

RESOLUTION 08-01-2016

DIGEST

Discovery: Personal Service

Amends Code of Civil Procedure section 2016.050 to allow for personal service of discovery and discovery motions.

TEXT OF RESOLUTION

RESOLVED that the Conference of California Bar Associations recommends that legislation be sponsored to amend Code of Civil Procedure section 2016.050 to read as follows:

§2016.050

1 Sections 1011 and 1013 ~~applies~~ apply to any method of discovery or service of a motion
2 provided for in this title.

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

PROPONENT: Bar Association of Northern San Diego County

STATEMENT OF REASONS

The Problem: This statute authorizes methods of service for discovery and discovery-related motions. However, Section 1013 only allows service by mail and express mail, and facsimile and electronic service where agreed to by the parties. The most notable exception is personal service. In practice, attorneys do personally serve time-sensitive discovery and discovery responses, so this just codifies the practice of personal service.

The Solution: This authorizes personal service of discovery and discovery-related motions.

IMPACT STATEMENT

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

CURRENT OR PRIOR RELATED LEGISLATION

Not known.

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RESOLUTIONS COMMITTEE RECOMMENDATION

APPROVE IN PRINCIPLE

History:

No similar resolutions found.

Reasons:

This resolution amends Code of Civil Procedure section 2016.050 to allow for personal service of discovery and discovery motions. This resolution should be approved in principle because allowing for personal service of discovery or discovery motions assures a reliable means of service without any additional burden on the parties.

Personal service is one of the fastest and most reliable means of service. The proponent correctly points out that, in practice, attorneys do personally serve time-sensitive discovery and discovery responses. The code, as written, however, does not specially provide for personal service. The law should be amended to conform to current best practices and expectations of our bar members. There appears to be little to no drawback in doing so.