

**SPR17-25**

**Technology: Rules Modernization Project** (amend Cal. Rules of Court, rules 2.250, 2.251, 2.252, 2.253, 2.254, 2.255, 2.256, 2.257, and 2.259)

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

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	Litigation By The Numbers By Julie Goren, Author/Publisher 13351 Cumpston St. Sherman Oaks, California 91401 Telephone: 818-787-9799 Email: <a href="mailto:julie@litigationbythenumbers.com">julie@litigationbythenumbers.com</a>	AM	<p>With regard to the specific comments requested, I agree with the third option: retain the terms but refer to 1010.6.</p> <p>Other comments are as follows:</p> <p>1. Rule 2.250(b)(1): I realize this language has been around for years, and is likely beyond the scope of the Invitation, but I am just now noticing it. Why is there a need to provide a specific definition of “document” for this chapter? The term is used in 157 different C.C.P. sections (including 1010.6) and has never before required definition. I suggest deleting it entirely. Alternatively, it should be revised. The phrase “or another filing submitted,” can easily be interpreted to mean that the term refers only to filed documents, i.e., not written discovery demands or responses. It would follow, then, that Rule 2.250(b)(2)’s definition of electronic service refers only to filed documents. This is obviously not the intent nor the practice.</p> <p>2. Rule 2.250(b)(8): Is the insertion of “or persons” supposed to be “or other persons”?</p> <p>3. Rule 2.251(a): We unfortunately won’t know how C.C.P. section 1010.6 will read until AB 976 is passed. The</p>	<p>The committees appreciate the comment responding to this question.</p> <p>The modification suggested does go beyond the scope of proposal. However, the committees may consider the suggestion as a part of a future proposal.</p> <p>Yes. The committees have modified the language to include “other persons.”</p> <p>The committees appreciate the attention to AB 976, which has now. The express consent requirement will apply January 1, 2019 and</p>

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			<p>iteration drafted on 4/20/17 seems inconsistent with Rule 2.251(a). The amendment states: “(2) (A) If a document may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the document is not authorized unless a party or other person has expressly consented on the appropriate Judicial Council form to receive electronic delivery in that specific action or the court has ordered electronic service on a represented party or other represented person under subdivision (c) or (d). (B) If a document is required to be served by certified or registered mail, electronic service of the document is not authorized.” I suggest that, in order not to be inconsistent with whatever C.C.P. section 1010.6 ultimately says, Rule 2.251(a) be amended to something like: “A document may be served electronically where authorized by [C.C.P. section 1010.6].”</p> <p>4. Rule 2.251(b)(1): The first sentence should be deleted. I don’t believe that “established” has any meaning here. Electronic service is agreed to, authorized, effected ...what is “established” supposed to mean?</p> <p>5. Rule 2.251(b)(1)(A): The first insertion of “or other persons” is incorrect; service of the notice must be on all parties, so it should be “and other persons.”</p>	<p>the committees anticipate developing a rules proposal to conform the rules to statute.</p> <p>The modification suggested is beyond the scope of the proposal. However, the committees may consider the suggestion as a part of a future proposal.</p> <p>The committees agree with the modification.</p>

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			<p>6. Rule 2.251(b)(1)(B): The current iteration of C.C.P. section 1010.6 seems to indicate that the parties can only expressly consent. If so, this subsection is inconsistent. Again, perhaps something like: “A party or other person may consent to accept electronic service as provided in [C.C.P. section 1010.6].”</p> <p>7. Rule 2.251(e): The first insertion of “or other persons” is incorrect; the list must be made available to the parties, so it should be “and other persons.”</p> <p>8. Rule 2.251(i): Insert “deemed” ... “Electronic service of a document is deemed complete.” That term is included in the current iteration of the proposed amendment to C.C.P. section 1010.6. In addition, instead of “as provided for under [C.C.P. section 1010.6] it should say “as provided in ...” [The revisions variously use: “provided in,” “provided for under,” and “provided under.”]</p> <p>9. Rule 2.251(j): The reference to rule 257(a) needs to be changed to 2.257(a).</p> <p>10. Rule 2.251(k): Instead of “as provided for under [C.C.P. section 1010.6] it should say “as provided in ...”</p>	<p>AB 976 has passed with an express consent requirement added to Code of Civil Procedure section 1010.6 to apply January 1, 2019. The committees anticipate developing a rules proposal to conform the rules to statute.</p> <p>The committees agree with the modification.</p> <p>AB 976 passed with the “deemed complete” language. The committees may consider the insertion of “deemed complete” as part of a future proposal.</p> <p>The committees agree with the modification to “as provided in.”</p> <p>The committees agree with the modification.</p> <p>The committees agree with the modification to “as provided in.”</p>

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