

RESOLUTION 07-06-2010

DIGEST

Electronic Filing of Court Papers: Elimination of Exhibit Tabs

Amends California Rules of Court, rule 3.1110, to eliminate the requirement of exhibit tabs on electronically filed documents.

RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History

No similar resolutions found.

Reasons

This resolution amends California Rules of Court rule 3.1110, to eliminate the requirement of exhibit tabs on electronically filed documents. This resolution should be approved in principle because it would eliminate the unnecessary requirement that exhibits filed electronically be separated by a hard sheet of paper with an exhibit tab extending below the bottom of the page.

Where documents are permitted to be electronically filed or scanned by the courts, the use of bottom exhibit tabs becomes unnecessary. A scanned document cannot include the tab that extends beyond the bottom of the page. Courts that receive documents by electronic filing should be permitted to enact local rules substituting an alternative format for identifying exhibits, such as a sheet in front of the exhibit with the exhibit number or letter written on it or an electronic “bookmark.”

This proposed amendment is not inconsistent with, but rather serves to clarify California Rules of Court, rule 2.256, which provides that courts may promulgate local rules regarding the format of electronically filed documents, and further provides: “If a document is filed electronically under the rules in this chapter and cannot be formatted to be consistent with a formatting rule elsewhere in the California Rules of Court, the rules in this chapter prevail.”

TEXT OF RESOLUTION

RESOLVED, that the Conference of Delegates of California Bar Associations recommends that the Judicial Council amend California Rules of Court, rule 3.1110 to read as follows:

- 1 Rule 3.1110.
- 2 General format:
- 3 (a) Notice of motion
- 4 A notice of motion must state in the opening paragraph the nature of the order
- 5 being sought and the grounds for issuance of the order.
- 6 (b) Date of hearing and other information
- 7 The first page of each paper must specify immediately below the number of the
- 8 case:

- 9 (1) The date, time, and location, if ascertainable, of any scheduled hearing and
10 the name of the hearing judge, if ascertainable;
- 11 (2) The nature or title of any attached document other than an exhibit;
- 12 (3) The date of filing of the action; and
- 13 (4) The trial date, if set.
- 14 (c) Pagination of documents
- 15 Documents bound together must be consecutively paginated.
- 16 (d) Reference to previously filed papers
- 17 Any paper previously filed must be referred to by date of execution and title.
- 18 (e) Binding
- 19 All pages of each document and exhibit must be attached together at the top by a
20 method that permits pages to be easily turned and the entire content of each page to be
21 read.
- 22 (f) Format of exhibits.
- 23 Each exhibit must be separated by a hard 8 1/2 x 11 sheet with hard paper or
24 plastic tabs extending below the bottom of the page, bearing the exhibit designation. An
25 index to exhibits must be provided. Pages from a single deposition and associated
26 exhibits must be designated as a single exhibit. Courts that receive documents by
27 electronic filing, or that distribute copies of motions to bench officers by electronic
28 means, may adopt local rules substituting a format for identifying exhibits that does not
29 require tabs extending beyond the page.
- 30 (g) Translation of exhibits
- 31 Exhibits written in a foreign language must be accompanied by an English
32 translation, certified under oath by a qualified interpreter.

(Proposed new language underlined; language to be deleted stricken)

PROPONENT: Alameda County Bar Association

STATEMENT OF REASONS

Existing Law: Requires that all exhibits filed with a motion be separated with a hard sheet of paper containing an exhibit tab extending below the bottom of the page.

This Resolution would permit courts that receive documents by electronic filing or that distribute copies of documents to bench officers by electronic means to adopt local rules eliminating the requirement of separating exhibits with a hard sheet of paper with an exhibit tab extending below the bottom of the page.

The Problem: Bottom of page index tabs are not carried in most stationery stores and are fairly expensive. To a court that relies upon electronic scanning of documents or distribution to courtrooms of documents in electronic form, a tab extending beyond the page is an inconvenient or worthless means of identifying the subsequent exhibit, because the tab will not appear in the electronic document. Responding to this, many attorneys now include a sheet in front of their exhibits with the exhibit number or letter written on it. Others use an electronic 'bookmark' or both. Due to the prevalence of electronic filing and the scanning of filed documents by most

courts, the use of bottom exhibit tabs is unnecessary. Uniform or local rules would provide common expectations upon attorneys and courts to ensure that exhibits are marked in a manner that allows them to be found and accessed in electronic copies.

IMPACT STATEMENT

This resolution does not affect any other law, statute or rule.

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COUNTER ARGUMENTS

COMMITTEE ON ADMINISTRATION OF JUSTICE

APPROVE IN PRINCIPLE

The State Bar of California's Committee on Administration of Justice (CAJ) agrees that courts that receive documents by electronic filing, or that distribute copies of motions to bench officers by electronic means, should be permitted to adopt local rules substituting a format for identifying exhibits that does not require tabs extending beyond the page.

This position is only that of the State Bar of California's Committee on Administration of Justice. This position has not been adopted by the State Bar's Board of Governors or overall membership, and is not to be construed as representing the position of the State Bar of California. Committee activities relating to this position are funded from voluntary sources.