

Panel Attorney Agreement for Electronic Service

By this Agreement for Electronic Service, Panel Attorney agrees to accept electronic service from the Court of Appeal, Fourth Appellate District. Panel Attorney also agrees to the use of electronic service to send filings to, and receive filings from, Appellate Defenders, Inc., panel attorneys appointed as counsel for other parties in any case to which Panel Attorney is appointed.¹ Panel Attorney agrees to commence such electronic service upon receiving notice from ADI.

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).)

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.

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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).)

Panel Attorney’s Electronic Service Address must be provided to ADI for release to the Court of Appeal and to other panel attorneys serving Panel Attorney. ADI will provide Panel Attorney with the address of other panel attorneys to be served.

Service upon Other Panel Attorneys Appointed through ADI. In each Fourth Appellate District case in which Panel Attorney is counsel of record, Panel Attorney agrees to e-serve other panel attorneys appointed in that case with all documents requiring service. (Rules 2.251(b) & 8.71(a).)

“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 from Court and Other Panel Attorneys Appointed through ADI. In each Fourth Appellate District case in which Panel Attorney is counsel of record, Panel Attorney agrees to accept from the Court of Appeal, Fourth Appellate District, e-service of all documents requiring service. Panel Attorney also agrees to accept, from any other panel attorney appointed through the ADI Case System, e-service of all documents requiring service. Service will be sent to Panel Attorney’s Electronic Service Address on file with ADI.

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 p.m. (Rules 2.250(b)(10), 2.251(h)(1) & (4).) A record of the e-service transmission must 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

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“(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 ADI and sent 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.

Panel Attorney’s Agreement as a Condition of Panel Membership. 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

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 Panel Attorney is responsible for serving in paper form:

1.

Date: _____

Signature: _____

Elaine A. Alexander
Executive Director
Appellate Defenders, Inc

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 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 **above-referenced 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

(or County Counsel or other opposing counsel, if applicable)

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

_____, attorney for _____, at _____
(other panel attorney) (other party) (e-service address)

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

Executed on _____ (date) Server signature _____