



TIPS, TRAPS, & RESOURCES

NEW DISCIPLINARY RULES: The new Oregon Rules of Professional Conduct (ORPC) approved by the Oregon Supreme Court took effect on January 1, 2005. The ORPC replace the Oregon Rules of Professional Responsibility, formerly known as the DRs or disciplinary rules. For a comparison table that converts the old rules to the new rules and vice versa, go to www.osbplf.org, select News and Information, News, and Supreme Court Approves New Oregon Rules of Professional Conduct/ Conversion Chart: New Rules to Old Rules and Old Rules to New Rules. The new rules and a study guide prepared by the Oregon State Bar can be found on the OSB Web site at www.osbar.org/barnews/hodsubmit.html.

HEALTH LAW: The compliance deadline for HIPAA's Security Rule is April 21, 2005, for all covered entities, except small health plans, which have until April 21, 2006. Covered entities should amend existing business associate agreements (created to comply with the HIPAA Privacy Rule) to address the physical, administrative, and technical standards established by the Security Rule. New business associate agreements between attorneys and clients who are covered entities should also address these standards.

DEFAULT JUDGMENTS: ORCP 69A(1) requires a party seeking a default judgment to serve the party against whom the default is sought (if that party has filed an appearance or "has provided written notice of an intent to file an appearance") with written notice of the application for default at least 10 days before the default order is entered.

If your client is served with a summons and complaint and you mail a notice of intent to appear to plaintiff's counsel to protect your client from a default, here are some additional steps you can take to ensure that the opposing side receives notice of your intent to appear: (1) Follow up the mailing of your notice of intent to appear with a fax; (2) Keep the fax transmission report as proof of service; and (3) Confirm receipt of the letter by phone. These precautions will protect your client and you from the consequences of lost, misdirected, or stolen mail.

If you are an attorney seeking a default, carefully read ORCP 69A. In addition to writing a letter advising the defendant of your intent to take a default, "serve" the defendant with a pleading entitled "Notice of Intent to Take Default" at least 10 days before applying for the default. As with any pleading, the original should be filed with the court, along with your proof of service.

RESOURCE FOR NEW LAWYERS: The 2004 *New Admittee Survival Guide* is available free of charge from the Multnomah Bar Association, 620 SW 5th Avenue, Suite 1220, Portland, OR 97204, (503) 222-3275, fax (503) 243-1881, e-mail: mba@mbabar.org, Web site: www.mbabar.org. Published by the MBA Young Lawyers Section Member-

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.

ship Committee, the *Guide* contains information on the Multnomah Bar Association, the Oregon State Bar, opportunities for new lawyers to volunteer or get involved, and miscellaneous legal resources complete with Web site links.

ATTORNEY FEE COLLECTION: If you are charging any of your clients a finance charge or interest on an extended payment plan or on certain deferred payment plans, you must make the disclosures required by the federal Truth in Lending Act (“TILA”), also known as “Regulation Z.” If you are charging your clients only a late charge for late payment of fees, you are exempt from TILA disclosure requirements. You can find the TILA regulations at www.fdic.gov/regulations/laws/rules/6500-1400.html.

LEGISLATIVE HISTORY: For online resources to help with your legislative history research, consider the excellent Legislative History Resources on the Oregon Legal Research page at the Paul L. Boley Law Library, Lewis & Clark Law School Web site at <http://lawlib.lclark.edu/research/oregonlaw.php>. Another useful resource is the Legislative Records on the Oregon State Archives page of the Oregon Secretary of State located at <http://arcweb.sos.state.or.us/banners/legis.htm>. Both sites include a guide on how to compile an Oregon legislative history, as well as committee minutes from 1991 to the present.

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