



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

October 30, 2014
OPINION 14-0124

16-A CRIMINAL LAW PROCEDURE

La. C.Cr.P. art. 523

The accepted methods of service to defendant's counsel of record according to the provisions of La. C.Cr.P. art. 523 would include service by regular mail, certified mail, sheriff, or commercial courier delivery. E-mail notification to the defendant's counsel of record is not currently an accepted method of service according to the provisions of La. C.Cr.P. art. 523.

Mr. Julian E. Dufreche
Clerk of Court
Tangipahoa Parish Clerk of Court
P.O. Box 667
Amite, Louisiana 70422

Dear Mr. Dufreche:

Our office received your request for an opinion regarding acceptable methods of service for notice of a contradictory hearing as required by La. C.Cr.P. art. 523. You have requested an opinion of the Attorney General addressing the following questions:

- (1) What are the accepted methods of service to counsel of record according to the provisions of La. C.Cr.P. art. 523?
- (2) Is e-mail notification to counsel of record an accepted method of service according to the provisions of La. C.Cr.P. art. 523?

Louisiana Code of Criminal Procedure Article 523 states, in pertinent part, as follows:

A. When the court sets a date for a contradictory hearing of any pretrial motion filed by the defendant, in addition to any other method of service provided for by law, notice of the date of such hearing may be served upon the defendant by mailing notice to the counsel of record.

In order to answer your inquiries, we must examine other methods of service provided by law. Louisiana Code of Criminal Procedure Article 210 states that service of a summons is made in the same manner as a citation in a civil action. Service of citation in a civil action is made by the Sheriff through either personal or domiciliary service. See La. C.C.P. arts. 1231, 1232, 1234, and 1291. Other methods of service provided by law in a civil action, subsequent to the service of the original petition, include service by mail, delivery or electronic means (e-mail and facsimile transmissions). See La. C.C.P. art. 1313(A). However, service of a pleading or order setting a court date in a

civil action must be made by certified mail, sheriff or delivery by commercial courier. See La. C.C.P. art. 1313(C) and La. C.C.P. art. 1314.

Your first inquiry relates to the accepted methods of service for notice of a contradictory hearing as required by La. C.Cr.P. art. 523. According to the provisions of La. C.Cr.P. art. 523, service of notice by mail to the defendant's counsel of record is an acceptable method of service. Due to the fact that La. C.Cr.P. art. 210 allows service to be made in the same manner as service in civil actions, we must look to accepted means of service for notice of a contradictory hearing in civil actions. As stated above, service of a pleading or order setting a court date in a civil action must be made by certified mail, sheriff or delivery by commercial courier. See La. C.C.P. art. 1313(C) and La. C.C.P. art. 1314. Therefore, the accepted methods of service for notice of a contradictory hearing as required by La. C.Cr.P. art. 523 would include service by mail, service by certified mail, sheriff or commercial carrier delivery.

Your second inquiry relates to whether e-mail notification to the defendant's counsel of record is an accepted method of service according to the provisions of La. C.Cr.P. art. 523. As stated above, since La. C.Cr.P. art. 523 involves service of notice setting a court date, the only other methods of service allowed by law would be service by certified mail, sheriff, or commercial courier delivery. See La. C.C.P. art. 1313(C) and La. C.C.P. art. 1314. Therefore it is the opinion of this office that e-mail notification to the defendant's counsel of record is not an accepted method of service according to the provisions of La. C.Cr.P. art. 523.

In conclusion, it is the opinion of this office that the accepted methods of service to defendant's counsel of record according to the provisions of La. C.Cr.P. art. 523 would include service by regular mail, certified mail, sheriff, or commercial courier delivery. It is the further opinion of this office that email notification to the defendant's counsel of record is not currently an accepted method of service according to the provisions of La. C.Cr.P. art. 523. We hope that this opinion adequately addresses the legal issues you have raised. If our office can be of any further assistance, please do not hesitate to contact us.

With best regards,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

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