

## DECEMBER 2015 – ADI NEWS ALERT

BY

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This alert<sup>1</sup> covers:

- [Associate counsel](#): AIDOAC announces adoption of a statewide policy on the use of associate counsel, adopted by AIDOAC.
- [Augmentation and correction](#): Reminder of policy on when to use correction versus augmentation procedures.
- [Sealing of juvenile records](#): ADI guidance on proceedings under Welfare and Institutions Code section 786.
- [San Bernardino Superior Court appeals section](#) is moving January 4, 2016.
- [Email service](#): Heads up – the use of email service will greatly expand at first of 2016.

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### AIDOAC POLICY ON USE OF ASSOCIATE COUNSEL

In the course of its audits, AIDOAC has occasionally expressed concern about the proper use of associate counsel by appointed counsel and has asked the projects to monitor it. Noting inconsistency in the way the projects articulated policies on the use of associate counsel (although actual practices were very similar), AIDOAC asked the projects to suggest a uniform statement of current policy. ADI's policies, currently expressed in [chapter 1 of the Appellate Practice Manual](#),<sup>2</sup> § 1.79 et seq., were the primary basis for drafting the new state policies, and so ADI panel attorneys should not see many changes.

The [new policies and an introductory memo](#)<sup>3</sup> by the projects explaining the reasons for their issuance are on ADI's website.

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<sup>1</sup>As always, panel attorneys are responsible for familiarizing themselves with all ADI news alerts and other resources on the ADI website.

<sup>2</sup>[http://www.adi-sandiego.com/panel/manual/Chapter\\_1\\_Basic\\_Information.pdf](http://www.adi-sandiego.com/panel/manual/Chapter_1_Basic_Information.pdf)

<sup>3</sup>[http://www.adi-sandiego.com/practice/Associate\\_Counsel.asp](http://www.adi-sandiego.com/practice/Associate_Counsel.asp)

## **AUGMENTATION AND CORRECTION**

The court has noted some attorneys have been filing simultaneous requests for correction in the superior court and augmentation motions in the Court of Appeal. Apparently these are for the same materials. Such duplicative requests are improper. Use correction letters addressed to the superior court clerk if the material is supposed to be in the normal record, as prescribed in rules 8.320 and 8.407(a) and (b). (Rules 8.340(b), 8.410(a).) If the superior court declines, *then and only then* seek augmentation by the Court of Appeal. *Exception:* In fast-track juvenile dependency cases, all record changes should go through the Court of Appeal as augmentations, whether the change involves normal record materials or not, because the court wants to keep tight control over the process. If counsel needs *both* materials from the normal record and additional materials, then a combined correction-augmentation motion should be made in the Court of Appeal. (See [chapter 3 of the ADI Appellate Practice Manual](#)<sup>4</sup> for further guidance.)

## **SEALING JUVENILE RECORDS: GUIDANCE ON W&I CODE SECTION 786 APPEALS**

A significant number of Welfare and Institutions Code section 786 appeals have been coming into our office. These motions seek to seal past juvenile records. Section 786 went into effect on January 1, 2015. Cleanup legislation will go into effect January 1, 2016. ADI has prepared a [practice memo](#)<sup>5</sup> on the new and amended law. Panel attorneys may contact the assigned staff attorney for additional guidance.

## **SAN BERNARDINO SUPERIOR COURT APPEALS SECTION MOVING**

The appeals section of the San Bernardino County Superior Court is moving effective January 4. The new address will be:

Superior Court of California  
County of San Bernardino  
Appeals & Appellate Division  
8303 N. Haven Ave. 1st Floor  
Rancho Cucamonga, CA 91730

Tentatively, this will be the service address for the court. But see the next item, about possible email service.

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<sup>4</sup>[http://www.adi-sandiego.com/panel/manual/Chapter\\_3\\_Prebrieffing\\_responsibilities.pdf](http://www.adi-sandiego.com/panel/manual/Chapter_3_Prebrieffing_responsibilities.pdf)

<sup>5</sup>[http://www.adi-sandiego.com/pdf\\_forms/Juvenile\\_record\\_sealing.pdf](http://www.adi-sandiego.com/pdf_forms/Juvenile_record_sealing.pdf)

## **ALERT: EMAIL SERVICE OF BRIEFS TO EXPAND CONSIDERABLY IN 2016**

The movement toward electronic communication and documents is accelerating in the Fourth Appellate District. TrueFiling, for filing documents with the Court of Appeal, will take effect in the district sometime in 2016. Each division will have a different start date, but those dates have not yet been determined.

Besides TrueFiling, ADI is hoping to make email service throughout the Fourth Appellate District as nearly universal as possible. In each of the six counties, we are approaching regularly served agencies, including Superior Courts, District Attorneys, County Counsel, Public Defenders and conflicts offices, and juvenile defense attorneys.

So far we have been met with positive reaction. But it appears our hope of having a single, universal start date by the first of the new year – to avoid an ever-evolving patchwork of service changes – was too ambitious. There will be a number of email service agreements effective January 1, 2016, but not universal, we fear. We have been emphasizing the substantially reduced costs and increased convenience for both sender and receiver.

We will announce the initial list before the new year and thereafter keep a constantly updated CHEAT SHEET on our home page, so that attorneys can simply click to get current service information. Eventually it *will* all settle down. We think the convenience and savings are worth going through a short transition.

**HAPPY HOLIDAYS TO ALL !!**