will remain approved for electronic service until ADI notifies SDCDA otherwise.

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.

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.

AGREEMENT BY SAN DIEGO DA'S OFFICE FOR E-SERVICE WITH PANEL ATTORNEYS

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(b).) 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 that 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).) Each panel attorney will be notified of SDCDA's Electronic Service Address, which is DA.Appellate@sdcdca.org.

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 Electronic Service 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 from Panel Attorney. SDCDA agrees to accept e-service from an approved panel attorney, in each case in which the attorney is counsel of record, of all documents requiring service. (Rules 2.251(b) & 8.71(a).)

E-service will be at the address: DA.Appellate@sdcdca.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").

Service upon Panel Attorney. SDCDA agrees to e-serve documents to the panel attorney's Electronic Service Address provided by ADI. SDCDA also agrees to name the "Subject" line of the e-mail to include 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 the panel attorney as described in this MOU.

Time and Record of E-Service. Service is complete at the time of transmission so 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.

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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.”

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

Copies. SDCDA and the panel attorneys agree that an e-served document is the only copy needed for their respective offices and attorneys. The panel attorneys agree the additional copies otherwise required by the Rules of Court will not be required.

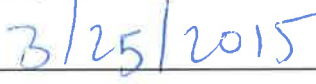
Amendments to This Agreement. This MOU may be changed by written agreement signed by ADI and SDCDA and mailed to the Court of Appeal. Panel attorneys have agreed, as a condition of panel membership, that ADI may authorize changes in this agreement on their behalf and that they will be bound by such changes when notified of them by ADI. Any change in the agreement will be signed by SDCDA and ADI and mailed to the Court of Appeal, once ADI has given notice of the change to the panel attorneys.

Signed on behalf of SDCDA:



Summer Stephan
Chief Deputy District Attorney
San Diego County District Attorney’s Office

Dated:



AGREEMENT BY SAN DIEGO DA'S OFFICE FOR E-SERVICE WITH PANEL ATTORNEYS

APPENDIX

NOTICE OF CHANGE OF ELECTRONIC SERVICE ADDRESS

San Diego County District Attorney's Office		
Current Electronic Service Address:	Change to:	Contact Name & Phone No.:

Panel Attorney		
Current Electronic Service Address:	Change to:	Contact Name & Phone No.:

AGREEMENT BY SAN DIEGO DA'S OFFICE FOR E-SERVICE WITH PANEL ATTORNEYS

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 (SERVER'S E-ADDRESS) the same referenced above document on (DATE) at (TIME) to the following persons and entities:

PANEL ATTORNEY (NAME AND E-SERVICE ADDRESS)

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

or

SAN DIEGO DISTRICT ATTORNEY'S OFFICE, DA.Appellate@sdcca.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