



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

Item No.: 22-149

For business meeting on: September 20, 2022

Title

Rules and Forms: Remove Reporting
Requirement for Courts with Mandatory
Electronic Filing

Agenda Item Type

Action Required

Effective Date

January 1, 2023

Rules, Forms, Standards, or Statutes Affected

Amend Cal. Rules of Court, rule 2.253

Date of Report

September 2, 2022

Recommended by

Information Technology Advisory
Committee
Hon. Sheila F. Hanson, Chair

Contact

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Executive Summary

The Information Technology Advisory Committee recommends amending a rule of the California Rules of Court that requires trial courts with mandatory electronic filing to submit reports about their electronic filing programs to the Judicial Council. The committee recommends amending the rule to remove the requirement because the reports are no longer needed.

Recommendation

The Information Technology Advisory Committee recommends that the Judicial Council, effective January 1, 2023, amend rule 2.253 of the California Rules of Court to remove subdivision (b)(7) from the rule.

The text of the proposed amended rule is attached at page 4.

Relevant Previous Council Action

The Judicial Council adopted rule 2.253 of the California Rules of Court effective July 1, 2013.¹

Analysis/Rationale

Rule 2.253 authorizes trial courts to require parties, by local rule, to file electronically in civil cases subject to conditions enumerated in the rule. One condition is that courts “report semiannually to the Judicial Council on the operation and effectiveness of the court’s [mandatory electronic filing] program.”² The proposal would eliminate this reporting requirement. The Information Technology Advisory Committee (ITAC) determined the reports are no longer needed for the reasons identified below.

When the Judicial Council adopted the reporting requirement, the purpose was to “provide a basis for evaluating different practices and procedures and for making future recommendations, including recommendations about what should be the effective time of electronic filing.”³ The issue of “what should be the effective time of electronic filing” is now resolved. In 2017, the Judicial Council sponsored Assembly Bill 976, which, among other things, established that a document filed between 12:00 a.m. and 11:59:59 p.m. on a court day is deemed to have been filed that court day.⁴ The bill passed, and the updated effective time of electronic filing has been law since January 1, 2018.

In 2017, the Legislature passed an additional bill, Assembly Bill 103, to amend Code of Civil Procedure section 1010.6 to require the Judicial Council to submit four reports to the Legislature containing specific information about electronic filing and electronic service in the trial courts.⁵ Unlike rule 2.253, Code of Civil Procedures section 1010.6’s reporting requirement encompasses all electronic filing, not just mandatory electronic filing, as well as electronic service.⁶ Accordingly, the Judicial Council is currently gathering information about electronic filing in the trial courts. In addition, to gather information about electronic filing in the future or beyond what is statutorily required, the Judicial Council can collect data on an as-needed basis without semiannual reports from the courts about mandatory electronic filing.⁷ For example, ITAC can survey the courts to collect data to evaluate practices and procedures and make recommendations.

¹ All further references to rules are to the California Rules of Court.

² Rule 2.253(b)(7).

³ Link A, p. 7.

⁴ See Link B.

⁵ See Link C. Three reports were due in 2018, 2019, and 2021. The remaining report is due in 2023.

⁶ Code Civ. Proc., § 1010.6(h)(5).

⁷ Cal. Const., art. VI, § 6(d), (f).

Policy implications

The proposal raises no significant policy implications and was noncontroversial.

Comments

The proposal circulated for public comment from April 1 through May 13, 2022. Four commenters responded to the invitation to comment. Three agreed with the proposal, and one did not indicate a position. Two commenters, including the one that did not indicate a position, agreed that the proposal appropriately addresses its stated purpose. There were no detailed substantive comments. The chart of comments is attached at page 5.

Alternatives considered

The alternative to removing the reporting requirement would be to take no action. However, the ITAC did not consider this a preferable alternative as the reporting requirement would necessitate courts to take on unnecessary workload.

Fiscal and Operational Impacts

The proposal is not expected to result in any costs.

Attachments and Links

1. Cal. Rules of Court, rule 2.253, at page 4
2. Chart of comments, at page 5
3. Link A: Judicial Council of Cal., Advisory Com. Rep., *Electronic Filing and Service: Rules Allowing the Superior Courts to Mandate Electronic Filing and Service in Civil Cases* (June 21, 2013), <https://www.courts.ca.gov/documents/jc-20130628-itemC.pdf>
4. Link B: Assembly Bill 976 (Stats. 2017, ch. 319), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AB976
5. Link C: Assembly Bill 103 (Stats. 2017, ch. 17), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB103
6. Link D: Code of Civil Procedure section 1010.6, https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1010.6&lawCode=CCP

Rule 2.253 of the California Rules of Court is amended, effective January 1, 2023, to read:

Rule 2.253. Permissive electronic filing, mandatory electronic filing, and electronic filing by court order

(a) * * *

(b) Mandatory electronic filing by local rule

A court may require parties by local rule to electronically file documents in civil actions directly with the court, or directly with the court and through one or more approved electronic filing service providers, or through more than one approved electronic filing service provider, subject to the conditions in Code of Civil Procedure section 1010.6, the rules in this chapter, and the following conditions:

(1)–(6) * * *

~~(7) A court that adopts a mandatory electronic filing program under this subdivision must report semiannually to the Judicial Council on the operation and effectiveness of the court’s program.~~

(c) * * *

SPR22-25**Rules and Forms: Remove Reporting Requirement for Courts with Mandatory Electronic Filing** (amend Cal. Rules of Court, rule 2.253)

All comments are verbatim unless indicated by an asterisk (*).

	Commenter	Position	Comment	Committee Response
1.	Orange County Bar Association By Daniel S. Robinson, President	A	* In response to a request for specific comments about whether the proposal appropriately addresses the stated purpose, the comment replied that it does.	No response required.
2.	Superior Court of Orange County by Iyana Doherty, Courtroom Operations Supervisor	A	No specific comment.	No response required.
3.	Superior Court of Orange County, Family Law Division (no name provided)	NI	* In response to a request for specific comments about whether the proposal appropriately addresses the stated purpose, the comment replied that it does.	No response required.
4.	Superior Court of Placer County by Jake Chatters, Executive Officer	A	No specific comment.	No response required.

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.