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MALPRACTICE AVOIDANCE NEWSLETTER FOR OREGON LAWYERS

IN BRIEF

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FEDERAL PRACTICE ALERT: ELECTRONIC FILING AND SERVICE

All lawyers admitted to practice in the United States District Court for the District of Oregon are required to register with the court's Case Management Electronic Case Filing (CM/ECF) system, unless they obtain a waiver from the clerk for good cause "indicating a lack of computer technology to access the Internet." U.S. District Court of Oregon Local Rule (LR) 83.1(e). However, many lawyers do not realize that by registering they have consented to electronic service. Everyone who is registered with the CM/ECF system is deemed to consent to service under FRCP 5 by electronic means, regardless of whether the lawyer files documents electronically or on paper. *See* LR 100.13.

The exceptions to this rule are few. Service of process is not affected by the electronic filing rules. Initial pleadings, including related summons and other case papers, must be filed conventionally on paper and then followed with an additional electronic copy to the court if the plaintiff or removing party elects to file electronically. LR 100.4. Parties who are not registered with the CM/ECF system still must be served with a paper copy of any electronically filed pleading or other document. The court will also mail a paper copy of all appealable orders, decrees, and judgments, in addition to the e-filed PDF document. LR 100.9. However, if you are registered with the CM/ECF system, you cannot be assured of receiving anything else – from opposing counsel or the court – in "hard copy." Aside from these exceptions, everything may be served on

you electronically. LR 100.9; 100.13. Do not wait to receive a hard copy that may never come.

Because e-mail is so important in this system, the court recommends that lawyers provide one or more "backup" e-mail addresses. The CM/ECF system can accommodate multiple secondary e-mail addresses for each user. In fact, some lawyers enter four or five secondary e-mail addresses. Commonly, lawyers give the e-mail addresses of their legal assistants or docketing clerks as backups. The CM/ECF system will then send e-mail notifications to the secondary addresses, as well as to the lawyer's primary e-mail address.

LR 100 covers electronic service and filing. Oregon's CM/ECF system is part of the national judiciary electronic filing system. However, the rules for electronic filing vary among the district courts. Lawyers who handle cases in other federal jurisdictions also need to be aware of the particular requirements for electronic filing in those jurisdictions. If the attorney is not familiar with the local rules of a given jurisdiction, it may be wise to consult with local counsel.

Once you become accustomed to it, the CM/ECF system has real advantages. It saves the time and expense of delivering and retrieving paper documents, avoids the vagaries of the U.S. mail, and gives lawyers throughout the state equal access over the Internet to documents filed with the court. In addition, it allows lawyers an additional 90 minutes to file. Instead of the usual 4:30 p.m. deadline, documents are timely if electronically filed by 6:00 p.m.

DISCLAIMER

THIS NEWSLETTER INCLUDES CLAIM PREVENTION TECHNIQUES THAT ARE DESIGNED TO MINIMIZE THE LIKELIHOOD OF BEING SUED FOR LEGAL MALPRACTICE. THE MATERIAL PRESENTED DOES NOT ESTABLISH, REPORT, OR CREATE THE STANDARD OF CARE FOR ATTORNEYS. THE ARTICLES DO NOT REPRESENT A COMPLETE ANALYSIS OF THE TOPICS PRESENTED AND READERS SHOULD CONDUCT THEIR OWN APPROPRIATE LEGAL RESEARCH.

For an online tutorial, user manual, and answers to questions about the CM/ECF system, go to www.ord.uscourts.gov, then click on Case Management Electronic Case Files. A number of people at the district court are available to help you learn to use the system, including Craig Meyer (503) 326-8091; Laura Brennan (503) 326-8163; Camile Hickman (503) 326-8090; and Craig Starr (541) 465-6423. For additional information about the system, contact info@ord.uscourts.gov.

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