

Tips, Traps, and Resources



PRACTITIONERS BEWARE OF ORCP 21 RENUMBERING

A few lawyers have been caught off guard by the renumbering of Rule 21 in the Oregon Rules of Civil Procedure (ORCP). The change was made when the Council on Court Procedures amended the ORCP on December 12, 2020. The Council renumbered ORCP 21A(1)-(9) to ORCP 21A(1)(a)-(i) and made other minor changes to ORCP 21. Although the amendments took effect January 1, 2022, some practitioners did not notice until they were alerted at the last minute.

The PLF has not heard of any issues resulting from lawyers citing or referring to the old numbering in documents filed with the court. As a caution, though, don't rely on templates or samples of briefs, motions, or other court-related documents without verifying the numbering. If you haven't done so already, update all brief and motion templates that refer or cite to ORCP 21 to reflect the new numbering schema.



ENSURE IOLTA FUNDS ARE INSURED

Recent headlines concerning the instability of certain regional banks have understandably prompted

attorneys to investigate the safety of the client funds in their IOLTA accounts. Regarding FDIC and NCUA deposit insurance, the Oregon Law Foundation has clarified that “[u]nder the fiduciary account rules for deposit insurance, **as long as an account is properly designated as an IOLTA or lawyer trust account and the attorney has good records**, each client is protected up to the standard deposit insurance limits, currently \$250,000.” (Emphasis added.) As such, it is incumbent upon lawyers — not their staff — to protect client funds by properly labeling accounts and keeping good records. At a minimum, attorneys should do the following:

- Designate accounts holding funds in trust as “IOLTA” or “Lawyer Trust Account.”
- Perform monthly three-way reconciliations of the client ledgers, trust journal, and bank statement.
- Maintain complete financial records for five years, including the client ledgers, trust journals, bank statements, cancelled checks, deposit slips, billing statements, bank notices, etc.

If you have further questions about deposit insurance, please reach out to your banking partner or the Oregon Law Foundation. For guidance about trust account administration, check out the PLF's free Guide to Setting Up & Using Your Lawyer Trust Account. Or contact the practice management attorneys at the PLF — we are here to help.



LOCATING ANOTHER ATTORNEY'S CLIENT FILE

Attorneys are sometimes approached by a client who needs help tracking down a file from another attorney who is no longer practicing or has passed away. The client may have some details, but you often step into the role of a private investigator. Most solo and small firm practitioners store their own files after they stop practicing unless a remaining firm member is willing to keep their files for them, whereas most midsize and larger firms store client files. If you know they were with another firm at the time they stopped practicing or passed away, contact that firm and see if they still have the client's file. If no results, search for the

attorney's name or bar number in the OSB Member Directory. Active bar members are required to keep their contact information updated. Sometimes, the directory is still current even if they are no longer active. If it's not, you can submit a request for the file at <https://www.osbar.org/regulatory/LocatingAttorneyFiles.html>. The bar sometimes learns the location of an attorney's files when they change status. If this still produces no results, contact the PLF at 503.639.6911. We may be able to help if we were involved in assisting with the closure of the attorney's practice or received information about storage of their files. You can also find our File Retention and Destruction Guidelines on our website under Services/CLEs & Resources/Practice Aids. Contact a practice management attorney for additional tips and resources regarding file retention and destruction.