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References

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BPC – Business and Professions Code

GC – Government Code

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• 6-12/100.00 Electronic Transactions for Levying Officers

The expanded use of technology by levying officers is codified in the Levying Officer Electronic Transactions Act of 2010 (AB 2394). Levying officers may, to the extent that they are able, utilize technologies such as faxes, digital document management and e-mail to more efficiently perform their duties. (CCP 263)

• 6-12/200.00 Definitions

(CCP 263.1)

(a) "Electronic mail" or "e-mail" means an electronic message that is sent to an e-mail address and transmitted between two or more telecommunications devices, computers, or electronic devices capable of receiving electronic messages through a local, regional, or global computer network, whether or not the message is converted to hard copy format after receipt, viewed upon transmission, or stored for later retrieval.

(b) "Electronic record" means a document or record created, generated, sent, communicated, received, or stored by electronic means.

(c) "Electronic signature" means an electronic sound, symbol, or process attached to, or logically associated with, an electronic record and executed or adopted by a person with the intent to sign the electronic record.

(d) "Fax" is an abbreviation for "facsimile" and refers, as indicated by the context to a facsimile transmission or to a document so transmitted.

(e) "Fax machine" means a machine that can send and receive a facsimile transmission using industry standards and includes a fax modem connected to a computer.

(f) "Fax transmission" means the electronic transmission and reconstruction of a document that prints a duplicate of the original document at the receiving end. "Fax transmission" includes, but is not limited to, the use of a facsimile machine or the process of integrating an electronic fax software application to automate the sending and receiving of a faxed document as an electronic record, in portable data format, by e-mail or similar electronic means.

(g) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, retrieving, or processing information, but does not include a fax machine.

(h) "Instructions" and "levying officer instructions" mean a written request to a levying officer to serve process, perform a levy, execute an arrest warrant, or perform some other act."Legal entity" means the legal form of an artificial person and includes a corporation, defunct corporation, unincorporated association, partnership, public agency, limited liability company, joint stock company or association, and limited liability partnership.

(i) "Levying officer" means the sheriff or marshal acting as a ministerial officer pursuant to Section 26608 of the Government Code.

(j) "Record" means information that is inscribed on a tangible medium, or that is stored in an electronic or other medium and is retrievable in perceivable form.

(k) "Transmission record" means the electronic record or document printed by the sending fax machine, stating the telephone number of the receiving fax machine, the number of pages sent, the transmission time and date, and an indication of any errors in transmission.

• 6-12/210.00 Levying Officer Instructions

The levying officer may accept electronically transmitted instructions and releases. (CCP 262, 687.010, 699.060)

• 6-12/220.00 Display of Process

Except as otherwise provided, the officer executing process shall, so long as he or she retains the original process, show it to any interested person, upon request. The officer shall show the process, with all papers, or electronic copies of all papers, attached, at his or her office whenever the office is open for business. (CCP 262.2)

• 6-12/230.00 Electronic Record or Document

The levying officer may rely on an electronic copy of a paper record or document.

The sender must accompany the record or document with the:

(1) sender's name

(2) sender's electronic address

(3) levying officer's name

(4) levying officer's electronic address or fax number

The sender shall:

(1) retain the paper version of the record or document and

(2) deliver the paper record or document to levying officer within five days after the officer's request.

(CCP 263.4)

• 6-12/240.00 Facsimile Record or Document

The levying officer may rely on a faxed electronic record or document in the same manner as the paper record or document.

A facsimile cover sheet must accompany the record or document and include:

(1) sender's name,
(2) sender's fax number,
(3) levying officer name,
(4) levying officer fax number,
(5) document description,
(6) number of pages and a
(7) statement directing the recipient to confirm receipt of the fax

The sender must:

(1) retain the paper version of the record or document,

(2) retain the record of the fax transmission, and
(3) deliver the paper record or document to levying officer within five days after the officer's request.

If received, the levying officer may electronically store the cover sheet, fax transmission sheet and document. (CCP 263.3)

• 6-12/300.00 Writ Return

In lieu of returning the original writ, memorandum of garnishee, and inventory to the court, the levying officer may file an electronic return with the court. The levying officer may also electronically file an accounting in the case of an earnings withholding order. The retained original writ, memorandum of garnishee and any inventory must be stored by the levying officer for not less than 2 years after the writ is returned. If the levying officer elects to retain the original writ, the office must indicate whether the writ is active. (CCP 263.6, 706.026, 699.560)

• 6-12/400.00 Memorandum of Garnishee

A garnishee may electronically file an answer of garnishee with the levying officer. (CCP 701.030)

• 6-12/500.00 Redaction

The levying officer must redact (obliterate) any social security number or financial accounting number from any document prior to viewing by the public. The "public" does not include the creditor, debtor, garnishee, or third-party claimant. (CCP 263.7)

• 6-12/600.00 Technical Problems

If the levying officer experiences technical difficulties and the sender demonstrates an attempt to electronically transmit to the levying officer, the officer shall deem the document or record as filed on that day. (CCP 263.2)

• 6-12/700.00 Electronic Recording with Recorderâ€™s Office

The levying officer may electronically record a deed or conveyance with the County Recorder. (CCP 262.4, GC 27391, 27392, 27397)

• 6-12/800.00 Electronic Court Records

Courts may create and maintain records in electronic forms and authorize the signing or verification of trial court documents using a computer or other technology. The clerk of the court may certify a copy of the record by electronic or other technological means, if the means adopted by the court reasonably ensures that the certified copy is a true and correct copy of the original record, or of a specified part of the original record.

Judicial Council rules establish the standards and guidelines for the creation, maintenance, reproduction, and preservation of court records, based on industry standards. (GC 68150)

• 6-12/900.00 Electronic Service of Documents

The court may serve any document issued by the court that is not required to be personally served, in the same manner that parties electronically serve documents if a party has agreed to accept electronic service, or upon the order of the court. (CCP 1010.6(C)(3)) The Judicial Council adopts rules relating to the integrity of electronic service. (CCP 1010.6(f))

Service by facsimile transmission is permitted only where the parties agree in writing. The notice or other paper must be transmitted to a facsimile machine maintained by the person on whom it is served at the facsimile machine telephone number as last given on any document filed in the cause and served on the party making the service. Service is complete at the time of transmission and is extended by two court days. The document served by facsimile transmission must bear a notation of the date and place of transmission and the facsimile telephone number to which transmitted, or accompanied by an unsigned copy of the affidavit or certificate of transmission containing the facsimile telephone number to which the document was transmitted. (CCP 1013(e))