

FILING AND SERVING *Tips, Traps, and Resources*

SAFE FILING

ORCP 9 E states that pleadings and other papers shall be filed with the “clerk of the court or the person exercising the duties of that office.” To avoid mistakes, stamp every document for the court with the designation ORIGINAL or COPY. The visual impact of ORIGINAL catches the eye of every person in the legal system. It always gets a second look and due consideration. **ALWAYS** file the original with the court clerk. Delivery of documents to the judge, the judge’s clerk or staff is **NOT** filing according to ORCP 9 E. See *Averill v. Red Lion*, 118 Or App 298, 846 P2d 1203 (1993).

FILING AND SERVING

Don’t wait until the last minute! Investigate the case and identify the proper parties as soon as possible. This will eliminate the risk of the time limitation running before you discover that you served the complaint on the wrong defendant. An action is deemed commenced when a complaint is filed and summons served. ORS 12.020(1); ORCP 3. In order for the case to be considered commenced on the day the complaint is filed, the summons must be served before the expiration of 60 days after the date the complaint is filed. ORS 12.020(2); ORCP 7.

ARE YOU SUING A CORPORATE DEFENDANT?

Many legal malpractice claims are caused by naming the wrong corporate defendant. Often, the lawyer received an inaccurate corporate name very close to the correct corporate name.

There are two common ways to obtain information about entity names: searching on the Secretary of State’s website or asking the Corporation Division to do it for you. The Corporation Division charges a fee to perform a search in the Business Registry. If you want them to do the search for you, you can download the order form “Request for Special Search 603” in Adobe PDF format from the website or call the Custom Searches & Lists department at (503) 986-2343.

Searching on the Secretary of State’s website is free and easy. Go to the Oregon Secretary of State’s website, look for “Find a Business” on the menu, and then “Business Name Search.” Or you can cut and paste this link to go straight to the registry:
http://egov.sos.state.or.us/br/pkg_web_name_srch_inq.login

The site offers various search options, ranging from very restrictive (*Exact words in exact word order*) to a less-restrictive, broader search (*Extended search in any word order*.) Selecting the “Extended search in any word order” is the broadest because it provides you with the names of business entities that contain the words spelled exactly as keyed, in any order, and combined with any other words. In addition, synonyms and words with similar sounds are included in the search. Use this search when you are unsure of the name. For example, if you search only for a specific name, such as Valley Inn, you will get only information on “Valley Inn.” By conducting a less restrictive search, you may learn there is a “Valley Inn Restaurant,” which might be your defendant.

The site also lists registry numbers for each business. These registry numbers can be used to “*Search for Associated Names*.” This search will find all entities associated with that business entity. You can choose the specific associated name types you are interested in or choose all types, such as agent, general partner, member, managing partner, partner, or authorized representative. Additionally, you will have the option of choosing to search for active businesses, inactive businesses, or both.

To search using other parameters, consider an online subscriber service such as Thompson Reuters' Clear, www.clear.thompsonreuters.com (formerly AutoTrack XP, www.autotrackxp.com), Loislaw, www.loislaw.com, Westlaw, www.westlaw.com, LexisNexis, www.lexisnexis.com, or, for solo attorneys, LexisONE, www.lexisone.com.

All public companies, foreign and domestic, must file registration statements, periodic reports, and other forms electronically through the SEC Filings and Forms (EDGAR). Anyone can access and download this information for free. Search EDGAR at www.sec.gov/edgar.shtml.

Public records research firms are also available to conduct your searches. Two examples are GKL Corporate/Search, Inc. and Uni-Search. Contact GKL Corporate/Search, Inc. at www.gklcorpsearch.com or call 1-800-446-5455. Contact UniSearch at www.unisearch.com or call their Oregon office at 503-399-9500 or 1-800-554-3113.

OTHER GOVERNMENT DATABASES

The Secretary of State has a helpful list of other government databases at: <http://sos.oregon.gov/business/pages/government-databases.aspx>

That site contains links to other common databases, such as “**Construction Contractor Name Search**”, “**Department of Justice Charity Search**”, “**Employment Department Business Name Search**”, “**Landscape Contractor Name Search**”, or “**Workers’ Compensation Insurance Coverage Search**,” as well as “**Uniform Commercial Code Search**”, and “**Securities & Exchange Commission Database**” among others.

IMPORTANT NOTICES

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