

## Quick Reference: E-Filing in the California Supreme Court in Matters Arising from a Judgment of Death<sup>1</sup>

(Revised September 5, 2017)

### Overview

Electronic filing in the California Supreme Court (CSC) became mandatory in capital cases on September 1, 2017. The E-filing system vendor is ImageSoft TrueFiling (TrueFiling).

### Resources

- CSC [web page on E-filing](#)<sup>2</sup> (FAQs and resources).
- Link to [Supreme Court Rules Regarding Electronic Filing](#)<sup>3</sup> (published July 10, 2017, and amended September 1, 2017).
- TrueFiling [website](#).<sup>4</sup>
- TrueFiling [YouTube Training Series](#).<sup>5</sup>
- The [California Central Appellate Program](#) (CCAP) has posted helpful information on TrueFiling, including instructions on PDF formatting (bookmarking, pagination, etc.):<sup>6</sup>
  - CCAP's California Supreme Court [TrueFiling policies generally](#).<sup>7</sup>
  - CCAP's Misc. [TrueFiling FAQs](#).<sup>8</sup>

### Help:

- CSC contact for TrueFiling assistance:
  - Supreme Court Clerk's Office (415) 865-7000.
- TrueFiling website troubleshooting & technical support (5am – 6pm PST):
  - (855) 959-8868, [support@truefiling.com](mailto:support@truefiling.com), or [support@imagesoftinc.com](mailto:support@imagesoftinc.com)
- CAP contacts:
  - Cynthia Samford, Case Information Specialist, [csamford@capsf.org](mailto:csamford@capsf.org), 415-495-0500
  - Adrienne Toomey, Senior Staff Attorney/Innovation Specialist, [atoomey@capsf.org](mailto:atoomey@capsf.org), 415-495-0500

### Governing rules of court:

On July 7, 2017, the CSC published the Supreme Court Rules Regarding Electronic Filing. On September 1, 2017, the CSC published an amended version of the rules. The current, September 1, 2017, rules are [here](#).<sup>9</sup>

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<sup>1</sup> This document includes specified information about E-filing in the CSC in capital case matters. It does not include information related to E-filing in the CSC in non-capital matters or E-filing in the California Court of Appeal.

<sup>2</sup> <http://www.courts.ca.gov/37423.htm>

<sup>3</sup> [http://www.courts.ca.gov/documents/supreme\\_court\\_of\\_california\\_rules\\_regarding\\_electronic\\_filing.pdf](http://www.courts.ca.gov/documents/supreme_court_of_california_rules_regarding_electronic_filing.pdf)

<sup>4</sup> <https://www.truefiling.com>

<sup>5</sup> <https://www.youtube.com/playlist?list=PLf-EEP5TzOC1ws-YjIBMSe0IXE2DddCk7>

<sup>6</sup> Note that some of the information on the CCAP TrueFiling page is tailored to E-filing in the California Court of Appeal and/or in the CSC on non-capital matters.

<sup>7</sup> [https://www.capcentral.org/procedures/truefiling/csc\\_tf\\_policies.asp](https://www.capcentral.org/procedures/truefiling/csc_tf_policies.asp)

<sup>8</sup> [https://www.capcentral.org/procedures/truefiling/faq\\_tf.asp](https://www.capcentral.org/procedures/truefiling/faq_tf.asp)

These rules govern the implementation of the court's E-filing system under the California Rules of Court [8.70 – 8.79 \(Title 8. Appellate Rules\)](#), Chapter 1. General Provisions, Article 5. E-filing).

The September 1, 2017, amendments do not directly relate to E-filing in capital cases. The amendments:

- Discard the requirement that attachments to petitions for review, including the Court of Appeal decision, must be re-paginated. (Supreme Court Rules Regarding Electronic Filing, Rule 10(a)(2).)
- Reduce the number of paper copies that filers must submit to the court in non-capital case filings - from two copies to one copy. (Supreme Court Rules Regarding Electronic Filing, Rule 5(d)(1).)
- Permit service by the court to be accomplished by mail, through EFS, or electronic notification; prior version directed court service through EFS or electronic notification. (Supreme Court Rules Regarding Electronic Filing, Rule 9(b).)

### **Registering for TrueFiling**

All attorneys representing a party in a matter before the CSC must register for TrueFiling. It is advisable to register prior to a filing due date. Registration instructions are in the [TrueFiling Quick Start Guide](#).<sup>10</sup>

Attorneys already registered for TrueFiling for practice in the California Court of Appeal do not need to register again. They should add the California Supreme Court to their existing account. Law firms should register for one TrueFiling account. Once one firm member registers, he or she can invite the other attorneys in the firm to join the account.

It appears that the court has already added most currently pending cases as “matters” in TrueFiling.

### ***Setting time zone***

After you register for TrueFiling, select “firm settings” on the left of the main screen and select the correct time zone to serve as the default for all future activity. According to TrueFiling technical support, users only need to select the time zone default once.

### **Documents that must be e-filed**

As of September 1, 2017, all documents in matters arising from a judgment of death must be E-filed. Rule 3 of the Supreme Court Rules Regarding Electronic Filing defines “matters arising from a judgment of death” for purposes of E-filing. Extension of time (EOT) requests and confidential status reports must be E-filed. Be sure to limit E-service of confidential material accordingly.

When E-filing sealed and confidential records, filers must comply with California Rules of Court, rules [8.45 - 8.47](#), except where requirements apply exclusively to paper filings. (Supreme Court Rules Regarding Electronic Filing, Rule 11.)

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<sup>9</sup> [http://www.courts.ca.gov/documents/supreme\\_court\\_of\\_california\\_rules\\_regarding\\_electronic\\_filing.pdf](http://www.courts.ca.gov/documents/supreme_court_of_california_rules_regarding_electronic_filing.pdf)

<sup>10</sup> <http://www.courts.ca.gov/documents/dca-TrueFiling-Quick-Start-Guide.pdf>

TrueFiling will assign a temporary case number to filings in new matters that do not yet have a CSC case number. For such new matters, it appears that counsel must file all documents during one session or bundle for the documents to be assigned to the same temporary case number. TrueFiling does not appear to allow a filer to submit additional or supporting documents to such matters until the CSC has assigned a case number.

### **Excuse from e-filing**

A party seeking to be excused from E-filing requirements must file a motion complying with California Rules of Court, rule [8.54](#). (Supreme Court Rules Regarding Electronic Filing, Rule 6.) Pursuant to rule [8.71](#)(d), the CSC may excuse E-filing on a showing of undue hardship, significant prejudice, or where it is not feasible to convert a specified document. (Supreme Court Rules Regarding Electronic Filing, Rule 6(b).)

### **E-filing after business hours**

The Automatic Appeals Unit Supervisor of the CSC has confirmed with CAP staff that under rule [8.77](#)(c), a document received electronically by the court before 11:59 p.m. on a court/business day is deemed to have been received on that day. It is advisable to file earlier to accommodate technical problems. And note that TrueFiling technical support appears to be available only from 5 a.m. – 6 p.m. PST. ((855) 959-8868, [support@truefiling.com](mailto:support@truefiling.com).)

### **Filing and vendor fees**

The Automatic Appeals Unit Supervisor of the CSC has confirmed with CAP staff that E-filings in the CSC in matters arising from a judgment of death are not subject to fees.

Counsel should request the “fee waiver” option the first time they file something through TrueFiling in the matter. Counsel does not need to submit a separate motion or form to request the fee waiver. It appears that the fee waiver screen directly follows the screen for uploading documents to file.

The fee waiver will allow counsel to serve the CSC, the AG, and CAP/service parties required by [Policy 4<sup>11</sup>](#) of the Supreme Court Policies in Cases Arising from Judgments of Death, without a fee. TrueFiling does not allow the court to process a fee waiver request without a document submitted for filing; counsel must submit the fee waiver request for a specific matter at the time they file a document in TrueFiling for the first time. Counsel only needs to submit the fee waiver request in a particular matter once.

### **Formatting requirements - resources**

- The CSC has posted resources for preparing electronic filings (including bookmarking and pagination) on its [E-filing page](#).<sup>12</sup>
- The E-Filing Frequently Asked Questions section of that page includes specific links to [Formatting Guidelines for Exhibits](#)<sup>13</sup> and [Formatting Guidelines for Appendices](#)<sup>14</sup>. These

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<sup>11</sup> [http://www.courts.ca.gov/documents/Policy\\_4.pdf](http://www.courts.ca.gov/documents/Policy_4.pdf)

<sup>12</sup> <http://www.courts.ca.gov/37423.htm>

<sup>13</sup> <http://www.courts.ca.gov/documents/5DCA-Formatting-Guidelines-Exhibits-Petition.pdf>

<sup>14</sup> <http://www.courts.ca.gov/documents/5DCA-Formatting-Guidelines-Appendix.pdf>

resources are under the FAQ “How do I paginate multiple volumes of exhibits or appendices?”

- The [California Central Appellate Program](#) has posted instructional guides on:
  - Creating PDFs - [here](#).<sup>15</sup>
  - Pagination - [here](#).<sup>16</sup>
  - Bookmarking - [here](#).<sup>17</sup>

### ***Text searchable PDF format***

- All documents filed electronically must be in text-searchable PDF (portable document format), or other searchable format approved by the court, while maintaining original document formatting. (Supreme Court Rules Regarding Electronic Filing, Rule 10(a)(1).)

### ***Pagination***

- The page numbering of an E-filed document must comply with California Rules of Court, rule [8.74](#)(b)(3): the pagination must begin with the first page or cover page as page 1 (though the page number may be suppressed/need not appear on the cover page) and use only Arabic numerals (e.g., 1, 2, 3). (Supreme Court Rules Regarding Electronic Filing, Rule 10(a)(2).)

### ***Bookmarking***

- Each document filed electronically must include electronic bookmarks. (Supreme Court Rules Regarding Electronic Filing, Rule 10(a)(3).) There must be a bookmark to the following portions of E-filed documents:
  - each heading;
  - each subheading; and
  - the first page of any component of the document, including:
    - any table of contents,
    - table of authorities,
    - petition,
    - verification,
    - points and authorities,
    - declaration,
    - certificate of word count,
    - certificate of interested entities or persons,
    - proof of service, and
    - tab, exhibit, or attachment.

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<sup>15</sup> [https://www.capcentral.org/procedures/truefiling/step\\_tf\\_guides.asp](https://www.capcentral.org/procedures/truefiling/step_tf_guides.asp)

<sup>16</sup> [https://www.capcentral.org/procedures/truefiling/csc\\_tf\\_policies.asp](https://www.capcentral.org/procedures/truefiling/csc_tf_policies.asp)

<sup>17</sup> [https://www.capcentral.org/procedures/truefiling/step\\_tf\\_guides.asp](https://www.capcentral.org/procedures/truefiling/step_tf_guides.asp)

- Each electronic bookmark to a tab, exhibit, or attachment must include the letter or number of the tab, exhibit, or attachment and a description of the tab, exhibit, or attachment. (Supreme Court Rules Regarding Electronic Filing, Rule 10(a)(3).)
- The CSC [E-Filing Frequently Asked Questions](#)<sup>18</sup> state “Everything in the Table of Contents, including the words “Table of Contents” needs to be bookmarked.”

### ***Document size***

- If a document exceeds 25 megabytes, a party must submit the document in multiple files, which have special requirements for pagination and cover pages (Supreme Court Rules Regarding Electronic Filing, Rule 10(b).)

### **Signatures**

Use of a registered TrueFiling user’s username and password to E-file a document is the equivalent of placing the user’s electronic signature on the document. (Supreme Court Rules Regarding Electronic Filing, Rule 8.)

### **Service through TrueFiling**

E-filers can serve parties and service entities electronically through TrueFiling. Service parties appear as “contacts” in matters within TrueFiling. Contacts for some existing matters have been automatically populated in TrueFiling. E-filers can add additional contacts to matters.

The CSC included the following question and answer in its [E-Filing Frequently Asked Questions](#)<sup>19</sup> “Do I have to e-serve all documents using the TrueFiling system? No, but you must have a proof of service. You can submit your proof of service as a separate document in TrueFiling or include it as the last page(s) of your filed document.”

### ***Serving CAP with E-filed documents***

If CAP does not already appear as a “contact” in a pending matter within TrueFiling, please add CAP using this address: [filing@capsf.org](mailto:filing@capsf.org). Please be sure to use that address - [filing@capsf.org](mailto:filing@capsf.org) - for **all** service to CAP. Please do not use your CAP Buddy’s email address for service to CAP.

### ***Serving the AG with E-filed documents***

A representative of the AG’s office provided CAP with the following docketing addresses for specific offices:

Sac/Fresno : [SacAWTTrueFiling@doj.ca.gov](mailto:SacAWTTrueFiling@doj.ca.gov)

San Francisco: [SFAGDocketing@doj.ca.gov](mailto:SFAGDocketing@doj.ca.gov)

Los Angeles [DocketingLAAWT@doj.ca.gov](mailto:DocketingLAAWT@doj.ca.gov)

San Diego: [sdag.docketing@doj.ca.gov](mailto:sdag.docketing@doj.ca.gov)

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<sup>18</sup> <http://www.courts.ca.gov/37423.htm>

<sup>19</sup> <http://www.courts.ca.gov/37423.htm>

They request that when feasible, documents be served on the DAG assigned to the case and the docketing email address for that DAG's office.

**Paper copies of e-filed documents**

For each E-filed document in matter arising from a judgment of death, the filer must also submit one unbound paper copy of the document to the CSC within two court days after the document is E-filed. (Supreme Court Rules Regarding Electronic Filing, Rule 5(b).) The paper copy must be an exact copy of what was submitted to the court electronically (pagination, etc.).

The Automatic Appeals Unit Supervisor of the CSC previously indicated that the CSC was accepting a white cover for the unbound briefs. The CSC's recently published [E-filing page](#)<sup>20</sup> states that "Paper copies must comply with the California Supreme Court Rules Regarding Electronic Filing and California Rules of Court."

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<sup>20</sup> <http://www.courts.ca.gov/37423.htm>