

The Oregon State Bar and
Professional Liability Fund present:



Oregon eCourt Update



Wednesday, November 19, 2014

Tigard, Oregon
Oregon State Bar Center

1.75 General or Practice Skills MCLE Credits
OSB CLE Program Number 558*2015

Presenters:
Beverly Michaelis
Daniel Parr

MCLE FORM 1: Recordkeeping Form (Do Not Return This Form to the Bar)

Instructions:

Pursuant to MCLE Rule 7.2, every active member shall maintain records of participation in **accredited** CLE activities. You may wish to use this form to record your CLE activities, attaching it to a copy of the program brochure or other information regarding the CLE activity.

Do not return this form to the Oregon State Bar. This is to be retained in your own MCLE file.

Name:		Bar Number:	
Sponsor of CLE Activity:			
Title of CLE Activity:			
Date:		Location:	
<input type="checkbox"/> <i>Activity has been accredited by the Oregon State Bar for the following credit:</i>	<input type="checkbox"/> Full Credit. <i>I attended the entire program and the total of authorized credits are:</i>	<input type="checkbox"/> Partial Credit. <i>I attended _____ hours of the program and am entitled to the following credits*:</i>	
____ General or Pract. Skills	____ General	____ General	
____ Prof Resp-Ethics	____ Prof Resp-Ethics	____ Prof Resp-Ethics	
____ Access to Justice	____ Access to Justice	____ Access to Justice	
____ Child Abuse Rep.	____ Child Abuse Rep.	____ Child Abuse Rep.	
____ Practical Skills	____ Practical Skills	____ Practical Skills	
____ Pers. Management Assistance	____ Pers. Management Assistance	____ Pers. Management Assistance	

*Credit Calculation:

One (1) MCLE credit may be claimed for each sixty (60) minutes of actual participation. Do not include registration, introductions, business meetings and programs less than 30 minutes. MCLE credits may not be claimed for any activity that has not been accredited by the MCLE Administrator. If the program has not been accredited by the MCLE Administrator, you must submit a Group CLE Activity Accreditation application (See MCLE Form 2.)

Caveat:

If the actual program length is less than the credit hours approved, Bar members are responsible for making the appropriate adjustments in their compliance reports. Adjustments must also be made for late arrival, early departure or other periods of absence or non-participation.

Speakers

BEVERLY MICHAELIS, J.D.

Practice Management Advisor

beverlym@osbplf.org

Beverly Michaelis received a J.D. from the Northwestern School of Law at Lewis & Clark College in 1986. She is a member of the Oregon State Bar, Oregon Trial Lawyers Association, and American Bar Association with over 25 years' experience in the legal field as a lawyer and legal assistant. Ms. Michaelis joined the Professional Liability Fund in 1996 as a Practice Management Advisor. Prior to the PLF, Ms. Michaelis was Placement Director and Associate Executive Director of the Multnomah Bar Association for 8 years and was employed in private practice.

DANIEL PARR, J.D.

Outreach / eServices

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Daniel Parr received a J.D. from Willamette University College of Law in 2013. He is a member of the Oregon State Bar and employed by the Oregon Judicial Department Office of Education, Training, and Outreach (OETO) where he contributes to the following core missions of OETO:

- Effective and comprehensive Judicial Education – A week-long seminar for new judges; Coordination of education programs for annual judicial conferences; Judicial Practical Training; Coordination and development of Judicial Regional CLE's and other in-state and out-of-state educational opportunities.
- OJD employee development through Staff Education – Statewide New Employee Orientation Program; Judicial Support Staff Program; Peer Information Exchanges (PIE); Clerk College; and other skill and knowledge building programs.
- Online Training Modules offering statewide electronic accessibility to “anytime” training –Computer Based Training (CBT) Modules that develop prerequisite computer skills for Oregon eCourt Program software; CBTs that provide general security training for judges and staff.
- Oregon eCourt Communications and Materials – Design, develop, and produce: the Oregon eCourt newsletter: TheQUARTERLY; the Oregon eCourt Internet Website; Oregon eCourt posters, brochures, and presentations; and materials for legislative outreach including documents and presentations.
- Oregon eCourt Organizational Change Management (OCM) – Implemented statewide, OCM is a program to transition internal and external stakeholders, as well as the public to the new Oregon eCourt environment. The program focus is on Organizational Readiness – the people side of change; Operational Readiness – (business processes); Communication – building awareness of the need for change; Training – developing skills and knowledge for the new environment.

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Oregon eCourt Update

AGENDA

- 8:00-8:30 a.m. Check-in
- 8:30-9:45 a.m. Oregon eCourt Filing Tips & Tricks – Beverly Michaelis
Getting started with eCourt, filing documents, using the Register of Actions, resubmitting a rejected filing, paying eCourt fees, forwarding eCourt notices, and changes to eFiling procedures pursuant to UTCR 21.040, 21.050, 21.070, 21.080, 21.090, 21.100, and 21.120 (amended out-of-cycle on September 29, 2014).
- 9:45-10:15 a.m. Question and Answer Session – Daniel Parr
Troubleshooting and login issues with Odyssey eFile & Serve, interface between eFile & Serve and Oregon State Bar database, progress report on accepting ACH payments for filing fees, and more.
- 10:15 a.m. Program concludes

Oregon eCourt Update

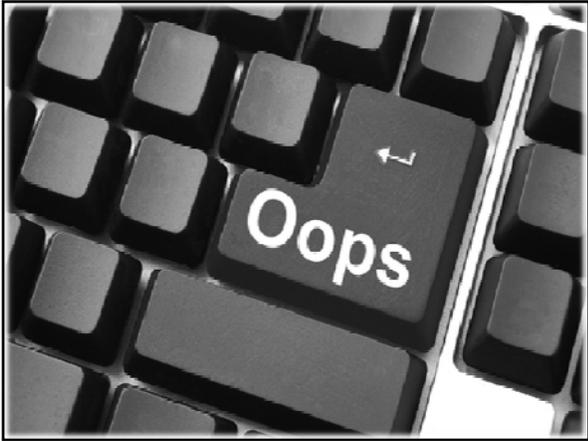
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Oregon eCourt Update

Beverly Michaelis
Practice Management Advisor



Notice caught in spam filter ➔ **You pay opponent's attorneys fees**

Malware prevents eService ➔ **Case dismissed with prejudice**

Wrong document uploaded ➔ **Client loses right to appeal**

Court notice deleted in error ➔ **Client loses right to appeal**

**eCourt
savvy
secretary
breaks arm**



**You lose
\$35,000**

<http://www.osbar.org/publications/bulletin/12febmar/practice.html>

Oregon eCourt



Quick Links

- [Case Training for eFiling](#)
- [eFiling - File a Case electronically](#)
- [eCase - Find Case Information](#)
- [ePay: Make a Payment](#)
- [Court Calendars/ Check Court Dockets](#)
- [Newsletters](#)
- [ePayment and eFiling Statistics](#)
- [Glossary](#)
- [Oregon eCourt Successes Update](#)

Topics



1. Getting started
2. Filing documents
3. Using the Register of Actions
4. Filing and relation back

Topics



5. Keeping paper
6. Paying eCourt fees
7. Processing eCourt notices
8. Getting help

Getting Started

- Register for access
- Execute user agreement
- Establish technical capacity
- Respond to activation link
- Maintain operative e-mail address

UTCR 21.030

Filing Documents



Amended UTCR 21.040(2)

- Submit documents as a *single* PDF
- Include *attachments with your filing*
 - Exhibits
 - Affidavits
 - Declarations



Amended UTCR 21.040(2)

Confidential Attachments

- File separately
- Select the confidential checkbox
- Identify clearly in comments field



Amended UTCR 21.040(2)(b)

Documents Requiring Court Signature

- Submit separately
- Identify clearly in comments field



Amended UTCR 21.040(2)(a)

Format of Court Signature

- Blank space of not less than 1.5 inches
- Blank line following the last line of text
- No date



Amended UTCR 21.040(3)

Conventional Filing



UTCR 21.070(3)

Conventional Filing List

1. Original will
2. Document under official seal
3. Negotiable instrument
4. And more... see UTCR 21.070(3)

UTCR 21.070(3)

Newly Added to UTCR 21.070

- Remedial contempt
- Waiver of mandatory eFiling
- Stipulated matter under SLR 2.501
- Ex parte matter under SLR 2.501



Amended UTCR 21.070(3)(d)(l) and(m)

Technical Filing Requirements

1. Text-searchable PDF or PDF/A
2. Limit file size to 25 MB
3. Split larger files
4. Mark "Part 1 of 2" in comment field



UTCR 21.040(1)

Practice Tip

1. Print to PDF, don't "publish"
2. Avoid scanning
3. Acrobat is the gold standard

Free with Fujitsu ScanSnap ix500
<http://tiny.cc/q5akfx>



Filing and Relation Back

- Accepted filings relate back
- Rejected filings do not, unless...



UTCR 21.080(4) and (5)

If Your Filing is Rejected

1. You will receive a notice
2. Resubmit within 3 days
3. Include cover letter
4. Add resubmission text in comment field



UTCR 21.080(5)

Relation Back Cover Letter

- Date of original submission
- Date of rejection
- Explanation for request
- Subject line:
RESUBMISSION OF REJECTED FILING, RELATION-
BACK DATE OF FILING REQUESTED

UTCR 21.080(5)(a)(i)

If You Resubmit Electronically

Add to eFiling comments field:

**RESUBMISSION OF REJECTED FILING,
RELATION-BACK DATE OF FILING REQUESTED**



UTCR 21.080(5)(a)(ii)



New UTCR 21.080(6)

- Temporary unavailability
- Error in transmission
- Technical problem prevents system from receiving document



Amended UTCR 21.080(6)

New UTCR 21.080(6)

Technical problems with the filer's equipment or attempted transmission within the filer's control will not generally excuse an untimely filing.



Amended UTCR 21.080(6)

If Your Filing is Unsuccessful

1. Resubmit within 3 days
2. Include cover letter
3. Attach supporting exhibits
4. Add resubmission text in comment field



Amended UTCR 21.080(6)

Relation Back Cover Letter

- Date of original attempt
- Date notified attempt unsuccessful
- Explanation for request
- Subject line:
RESUBMISSION OF REJECTED FILING, SUBMISSION
UNSUCCESSFUL, RELATION-BACK DATE OF FILING
REQUESTED



UTCR 21.080(6)(a)(i)

If You Resubmit Electronically

Add to eFiling comments field:

**RESUBMISSION OF REJECTED FILING,
SUBMISSION UNSUCCESSFUL, RELATION-BACK
DATE OF FILING REQUESTED**



Amended UTCR 21.080(6)(a)(ii)

Attach Supporting Exhibits

The filer may include supporting exhibits that substantiate the system malfunction together with the filer's cover letter.



Amended UTCR 21.080(6)(a)(iii)

Top 10 Reasons for Rejected Filings

1. Entering incorrect codes
2. Selecting wrong case / location
3. Failing to associate attorney
4. Failing to separate documents
5. Missing signature or party

Top 10 Reasons for Rejected Filings

- 6. Scanning documents upside down
- 7. Filing PDFs that are not searchable
- 8. Paying incorrect fees
- 9. eFiling when not permitted
- 10. Failing to redact

Practice Tip

Acceptance and rejection notices will be delivered automatically

“Unless the filer has elected through system settings not to receive the email”

Do not change eFiling settings!



Keeping Paper



Amended UTCR 21.120

- Documents containing the original signature of a person other than the filer **must be kept for 30 days**
- Your filing certifies authenticity



Amended UTCR 21.120

Practice Tip

1. Don't rely on court records
2. Maintain your own file
3. Back it up!



Paying eCourt Fees

- Visa, MasterCard, or Discover
- IOLTA-linked debit cards permissible
- Manage risks
- No ACH for now...



See "Filing Fees and IOLTA "

Processing eCourt Notices Five Step Plan

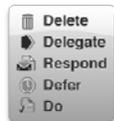
1. Security
2. Maintenance
3. White listing
4. Recovering from disaster
5. Forwarding notices

Security

- Security software is a must
- Evaluate firewall
- Call the experts!

Maintenance

1. Keep e-mail address current
2. Stop “bounce-back”
3. Strive for **Inbox Zero**



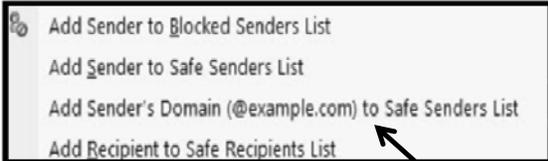
The PLF CLE “Organizing Your Email” will be available soon on the PLF website, www.osbplf.org

White listing

- Court_Notification@ojd.state.or.us
- Judgment@ojd.state.or.us
- Hearing_scheduled@ojd.state.or.us
- Hearing_rescheduled@ojd.state.or.us
- Hearing_cancelled@ojd.state.or.us
- No-reply@tylerhost.net [eFile – eServe]

White listing

@ojd.state.or.us and @tylerhost.net



A screenshot of an email client's context menu. The menu items are: 'Add Sender to Blocked Senders List', 'Add Sender to Safe Senders List', 'Add Sender's Domain (@example.com) to Safe Senders List', and 'Add Recipient to Safe Recipients List'. A black arrow points to the 'Add Sender to Safe Senders List' option.

Recovering from Disaster

1. Train staff
2. Speak up!
3. Search eCourt calendars online

Search Calendar

Required Fields

Search by: Use Defaults

Attorney Information:

Date Range: and

Recovering from Disaster

4. Don't empty recycle bin automatically
5. Try www.recuva.com
6. Forward notices



Forwarding Notices

- Requires filtering by sender
- Auto forwarding capability
- Outlook – Gmail – Apple - Thunderbird
- Watch “Organizing Your Email” PLF CLE

See “eCourt Notices – Forwarding is Up to You”

Getting Help - Support

Oregon Judicial Department Help Desk

Mon-Fri 7:00 am to 6:00 pm
503-986-5582 or 1-800-922-7391
ETSDHelp@ojd.state.or.us

OJIN Online Subscriber/Business Support

Mon-Fri 8:00 am to 5:00 pm
1-800-858-9658
OJIN.Online@ojd.state.or.us

File & Service/eFiling User Support – Tyler Technologies

Mon-Fri 7:00 am to 9:00 pm [CT]
1-800-297-5377
Efiling.support@tylertech.com



Share your screen
with [GoToAssist](#)

Getting Help - Resources

- Self-Study Web Training
<https://oregon.tylerhost.net/>
- Guides
<https://oregon.tylerhost.net/>
- CLEs
- Articles
- UTCRs and CJOs

Complete details in your handout

Getting Help - Resources

- Free Online CLEs
<http://www.tylertech.com/the-tyler-experience/events/client-training/odyssey-file-serve-online-training>
Thursday, November 20, 2:00 p.m. PST »
Friday, November 21, 10:00 a.m. PST »
Monday, November 24, 10:00 a.m. PST »
Tuesday, November 25, 2:00 p.m. PST »
Wednesday, November 26, 10:00 a.m. PST »

See "Tyler Technologies Odyssey eFile & Serve Training"

Final Words of Wisdom

1. No Internet connection
2. eCourt offline
3. Computer meltdown
4. No support
5. System time-out



Oregon eCourt How to Read Dates and Calculate Deadlines in the Oregon eCourt REGISTER OF ACTIONS

If you are new to Oregon eCourt, one of your first challenges will be reading and interpreting the online REGISTER OF ACTIONS. Mastering the register is the key to understanding eCourt events, accessing hyperlinked documents, and calculating deadlines.

You will find an explanation of register entries on the main login page for the Oregon eCourt Case Information system (OEI) <https://publicaccess.courts.oregon.gov/PublicAccessLogin/Login.aspx?> Refer to the text in pink. This is the only place where the explanation of entries appears, so take note. Once you move off the main login to search case records, the court calendar, or judgments with money awards the explanation disappears.

Explaining the REGISTER OF ACTIONS

The main login page for the (OEI) system provides the following explanation for entries appearing in the REGISTER OF ACTIONS:

Date Column: The nature of an event listed in this register determines the corresponding date that appears in the date column, for example, the date that a document was filed by a party or issued by the court, or the date that the court generated a notice, scheduled a hearing, or took an action in the case.

Signed Date: The Signed Date of an event in this register is the date that the court signed the order or judgment described in the entry.

Created Date: The Created Date of an event in this register is the date that court staff added the event to the register, also known as the entry date for purposes of ORS 7.020(2).

Dispositions and Other Events: In case categories other than Criminal, an event that appears in the Dispositions section of this register denotes entry of a judgment in the case. In the Criminal case category, events that denote entry of judgment appear in the Other Events section of this register, listed in chronological order together with other case events.

Criminal Case Category: For purposes of this system, the Criminal case category includes juvenile delinquency, contempt, and extradition cases, and appeals from justice or municipal court judgments under ORS 138.057 or ORS 157.020(1), justice court orders under ORS 157.020(2), or municipal court convictions under ORS 221.359.

Practice Tip – Use the “Created Date” when Calculating Deadlines

In the OEI system, the “Created Date” is the entry date in the official court register. Don’t be fooled by the date appearing in the “Date Column.” **Look for the Created Date and time stamp in the description of the specific court event.** Calculate deadlines from this date. Here is a redacted example:

03/06/2014	Judgment - Limited Creates Lien (Judicial Officer: Judge Last Name, First Name) Monetary Award (Unsatisfied, 03/06/2014) Signed Date: 03/06/2014 Expiration Date: 03/06/2024 Monetary Award: Creditor: CREDITOR FIRST NAME LAST NAME, Debtor: DEBTOR FIRST NAME LAST NAME, Unsatisfied, Award Type: Judgment Attorney Fees, Amount: \$1000.00, Rate: 9.00% Total: \$1000.00 Created: 03/07/2014 8:16 AM
------------	--

In this case, the date in the "Date Column" is March 6, 2014. The "Created Date" for the entry is March 7, 2014 at 8:16 AM. Calculate the deadline to file of a Notice of Appeal from the "Created Date" of March 7, 2014, not from March 6, 2014.

REGISTER OF ACTIONS – Main Page View

At the main page view of the REGISTER OF ACTIONS case data is organized into the following categories:

- PARTY INFORMATION – Parties and attorneys in the case
- EVENTS AND ORDERS OF THE COURT – DISPOSITIONS followed by OTHER EVENTS AND HEARINGS
- FINANCIAL INFORMATION – Court fees paid by parties and judgment debtor/creditor information if applicable

The main page view also contains event detail, including the date the court signed an Order or Judgment, the creation date discussed above, and comments entered by court staff. Here is a redacted example of the Main Page view:

REGISTER OF ACTIONS			
CASE NO. 666XXX			
PLAINTIFF NAME VS. DEFENDANT NAME		Case Type: Other Date Filed: 03/07/2013 Location: County Name	
PARTY INFORMATION			
Defendant	DEFENDANT NAME ADDRESS ADDRESS	Attorneys FIRST NAME LAST NAME Retained 503 XXX-XXXX (W)	
Plaintiff	PLAINTIFF NAME ADDRESS ADDRESS	FIRST NAME LAST NAME Retained 503 XXX-XXXX (W)	
EVENTS & ORDERS OF THE COURT			
DISPOSITIONS			
03/06/2014	Judgment - Limited Create Lien (Judicial Officer: Last Name, First Name) Monetary Award (Unsatisfied, 03/06/2014) Signed Date: 03/06/2014 Expiration Date: 03/06/2024 Monetary Award: Creditor: CREDIT FIRST NAME LAST NAME, Debtor: FIRST NAME LAST NAME, Unsatisfied, Award Type: Judgment Attorney Fees, Amount: \$1000.00, Rate: 9.00% Total: \$1000.00 Created: 03/07/2014 8:16 AM		
OTHER EVENTS AND HEARINGS			
03/07/2013	Complaint Comment: CLAIM FOR RELIEF 1, CLAIM FOR RELIEF 2, CLAIM FOR RELIEF 3 Created: 03/07/2013 12:00 AM		
03/27/2013	Return - Service Summons Court Action: Served Court Action Date: 03/19/2013 Created: 03/27/2013 12:00 AM		
FINANCIAL INFORMATION			
Defendant LAST NAME, FIRST NAME			
	Total Financial Assessment		616.50
	Total Payments and Credits		616.50
	Balance Due as of 04/29/2014		0.00
05/09/2013	Transaction Assessment		505.00
05/09/2013	Counter Payment	Receipt # 111111 ATTORNEY LAST NAME, FIRST NAME	(505.00)
01/09/2014	Transaction Assessment		10.00
01/09/2014	Mail Payment	Receipt # 2014-XXXXX ATTORNEY LAST NAME, FIRST NAME	(10.00)
Plaintiff LAST NAME, FIRST NAME			
	Total Financial Assessment		605.00
	Total Payments and Credits		605.00
	Balance Due as of 04/29/2014		0.00
03/07/2013	Transaction Assessment		505.00
03/07/2013	Counter Payment	Receipt # 666666 ATTORNEY LAST NAME, FIRST NAME	(505.00)
01/16/2014	Transaction Assessment		100.00
01/16/2014	xWeb Accessed eFile	Receipt # 2014-XXXXX PLAINTIFF LAST NAME, FIRST NAME	(100.00)

Selecting a Hyperlinked Document in the REGISTER OF ACTIONS

Clicking on a hyperlinked document under “Other Events and Hearings” will direct you to a different view of court events. This view does not contain the creation date or comments entered by court staff, but it does show a page count for each document listed. Here is a redacted example:

CASE NO. XXXXX

PLAINTIFF VS. DEFENDANT

Selected Event	Image	Page Count
03/07/2013 Complaint	Complaint	30
Other Events on This Case	Image	Page Count
03/14/2013 Declaration	Declaration	4
03/27/2013 Return - Service Summons	Return - Service Summons	2
03/27/2013 Return - Service/Sub Service	Return - Service/Sub Service	3
04/03/2013 Return - Service Summons	Return - Service Summons	2

In this view, the Complaint is sorted to the top because it was the hyperlinked document selected from the main page view. “Other Events on This Case” appears next, with events in ascending order (first to last). Hearing Notices are at the bottom of the page.

If you do not have permission to see a document in the REGISTER OF ACTIONS, the following message will appear:



The Most Important Takeaway

Don't be fooled by the “Date Column” in the REGISTER OF ACTIONS. **Look for the “Created Date” and time stamp in the description of the specific court event.** Calculate deadlines from this date. The “Created Date” of an event is the date court staff added the event to the register, also known as the entry date for purposes of ORS 7.020(2).

Originally published at <http://oregonlawpracticemanagement.com/2014/04/28/how-to-read-dates-and-calculate-deadlines-in-the-ecourt-register-of-actions-oregon-ecourt-week/> [April 28, 2014].

Oregon eCourt Case Numbers are Not Unique

Case numbers in the Oregon eCourt system are not unique.

After logging on, eCourt users have an option to search case records, court calendars, or find judgments with money awards. If you elect to search Civil, Family and Probate Case Records, the following search screen appears:

Search Civil, Family and Probate Case Records

(*) Required Fields

Search By:

Case: Number Cross Ref Number
 * Case Number:

Case Status: All Open Closed
 Date Filed: On or After and On or Before
 (e.g. 11/12/1955)

Sort By

The first option is to search by Case Number. Here is an actual search result that generated three listings in three different jurisdictions **for the identical Case Number**. Identifying information has been redacted for privacy reasons:

Civil, Family and Probate Case Records Search Results

Skip to Main Content Logout My Account Search Menu Search Civil, Family and Probate Case Records Refine Search					Location: All Locations
Record Count:				3	
Search By: Case		Exact Name: on		Case Search Mode: Number	
		Case Number: 1XXXXX		Sort By: Filed Date	
Case Number	Style	Filed/Location	Type/Status		
1XXXXX	PLAINTIFF VS. DEFENDANT	02/12/2013 Columbia	Contract Closed		
1XXXXX	PLAINTIFF VS. DEFENDANT	03/05/2013 Clatsop	Other Appeal		
1XXXXX	PLAINTIFF VS. DEFENDANT	07/28/2013 Tillamook	Foreclosure Closed		

Identical case numbers across judicial districts does not pose a problem so long as you are aware of the possibility.

Other Options when Searching Case Records

Searching by Case Number is the first option presented when searching case records. Users may also search by Party, Attorney, or Date Filed.

Search Civil, Family and Probate Case Records

(*) Required Fields

Search By:

Case:

Number Cross Ref Number
* Case Number:

Originally published at <http://oregonlawpracticemanagement.com/2014/05/04/oregon-ecourt-case-numbers-not-unique/> [May 4, 2014].

Oregon eCourt Rejected Filings and Relation Back

The rules for electronic filing deadlines in Oregon eCourt are set forth in UTCR 21.080. See Chief Justice Orders 14-012 and 14-049 dated March 31, 2014 and September 29, 2014, respectively, adopting out-of-cycle amendments. Among the most important are the provisions concerning rejected filings and relation back.

Accepted Filings Relate Back to the Date and Time Received

“If the court accepts the document for filing, the date and time of filing entered in the register relate back to the date and time the electronic filing system received the document. When the court accepts the document, the electronic filing system will affix the date and time of submission on the document, thereby indicating the date and time of filing of the document. When the court accepts a document for filing, the electronic filing system sends an email to the filer, unless the filer has elected through system settings not to receive the email.” [UTCR 21.080\(4\)](#). [See the rule for other provisions.]

What Happens When a Document is Rejected

“If the court rejects a document submitted electronically for filing, the electronic filing system will send an email to the filer that explains why the court rejected the document, unless the filer has elected through system settings not to receive the email. The email will include a hyperlink to the document.” [UTCR 21.080\(5\)](#).

Practice Tip: Leave the default system settings alone to ensure you will receive rejection notices. Rejection notices are sent from Tyler Technologies, @tylerhost.net not from @ojd.state.or.us.

Can I Resubmit a Rejected Filing?

The short answer is “Yes.” However, resubmitted documents will only receive relation-back if certain conditions are met.

Getting Relation Back When a Filing is Rejected (also known as) What if I’m Up Against the Statute of Limitations?

A filer who resubmits a document may request, as part of the resubmission, that the date of filing of the resubmitted document relate back to the date of submission of the original document to meet filing requirements. In the case of a last minute filing to beat the statute of limitations, this will be critical. However, relation back is ONLY available if the following conditions are met:

First, the filer must resubmit the document within 3 days of the date of rejection. “If the third day following rejection is not a judicial day, then the filer may resubmit the filing ... the next judicial day.” Resubmission means “submission of the document through the electronic filing system ... or physical delivery of the document to the court.” [UTCR 21.080\(5\)\(a\)](#).

Second, a filer who resubmits a document for purposes of relation back must include a cover letter that contains the following:

- the date of the original submission
- the date of the rejection
- an explanation of the reason the filer is requesting that the date of filing relate back to the

- original submission
- the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" must be in the subject line of the cover letter." [UTCR 21.080\(5\)\(a\)\(i\)](#).

Third, if the resubmission is filed electronically the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" must be included in the Filing Comments Field. [UTCR 21.080\(5\)\(a\)\(ii\)](#).

Practice Tip: Use the specific language set forth in the rule and enter it in ALL CAPS.

Objecting to Relation Back

"A responding party may object to a request (for relation back) within the time limits as provided by law for the type of document being filed. For the purpose of calculating the time for objection provided by law under this subsection, if applicable, the date of filing is the date that the document was resubmitted to the court under subsection (a) of this section." [UTCR 21.080\(5\)\(b\)](#).

Filings Rejected due to Temporary System Unavailability, Errors in Transmission, or Technical Problems

UTCR 21.080(6) provides:

If the eFiling system is temporarily unavailable or if an error in the transmission of the document or other technical problem prevents the eFiling system from receiving a document, the court may, upon satisfactory proof, permit the filing date of the document to relate back to the date that the eFiler first attempted to file the document to meet filing requirements. Technical problems with the filer's equipment or attempted transmission within the filer's control will not generally excuse an untimely filing.

(a) A filer seeking relation-back of the filing date due to system unavailability or transmission error described in this section must comply with the requirements in subsection (5)(a) of this rule.

(i) The cover letter described in subsection (5)(a)(i) must include the date of the original attempted submission and the date that the filer was notified that the submission was not successful, and explain the reason for requesting that the date of filing relate back to the original submission, with the words "RESUBMISSION OF FILING, SUBMISSION UNSUCCESSFUL, RELATION- BACK DATE OF FILING REQUESTED" in the subject line of the cover letter."

(ii) The Filing Comment field notification for an electronic resubmission described in subsection (5)(a)(ii) must include the words "RESUBMISSION OF FILING, SUBMISSION UNSUCCESSFUL, RELATION-BACK DATE OF FILING REQUESTED."

(iii) The filer may include supporting exhibits that substantiate the system malfunction together with the filer's cover letter.

(b) A responding party may object in the same manner and subject to the same time calculations as in subsection (5)(b) of this rule.

Adopted out-of-cycle September 29, 2014 pursuant to Chief Justice Order 14-049.

Other Things to Know about UTCR 21.080

eFiling is Available 24/7

“A filer may use the electronic filing system at any time, except when the electronic filing system is temporarily unavailable.” [UTCR 21.080\(1\)](#).

Filing Deadlines - Generally

“The filing deadline for any document filed electronically is 11:59:59 p.m. in the time zone where the court is located on the day the document must be filed.” [UTCR 21.080\(2\)](#).

When is a Document “Submitted?”

“The court considers a document submitted for an electronic filing when the electronic filing system receives the document. The electronic filing system will send an email to the filer that includes the date and time of receipt, unless the filer has elected through system settings not to receive the email.” [UTCR 21.080\(3\)](#).

Avoiding Rejected Filings

Give documents meaningful file names so they are easily identified and distinguished. Carefully review information entered into the [eFiling](#) system, including the document selected for uploading. When filing is complete, check the confirmation.

Be aware of applicable file size limitations (25 MB in Oregon). Jurisdictions vary, sometimes significantly. If you attempt to upload a document that is too large, your filing will be rejected and you may miss a deadline. Adobe Acrobat can help you properly split and label large files for uploading to [eFiling](#) systems.

Keep your credit card information current with the court. Required fees must be paid when documents are electronically filed. If your card has expired and the fees are not paid, your filing will be rejected even if the document was uploaded prior to the deadline.

Avoid the most common e-filing mistakes:

- Entering incorrect party, event, or filing codes
- Selecting the wrong case or location
- Failing to associate the attorney with the filing party
- Improperly filing exhibits – see the limitations in [UTCR 21.070](#)
- Including sensitive or confidential information
- Failing to file single, unified PDFs
- Missing information – signatures missing or no party information entered
- Submitting illegible documents – PDFs that are not text-searchable or PDFs scanned upside down
- eFiling documents that must be filed conventionally under [UTCR 21.070](#)
- Failing to pay fees or paying incorrect fees

Leave default system settings alone to ensure you will receive rejection notices. See the discussion above, “What Happens When a Document is Rejected” under [UTCR 21.080\(5\)](#).

Don't eFile documents at the last minute. eFiling is a somewhat tedious process: you must log in, enter the appropriate field codes, pay applicable fees, select, and possibly split your documents for filing, and so on. If you lose your Internet connection, your computer crashes or you encounter other technical difficulties, there is no time for recovery. Upload documents during regular business hours when technical support staff are available and you have sufficient time to remedy any technical glitches.

Train Now to Avoid Problems Later

Above all, get trained. User guides, reference guides, and rules can be found [here](#). Free Web training sessions and self-study online training are available [here](#).

Schedule a presentation on [Oregon eCourt](#) for your organization or agency. Call or e-mail: Oregon

Judicial Department
Office of Education, Training and Outreach
503-986-5911 oeo@ojd.state.or.us

Technical Support

Oregon Judicial Department Help Desk – Monday through Friday 7:00 am to 6:00 pm
503-986-5582 or 1-800-922-7391
ETSDHelp@ojd.state.or.us

OJIN Online Subscriber/Business Support – Monday through Friday 8:00 am to 5:00 pm
1-800-858-9658
OJIN.Online@ojd.state.or.us

File & Service/eFiling User Support – Monday through Friday 7:00 am to 7:00 pm
Tyler Technologies
1-800-297-5377
Efiling.support@tylertech.com

Original version published at <http://oregonlawpracticemanagement.com/2014/04/30/rejected-filings-and-relation-back-oregon-ecourt-week/> [April 30, 2014].

Oregon eCourt Retention of Documents by Filers – UTCR 21.120

UTCR 21.120 provides:

(1) Unless the court orders otherwise, if a filer electronically files an image of a document that contains the original signature of a person other than the filer, the filer **must retain the document in the filer's possession in its original paper form for no less than 30 days.**

(2) When a filer electronically files a document described in section (1) of this rule, the filer certifies by filing that, to the best of the filer's knowledge after appropriate inquiry, the signature purporting to be that of the signer is in fact that of the signer.

See Chief Justice Order 14-049 dated September 29, 2014 adopting out-of-cycle amendments to the Uniform Trial Court Rules. Former UTCR 21.120 required that filers retain such documents in original paper form for 10 years.

"Filer" means a person registered with the electronic filing system who submits a document for filing with the court." UTCR 21.010(6).

Other Statutes and Rules May Require Retention of Original Paper Documents

Paperless practitioners should take note of other statutes or rules that require retention of original paper documents. Examples include the Affidavit of Custodian executed when a settlement agreement is reached on behalf of a minor (ORS 126.725(2)) and certain documents filed in US Bankruptcy Court (see Oregon Local Bankruptcy Court Rule 5005-4(e)). For more information, consult the PLF practice aids, *File Retention and Destruction* and *Checklist for Scanning Client Files*, available on the PLF Web site.

This is not an exhaustive list. Conduct your own appropriate legal research to identify other instances where original paper documents must (or should) be retained.

Original version published at: <http://oregonlawpracticemanagement.com/2014/05/01/oregon-ecourt-10-year-paper-retention/> [May 1, 2014].

File Closing Checklist

Client _____

File/Matter No. _____

Matter: _____

Date: _____

Atty: _____

DATE	INITIALS	ACTION FOR ALL FILES – PAPER AND ELECTRONIC
		1. Make sure notices of <i>lis pendens</i> or lien abstracts have been discharged.
		2. Make sure all original judgments, orders, decrees, cost bills, deeds, contracts, <i>etc.</i> are filed or recorded.
		3. If an unsatisfied judgment is involved, diary the file for 3, 6, and 9 years. Review for assets and file certificate of extension before expiration of 10 years.
		4. Make sure any UCC or security interest has been perfected and filed. Track appropriate renewal dates in your own system to prevent security interests from lapsing. (The Oregon Secretary of State's office no longer issues individual renewal notices.) Renewals can also be verified online against the UCC Renewal Report at http://www.filinginoregon.com/ucc/renewal.htm . Individual renewals are easily identified by the lien number.
		5. If the file involves a lease or option to buy, diary the file for 6 months prior to expiration.
		6. In criminal cases, check to see if expungement is possible and diary the file for 3 years.
		7. If the file involves a settlement agreement on behalf of a minor, the attorney representing the person entering into the settlement agreement on behalf of the minor must maintain the original signed affidavit or verified statement completed under ORS 126.725(1)(d) in the attorney's file for two years after the minor attains the age of 21 years. ORS 126.725(2).
		8. Bankruptcy petitions, lists, schedules, statements, amendments, and electronic filing declarations must be retained by the filing ECF Participant or the firm representing the party on whose behalf the document was filed in original paper form until the later of the closing of the case or the fifth anniversary of the filing of the document, except as otherwise provided for trustees by the U.S. Department of Justice. Oregon LBR 5005-4(e).
		9. Documents that contain the original signature of a person other than the "filer" in Oregon eCourt must be retained in original paper form for 30 days. UTCR 21.120 amended September 29, 2014 pursuant to CJO 14-049.
		10. If you possess personal health information of clients or others within the meaning of the Health Insurance Portability and Accountability Act (HIPAA), you are obligated to conduct a risk analysis and take proper steps to secure your records. Failure to do so can result in civil penalties. For more information, See Kelly T. Hagan, "Business Associate, Esq.: HIPAA's New Normal," In Brief (September 2013), available on the PLF Web site, www.osbplf.org .
		11. Check for unbilled activities or balance remaining in trust and send final bill or accounting to client.
		12. Review the file for any further work to be done.
		13. Review file for additional names to be included in conflict system.
		14. Review file for documents to be included in the firm's form or template directory.
		15. If litigation or tribunal matter, withdraw as attorney of record.

File Closing Checklist

Client _____

File/Matter No. _____

Matter: _____

Date: _____

Atty: _____

DATE	INITIALS	ACTION FOR ALL FILES – PAPER AND ELECTRONIC, CONT'D
		16. Assign destruction date. Regardless of how files are kept, the PLF recommends that all files be kept for a minimum of 10 years. See the PLF practice aid, "File Retention and Destruction," available on the PLF Web site, www.osbplf.org .
		17. Send closing letter to client. Advise client of file destruction date and firm policy on retrieval and provision of closed file materials. Return client's original documents and include client questionnaire, if appropriate.
		18. Remove file from active status and enter destruction date into calendar, case management system, or closed file inventory.
		19. For information on proper disposal of file material (paper and electronic), refer to the PLF practice aid, "File Retention and Destruction," available on the PLF Web site, www.osbplf.org .
DATE	INITIALS	ACTION FOR PAPER FILES ONLY
		20. Assign closed file number.
		21. Mark the file closed and enter closed file number in case management system or closed file inventory.
		22. Remove duplicate documents, unused note pads, and other unneeded items from file. (DO NOT remove draft work product, memos, phone messages, research, or attorney notes relating to the merits of the case.)
		23. Check for loose, unfiled documents and place in the file.
		24. Check network servers, local hard drives, laptops, zip drives, disks, flash drives, PDAs, etc. for electronic material not in file. Print hard copies, file, and purge electronic data or move electronic data onto appropriate storage media according to the firm's policy for retention of electronic records. Also see step 29 below.
		25. Move file to storage.
DATE	INITIALS	ACTION FOR ELECTRONIC FILES ONLY
		26. Review the PLF practice aid, "Checklist for Imaging Client Files and Disposing of Original Documents," available on the PLF Web site, www.osbplf.org .
		27. Does the matter involve original documents whose authenticity could be disputed? Or documents that have particular legal importance, such as an original Will? These documents cannot be discarded after scanning. Provide them to the client or make other arrangements to protect and store valuable originals. Note: The PLF recommends against storing original wills. See "Why Did We EVER Want to Keep Original Wills?" <i>In Brief</i> (March 2007). Available on the PLF Web site, www.osbplf.org .
		28. Does the firm possess original documents or property belonging to the client? Documents, photographs, receipts, cancelled checks, or other materials provided by the client are generally considered <i>property</i> of the client and cannot be destroyed. Keep scanned copies of these items for <u>your</u> records. Return the client's original property <u>to the client</u> .

File Closing Checklist

Client _____

File/Matter No. _____

Matter: _____

Date: _____

Atty: _____

DATE	INITIALS	ACTION FOR ELECTRONIC FILES ONLY
		29. Verify completeness of client's electronic file. Check for loose, unscanned documents, e-mails, or other records. Scan, save, or move items to client's electronic file as needed. If you are scanning a paper file in its entirety, consider providing the client with the paper version once you are assured the file has been accurately scanned. This will save destruction fees and give the client a complete copy of their file.
		30. If you possess electronic data containing "consumer personal information" within the meaning of the Oregon Consumer Identity Theft Protection Act (ORS 646A.600 to 646A.628) you are required to develop, implement, and maintain safeguards to protect the security and disposal of the data. Failure to do so can result in civil penalties. See "2007 Legislation Alerts - Business Law/Consumer Protection (Identity Theft)," <i>In Brief</i> (November 2007) and Kimi Nam, "Protect Client Information from Identity Theft," <i>In Brief</i> (August 2008). Both articles are available on the PLF Web site, www.osbplf.org .
		31. Be prepared to meet future requests for file material. Clients are entitled to file information in a format they can access. This may mean printing all or part of a file. Inform clients of the firm's policy on retrieval and provision of closed files at the time of file closing.
		32. Statutes or rules may require that certain documents be retained in original paper form. Refer to 7, 8, and 9 above. This is not an exhaustive list. Conduct your own appropriate legal research to identify other instances where original paper documents must (or should) be retained.
		33. Enter closed file information into case management system or closed file inventory.
		34. Properly archive electronic file for duration of firm's retention period. Establish access rights to ensure that documents cannot be inadvertently modified, destroyed, or altered. Retain file material for 10 or more years.
		35. Establish, test, secure, and maintain on and off-site backups. See the PLF practice aid, "How to Back Up Your Computer," available on the PLF Web site, www.osbplf.org .

File Retention and Destruction

Most client files (whether paper or electronic) should be kept for a minimum of 10 years to ensure the file will be available to defend you against malpractice claims. Files that should be kept for *more* than 10 years include:

1. Cases involving a minor who is still a minor at the end of 10 years;¹
2. Estate plans for a client who is still alive 10 years after the work is performed;
3. Contracts or other agreements that are still being paid off at the end of 10 years;
4. Cases in which a judgment should be renewed;
5. Files establishing a tax basis in property;
6. Criminal law – keep for two years after the client is released or exonerated²
7. Support and custody files in which the children are minors or the support obligation continues;
8. Corporate books and records;
9. Adoption files;
10. Intellectual property files; and
11. Files of problem clients.

Whenever possible, do not keep original papers (including estate plans or wills) of clients. If you keep original wills, 40 years must elapse before the will can be disposed of. ORS 112.815 provides: “An attorney who has custody of a will may dispose of the will in accordance with ORS 112.820 if: (1) The attorney is licensed to practice law in the state of Oregon; (2) At least 40 years has elapsed since execution of the will; (3) The attorney does not know and after diligent inquiry cannot ascertain the address of the testator; and (4) The will is not subject to a contract to make a will or devise or not to revoke a will or devise.”

When closing your file, return original documents to clients or transfer them to their new attorneys. Be sure to get a receipt for the property and keep the receipt in your paper or electronic file.

The first step in the file retention process begins **when you are retained by the client**. Your **fee agreement** should notify the client that you will be destroying the file and should specify when that will occur. The client’s signature on the fee agreement will provide consent to destroy the file. In addition, your **engagement letter** should remind clients that you will be destroying the file after certain conditions are met.

The second step in the file retention process is **when the file is closed**. When closing the file, establish a destruction date and calendar that date. If you have not already obtained the client’s permission to destroy the file (in the fee agreement and engagement letter), you can get written permission when you close the file or you can make sure that the client has a complete copy of the file. This includes all pleadings, correspondence, and other papers and documents necessary for the client to construct a file for personal use. If you choose the latter alternative, be sure to document that the client has a complete file. This means that the paper or electronic file you have in your office is *yours* (and can be destroyed without permission) and the file the client has is the *client’s* copy. File closing is also a good time to advise clients of your firm’s policy on retrieving and providing file material once a matter is closed.

File Retention and Destruction

The final step in the file retention process involves reviewing the firm's electronic records for client-related material. Electronic data may reside on network servers, Web servers, Extranets, Intranets, the Internet, local hard drives of firm PCs, laptops, home computers, zip drives, disks, portable memory sticks and flash drives, mobile devices, or other media. Examples include e-mail communications, instant messages, electronic faxes, digitized evidence, word processing, or other documents generated during the course of the case. Review these sources to ensure that the client file is complete. If these documents exist only in electronic form, you may choose to store them electronically or print them out and place them in the appropriate location in the client's file.

Paperless practitioners should take note of statutes or rules that require retention of **original paper documents**. Examples include:

- Settlement Agreements on behalf of Minors – “The attorney representing the person entering into the settlement agreement on behalf of the minor, if any, shall maintain the affidavit or verified statement completed under subsection (1)(d) of this section in the attorney's file for two years after the minor attains the age of 21 years.” ORS 126.725(2). See footnote 1 below.
- U.S. Bankruptcy Court documents – “An electronically filed document described in FRBP 1008 [petitions, lists, schedules, statements, or amendments] or a properly completed, signed, and filed LBF #5005 [electronic filing declaration] with respect to the document and a scanned electronic replica of the signed document must be maintained by the filing ECF Participant or the firm representing the party on whose behalf the document was filed in its original paper form until the later of the closing of the case or the fifth anniversary of the filing of the document, except as otherwise provided for trustees by the U.S. Department of Justice. The filing ECF Participant or firm retaining the original document or LBF #5005 and scanned electronic replica of the document must produce it for review upon receipt of a written request.” Oregon LBR 5005-4(e) - Retention of Original Document.
- Oregon eCourt documents – “Retention of Documents by Filers: (1) Unless the court orders otherwise, if a filer electronically files an image of a document that contains the original signature of a person other than the filer, the filer must retain the document in its original paper form for 30 days.” UTCR 21.120 amended September 29, 2014 pursuant to Chief Justice Order 14-049. “Filer means a person registered with the electronic filing system who submits a document for filing with the court.” UTCR 21.010(6).

This is not an exhaustive list. Conduct your own appropriate legal research to identify other instances where original paper documents must (or should) be retained. One example of a document that should be retained is the original signed fee agreement, particularly when your fee is in dispute or the client has an outstanding balance at the time of file closing.

If you possess electronic data containing “consumer personal information” within the meaning of the Oregon Consumer Identity Theft Protection Act (ORS 646A.600 to 646A.628) you are required to develop, implement, and maintain safeguards to protect the security and disposal of the data. Failure to do so can result in civil penalties. For more information, See “2007 Legislation Alerts - Business Law/Consumer Protection (Identity Theft),” *In Brief* (November 2007) and Kimi Nam, “Protect Client Information from Identity Theft,” *In Brief* (August 2008), available on PLF Web site, www.osbplf.org.

File Retention and Destruction

If you possess personal health information of clients or others within the meaning of the Health Insurance Portability and Accountability Act (HIPAA), you are obligated to conduct a risk analysis and take proper steps to secure your records. Failure to do so can result in civil penalties. For more information, See Kelly T. Hagan, “Business Associate, Esq.: HIPAA’s New Normal,” In *Brief* (September 2013), available on the PLF Web site, www.osbplf.org.

The retention policy for electronic data should be consistent with the retention policy for paper files. Regardless of how files are retained, the PLF recommends that all client files be kept a minimum of 10 years. If you intend to scan client files and dispose of the original documents, review the PLF practice aid, “A Checklist for Imaging Files and Disposing of Original Documents,” available on the PLF Web site, www.osbplf.org.

Organization and Destruction of Closed Files

Closed paper files should be organized by years or organized into two groups: files that are 10 years and older and files that are less than 10 years old. If possible, however, separate closed client files into groups according to the year the work was completed so that each year you know which files to review for destruction. Electronically retained files should be organized in a similar fashion, or identified in a manner that allows you to determine easily when the file was closed. If you possess files that must be retained on a permanent or long-term basis, clearly mark the file and the file box to prevent inadvertent destruction.

Keep a permanent inventory of files you destroy and the destruction dates. Before destroying any client file, review it carefully. Some files need to be kept longer than 10 years, as noted above. Others may contain conflict information that needs to be added to your conflict database or original documents of the client, which should never be destroyed. Always retain proof of the client’s consent to destroy the file. This is easily done by including the client’s consent in your fee agreement or engagement letter and retaining the letters with your inventory of destroyed files. Follow the same guidelines when evaluating whether to destroy electronic records. For additional guidance on closing client files, See the PLF practice aid “File Closing Checklist,” available on the PLF Web site, www.osbplf.org, and at the end of this chapter.

Since June 1, 2005, the Fair and Accurate Credit Transaction Act (FACTA) Disposal Rule (the Rule or FACTA) requires any person who maintains or possesses “consumer information” for a business purpose to properly dispose of such information by taking “reasonable measures” to protect against unauthorized access to or use of the information in connection with its disposal. The Rule defines “consumer information” as any information about an individual that is in or derived from a consumer report. Although the Rule doesn’t specifically refer to lawyers, it may be interpreted to apply to lawyers, and the practices specified in the Rule would safeguard clients’ confidential information.

“Reasonable measures” for disposal under the Rule are (1) burning, pulverizing, or shredding physical documents; (2) erasing or physically destroying electronic media; and (3) entering into a contract with a document disposal service. See OSB Formal Ethics Opinion No. 2005-141. Permanent destruction of electronic data requires special expertise.³

When choosing a document disposal service, select a company certified by the National Association for Information Destruction (NAID). NAID members securely destroy materials in compliance with FACTA, HIPAA, and the Gramm-Leach-Bliley Acts. Casually discarded information is a risk and a liability.

File Retention and Destruction

¹ ORS 126.725(2) requires that the attorney representing a minor's legal guardian in a tort claim keep the Affidavit of Custodian for two years after the minor reaches the age of 21. Retaining the Affidavit of Custodian is mandatory. You may wish to keep your entire file. See Brooks F. Cooper, "Settlements for Minors – 2009 Legislative Changes," *In Brief* (November 2010). There may be other instances where it is advisable to keep files involving a minor who is still a minor at the end of 10 years. Examples include ongoing conservatorships or guardianships and family law matters involving custody of a minor who is still a minor at the end of 10 years.

² In criminal law cases, an action for legal malpractice may not accrue, for statute of limitation purposes, until the date on which the client is exonerated through reversal on direct appeal, through post-conviction relief proceedings, or otherwise. See *Stevens v. Bispham*, 316 Or 221 (1993), *Abbott v. DeKalb*, 346 Or 306 (2009), and *Drollinger v. Mallon et al.*, SC S0588839 (2011).

³ With proper technique, deleted documents can be retrieved and restored. Consult with an information technology expert to determine what steps must be taken to ensure that client documents have been *completely* purged from your system, including backups, if applicable. For recommendations on how to store data for long-term archival needs, contact the Association for Records Management Professionals at <http://www.arma.org>.

Oregon eCourt – Filing Fees and IOLTA

Using debit or credit cards to pay eCourt filing fees raises a number of potential concerns – some ethical, others practical. For example, is it permissible to obtain a debit card connected to the IOLTA account? If yes, what can practitioners do to protect client funds? Alternatively, if a firm decides that an IOLTA debit card is too risky, what are the logistics for getting reimbursed if the firm advances eCourt filing fees? Is a credit card a better alternative? Here is some guidance on these issues.

Are IOLTA Debit Cards Permissible?

The Oregon Rules of Professional Conduct (http://www.osbar.org/_docs/rulesregs/orpc.pdf) do not prohibit lawyers from using a debit card to advance client costs. Lawyers are free to obtain debit cards tied to their business account or their IOLTA account as needed.

Managing the Risk of Using IOLTA Debit Cards

Connecting a debit card to an IOLTA account increases the risk of theft – internally and externally. Follow these suggested steps to protect client funds:

- Keep scrupulous documentation. Every charge must be traceable to a specific client and matter.
- When eFiling documents in the Oregon eCourt system, print the “Envelope Details” screen and retain it as a receipt. On the “Filings” tab, click the icon to view the filing details. The “Envelope Detail” screen includes several lines devoted to communication from the bank, including a total amount and the status of the financial transaction.
- Secure all debit card documentation. Records can be kept in paper form or electronically as PDFs. If kept in paper form, lock the records in a filing cabinet or drawer. If kept electronically, use encryption. Encryption can be applied to individual documents, file folders, a specific computer, mobile devices, or an entire system. See the following resources for assistance:

Encryption: Enabling Basic Client File Security

<http://lawyerist.com/22933/encryption-enabling-basic-client-file-security/>

Layering Security in the Cloud: Client-Side Encryption

http://www.americanbar.org/publications/law_practice_today_home/law_practice_today_archives/may12/layering-security-in-the-cloud-client-side-encryption.html

FYI: Playing it Safe With Encryption

http://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/FYI_Playing_it_safe.html

- Use your IOLTA debit card exclusively for the purpose of paying eCourt filing fees. This will make it easier to detect theft or data breach.
- Review your debit card statement when it arrives. Match receipts captured from the eCourt system to your debit card statement. If you find eCourt charges on your statement which are not supported by a matching receipt, investigate immediately. If there are non eCourt charges on your statement and you are using the card exclusively to pay eCourt filing fees, contact your bank immediately. In this instance, non eCourt charges would be indicative of theft or data breach.
- Keep the physical debit card in the law firm safe deposit box or under lock and key in the office. If the card is dedicated to paying eCourt filing fees, there is no reason for a firm member to carry it. Briefcases, wallets, and purses can be stolen or lost; a firm member could mistakenly (or intentionally) use the IOLTA debit card for an unauthorized purchase. Minimize these risks by locking up the card.

- Ensure that adequate security measures are in place to protect the firm’s computer system – antivirus software, firewall protection, strong passwords, and ideally encryption – since all card payment activity occurs online. In the event of an unauthorized debit card charge, it may be necessary to bring in experienced IT personnel to evaluate whether an external data breach occurred.
- Talk to your bank. If you anticipate a high volume of transactions, alert your bank professional to avoid a hold being placed on your account due to suspicious activity. Make sure the bank understands this is not a typical debit card account. Inquire if there is any risk management or loss prevention measures offered in connection with your IOLTA debit card.
- Determine how many IOLTA debit cards are needed. If you maintain separate IOLTA accounts for specific clients, each IOLTA account may require its own debit card. In some respects, this will simplify recordkeeping, because transactions will be segregated by client. On the downside, multiple cards result in greater exposure to loss and can lead to increased human error – such as mistakenly using Client A’s debit card to pay Client B’s filing fee.

Alternatives to Using IOLTA Debit Cards

If you are risk averse to exposing IOLTA funds to theft or loss, consider one of these alternatives:

- Obtain a business debit card tied to your business account. Use it to pay filing fees and treat the expense like any other cost advanced on a client’s behalf. [See the discussion below.]
- Obtain a business credit card. Use it to pay filing fees. When the credit card statement arrives, pay the balance due from your IOLTA account – if you have the funds on deposit – or pay the balance from your business account and treat the expense like any other cost advanced on a client’s behalf. [See the discussion below.]
- If you choose one of these alternatives, take care to keep your business debit or credit card safe and secure.

The Logistics of Getting Reimbursed When Using a Business Credit Card

At the moment a law firm uses its own credit card to pay an eCourt filing fee, it is advancing a cost on the client’s behalf. The firm can post the cost advanced immediately to the client’s account and bill the client according to the terms of its fee agreement. It is not necessary to wait for the business credit card statement to arrive before posting the advanced cost nor is it necessary to pay the business credit card statement before billing the client. The same holds true if a law firm uses a business debit card tied to its business account.

When the client reimburses the firm for the eCourt filing fee, the client’s payment should be deposited directly into the firm’s business account. This will always be true if the client remits a discrete reimbursement specifically for the advanced cost. If the client writes a check to reimburse the firm for costs and replenish the client’s retainer, the client’s payment would be handled differently. Contact your friendly practice management advisors at the Professional Liability Fund (PLF) for advice or consult rules or other resources such as PLF practice aids and forms or our book, *A Guide to Setting Up and Using Your Lawyer Trust Account*.

ACH, Oregon eCourt and IOLTA

At the present time, eCourt filing fees can only be paid using standard debit/credit cards. ACH transactions - deducting fees directly from your business or IOLTA account - may be permitted in the future.

Our appreciation is extended to the Oregon State Bar General Counsel for their input.

Originally published at <http://oregonlawpracticemanagement.com/2014/05/02/filing-fees-iolta-credit-cards-and-ecourt/> [May 2, 2014].

Oregon eCourt eCourt Notices – Forwarding is Up to You

Transitioning to Oregon eCourt requires many adjustments. Among the most significant: how law offices will process court notices for various events, including hearing dates, trial dates, or entry of judgments.

eCourt Notices are Delivered Only to the Filing Attorney

Unlike PACER, where filers can specify multiple e-mail addresses to receive electronic court notices, the Oregon system restricts delivery to the filing attorney. Notices are sent to the filing attorney's official e-mail address on file with the Oregon State Bar. Alternate e-mail addresses, including generic docketing accounts like docketing@abclawfirm.com are not permitted. Because notices are delivered to the filing attorney only, staff members or other attorneys in the office are not included in the Oregon eCourt notice system.

eService Accommodates as Many Parties as Needed

Unlike the notice system, there is no limit to the number of parties or lawyers that can be included in eService. Consent to eService is on a case by case basis. When you e-file into a case you are consenting to eService on that case.

Parties and attorneys are responsible for adding themselves as a service contact in the eService system and updating their information as necessary. The system does not pull contact information from the Oregon State Bar database as it does for delivery of eNotices.

Registering Multiple Users Permitted

Law firms may register as many individual Oregon eCourt users as they desire. If a firm has 10 litigators and 5 staff who file in Oregon eCourt, all 15 may be added to the system. A firm account must be created first. Individual users may self-register only if permitted by the Firm Administrator. See the user guides: <http://courts.oregon.gov/OJD/OnlineServices/OJDeFiling/Pages/index.aspx>.

How to Share eCourt Notices with Staff or Other Attorneys

If you want to share eCourt notices with staff or other attorneys in the firm, you will need to create auto-forward rules. This is easily done if you are using a desktop e-mail program like Outlook, Windows Live Mail, Apple Mail, or Thunderbird.

If you are using Web-based mail, it may or may not be possible. Auto-forwarding of eCourt notices requires the ability to selectively filter messages by sender. In this case, the goal is to forward messages sent from the court @ojd.state.or.us and from the Tyler Technologies File and Service System @tylerhost.net.

Gmail permits forwarding of messages using filters (as do all the e-mail programs listed above). Yahoo! mail users can elect to forward all Yahoo! mail to another address, but they cannot selectively filter messages from specific senders. Filtering in Yahoo! is limited to moving messages from one folder to another.

Click on any of the following links to set up filtered auto-forwarding:

Outlook 2007

<http://office.microsoft.com/en-us/outlook-help/manage-messages-by-using-rules-HA010096803.aspx?CTT=1>

Outlook 2010

<http://office.microsoft.com/en-us/outlook-help/manage-email-messages-by-using-rules-HA010355682.aspx?CTT=1>

Outlook 2013

<http://office.microsoft.com/en-us/outlook-help/forward-messages-automatically-with-a-rule-HA103465692.aspx?CTT=1>

Windows Live Mail

<http://answers.microsoft.com/en-us/windowslive/forum/livemail-email/windowslivemail-how-to-set-up-automatic-forwarding/f78ba64f-1154-4c6d-ae04-a80ee8aa9b56>

Apple Mail

<http://macs.about.com/od/usingyourmac/qt/mailrules.htm>

iCloud

http://support.apple.com/kb/PH2650?viewlocale=en_US

Thunderbird

<https://support.mozilla.org/en-US/kb/organize-your-messages-using-filters>

Gmail

<http://email.about.com/od/gmailtips/qt/How-To-Forward-Gmail-Email-Using-Filters.htm>

(also see this <https://support.google.com/a/answer/6579?hl=en>)

Instructions for creating a rule to mark all messages as important and auto forward copies to specific people (staff, other lawyers) are available on the PLF Web site, www.osbplf.org. Be sure you create rules for messages sent from @ojd.state.or.us and @tylerhost.net. Court notices are sent from both domains. The instructions on the PLF Web site use Outlook 2010 as an example, but should apply conceptually to the programs or Web mail services listed above.

How to Create a Safety Net if you are a Solo Practitioner

If you are solo practitioner with no support staff, you may want to auto-forward eCourt notices to a secondary e-mail address as a backup. (Gmail can filter e-mail and send alerts to your phone.) Remember, you can also login to Oregon eCourt and look at court dates and case information online. eFiling data can be exported to Microsoft Excel.

Don't Miss a Court Notice – Achieve Inbox Zero

If you achieve “Inbox Zero” you are far less likely to miss a court notice. Use Dee Crocker’s DAFT approach to keep your Inbox empty [Defer, Act, File, or Toss]:

Defer

If you don't have time to reply or act on an e-mail, create a task from the message and schedule it for a later time.

Act

If you can respond to an e-mail in less than five minutes, do so.

File

File messages that don't require a response when they arrive. Move messages to appropriate folders in your Inbox or better yet save them directly to the client's folder on your computer or network. You can download electronic filing assistants (<http://www.osbar.org/publications/-bulletin/13apr/managing.html>) to make this process easier. If you are a Mac user, see <http://oregonlawpracticemanagement.com/2014/05/06/email-filing-assistants-for-the-mac/>.

Toss

Toss (trash) unneeded messages immediately.

Keep Other Best Practices in Mind

For complete guidelines on how to handle client e-mail see these articles:

Email Missteps: Documenting Email as Part of a Client's File, Part I

<http://www.osbar.org/publications/bulletin/13apr/managing.html>

Filing Protocols to Capture It All: Documenting Email as Part of the Client's File, Part II

<https://www.osbar.org/publications/bulletin/13may/managing.html>

Be particularly careful about junk mail or spam filters that may catch eCourt notices and learn about common eCourt mistakes. See **Zero Tolerance for e-Filing Error: Avoid Committing Malpractice, with a Few Clicks of Your Mouse**, available online at

<http://www.osbar.org/publications/bulletin/12febmar/practice.html>.

Originally published at <https://oregonlawpracticemanagement.wordpress.com/2014/04/29/ecourt-notices-forwarding-is-up-to-you-oregon-ecourt-week/> [April 29, 2014].

How to Auto-Forward Oregon eCourt Messages and Mark them as High in Importance Using Outlook 2010 as an Example

In the Oregon eCourt system, court notices (hearings, trial dates, entry of judgment) are sent from the Oregon Judicial Department using the domain @ojd.or.state.us. Notices regarding submitted, accepted, or rejected filings are sent from the Tyler Technologies File and Service system using the domain @tylerhost.net. **In order to copy staff or other lawyers on all eCourt notices, create rules for both domains.**

Here are step-by-step instructions for creating a rule in Outlook 2010 to mark all messages sent from @ojd.state.or.us as important and auto forward copies to specific people (staff, other lawyers). Repeat these steps to create the a second rule for messages sent from @tylerhost.net.

The concepts for rule creation set out in this example will apply when auto-forwarding e-mail in other versions of Outlook, in Gmail, or in other e-mail programs such as Windows Live Mail, Thunderbird or Apple Mail.

1. Click the Home tab in the ribbon.
2. From the toolbar, select Rules ▼ Manage Rules & Alerts ...
3. Select the New Rule... button.
4. The Rules Wizard launches.
5. Locate the heading **“Start from a blank rule.”**
6. Select “Apply rule to messages I receive.”
7. Click Next ►
8. In Step 1 - Select condition(s) find the condition “with specific words in the sender’s address” and check the box.
9. In Step 2, Edit the rule description by clicking on the specific words link.
10. The Search Text box appears. In the top line, enter @ojd.state.or.us. (without the period)
11. Click Add, click OK, then click Next ►
12. In Step 1 – Select conditions(s) find the condition “mark it as importance” and check the box.
13. In Step 1 – Select conditions(s) find the condition “forward it to people or public group” and check the box.
14. In Step 2, Edit the rule description. Click first on the importance link. “Specify the importance to set” appears. Select “High” from the pull-down menu and click OK.
15. Next, click on the people or public group. In the To► box, type the e-mail address(es) of the person(s) to whom you wish to forward the e-mail. Separate multiple e-mail addresses by semi-colons. Tip: you can also select e-mail addresses from your Address Book list.
16. At this stage, you can also elect to move eCourt messages “to a specified folder.” If you choose this condition, be sure to edit the rule description to select the folder destination.
17. When done adding e-mail addresses, click OK, and then click Next.
18. The next step in the Rule allows you to set exceptions. There are none. Click Next.
19. In Step 1 – Specify a name for this rule, such as “Forwarding Oregon eCourt messages.”
20. In Step 2 – Setup rule options. “Turn on this rule” is checked by default. Check other boxes as desired.
21. In Step 3 – Review the rule description and edit if necessary. Select Finish to complete the rule. Click OK to close the Rules and Alerts box.
22. REPEAT THESE STEPS TO CREATE A SECOND RULE FOR @tylerhost.net. Notices from File and Serve (submitted, accepted, and rejected filings) come from Tyler Technologies @tylerhost.net. Court notices (hearings, trial dates, entry of judgment) are sent from @ojd.or.state.us.

Tips

- If using Microsoft Exchange Server or Exchange Online set up rules only when you are connected to your Exchange server, not when you are offline.
- It should not be necessary at Step 8 to choose the conditions “sent only to me” or “where my name is in the To box.” The rule will automatically mark all messages received from @ojd.state.or.us or @tylerhost.net as important and auto-forward them to the persons specified.

**Oregon eCourt
Organizing Your Email
PLF CLE Now Available**

On June 18, 2014, the PLF presented “Survival Tips for Practicing in eCourt and Organizing Your Email.”

The eCourt portion of this program has been replaced by the OSB PLF CLE, “Oregon eCourt Update” presented on November 19, 2014.

“Organizing Your Email” is now available as a separate CLE on the PLF website, www.osbplf.org > Past CLE. The goal of “Organizing Your Email” is to help lawyers and staff members achieve “Inbox Zero” and avoid missing electronic deadlines and other critical eCourt notices. This one hour CLE teaches lawyers and staff easy-to-follow tips, including:

- Efficiently processing email
- Organizing email inboxes
- Eliminating junk mail
- Creating email rules – with step-by-step directions (necessary for forwarding eCourt notices)
- Filing in email subfolders
- Saving email to client files
- Integrating Acrobat with Outlook
- Using filing assistants: SimplyFile, Outlook4Lawyers, SpeedFiler
- Reducing email volume

“Organizing Your Email” is accredited for 1.0 practical skill credits and is available at no charge in the following formats: CD, DVD, MP3, and streaming video-on-demand. Program Materials are available to download from the PLF website under the “Quick Links” heading.

Oregon eCourt Searching eCourt Calendars

There are two options for searching calendars in the Oregon eCourt system.

The first uses a publicly accessible link from the Oregon Judicial Department home page: <http://courts.oregon.gov/OJD/OnlineServices/calendars/Pages/index.aspx>.

The second approach requires logging in to the eCourt system: <https://publicaccess.courts.oregon.gov/PublicAccessLogin/Login.aspx?>. The search methods are identical regardless of the approach used.

The following search criteria are available when searching eCourt calendars:

Attorney	Party or Defendant Name
Case	Date Range
Judicial Officer	

Search by Case is the default search method. To search by any other criteria, click the drop-down arrow.

When searching by Attorney, use the attorney's last name and first name or bar number.

Search Calendar

(*) Required Fields

Search By: Attorney

Use Soundex

Attorney Information:	<input checked="" type="radio"/> Name <input type="radio"/> Bar Number		
	* Last Name	* First Name	Middle Name
	<input type="text"/>	<input type="text"/>	<input type="text"/>

Date Range:	* On or After	and	* On or Before
(e.g. 11/12/1955)	<input type="text"/>		<input type="text"/>
	4/26/2014		4/26/2014

Search Clear Form

When searching by Judicial Officer, the search screen offers a pull-down menu of all judicial officers in the state in ascending order, beginning with Abar, Donald and ending with Zuver, Julie:

Search Calendar

(*) Required Fields

Search By: Judicial Officer

Judicial Officer:	Abar, Donald
Case Category:	<input checked="" type="checkbox"/> Criminal <input checked="" type="checkbox"/> Family
	<input checked="" type="checkbox"/> Civil <input checked="" type="checkbox"/> Probate and Mental Health

Date Range:	* On or After	and	* On or Before
(e.g. 11/12/1955)	<input type="text"/>		<input type="text"/>
	4/26/2014		4/26/2014

Search Clear Form

When searching by Date Range, you can filter your search by Case Category. Case categories include: Criminal, Family, Civil, and Probate/Mental Health. By default, all four are selected. De-select categories you do not wish to include in your search.

Search Calendar

(*) Required Fields

Search By:

Case Category:	<input checked="" type="checkbox"/> Criminal	<input checked="" type="checkbox"/> Family
	<input checked="" type="checkbox"/> Civil	<input checked="" type="checkbox"/> Probate and Mental Health

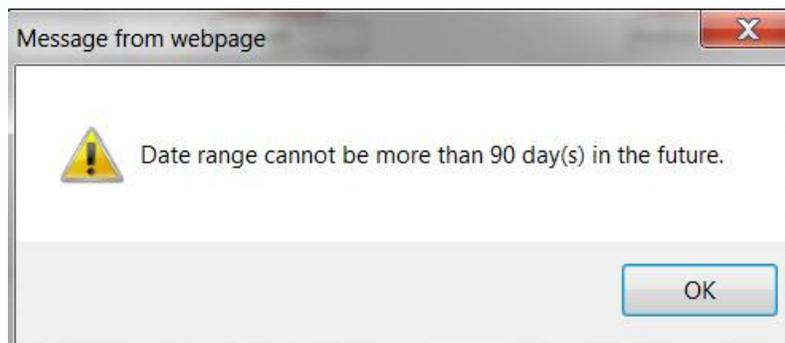
Date Range: (e.g. 11/12/1955)	* On or After <input type="text" value="4/26/2014"/>	and	* On or Before <input type="text" value="4/26/2014"/>
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Phonetic Searches Using Soundex

Phonetic searches are available when searching by Party or Defendant Name or by Attorney if using last name and first name criteria. Check the Soundex box in the upper right portion of the screen to retrieve calendar dates for search names that sound alike.

eCourt Calendar Searches Limited to 90 Days in the Future

When searching the calendar, date ranges cannot be more than 90 days in the future. If you attempt to search more than 90 days out, the following message will appear:



Searching OJIN Circuit Court Calendars

Search OJIN Circuit Court Calendars here: <http://courts.oregon.gov/OJD/pages/courtcase.aspx>. Search criteria are limited to Date, Party Name, and Attorney. Note these conditions:

The (OJIN Circuit) Court Calendar allows entering up to four identifiers to locate an event occurring on a specific court docket. A minimum of at least one identifier is required. Providing more information will result in more accurate search returns.

The Party Name and Attorney fields are case-insensitive and can be all or part of a name. For example, entering "John" in the Party Name field will give results of all the cases with "John," "Johnson," and "Van Johnson."

Names are stored in the same manner as in the OJIN system "Last First Middle" with no commas and one space between names. For example, Michael Jay Smith is actually stored as "Smith Michael Jay." Searching for "Michael Jay Smith" will not find any results; however, searching for "Smith Michael" or "Smith M" or "Smith Michael Jay" will include the desired results.

You can only search for the first plaintiff and defendant on a case. You can only search for the first three attorneys on a case, with the system first looking for attorneys on the scheduled event and then for active attorneys on the case. Search results will return the first 500 entries on the docket.

OJIN Online subscribers have access to more functionality.

Originally published at <http://oregonlawpracticemanagement.com/2014/05/03/searching-ecourt-calendars/> [May 3, 2014].

How to Back Up Your Computer

Disasters happen to someone else somewhere else. Too bad this isn't true. Despite being trained – if not genetically hardwired – to anticipate the worst, many lawyers fail to have an adequate backup and recovery system to protect all the important information entrusted to their computers. The information stored on your computer is truly the lifeline of your practice. Safeguarding this information is critical to your practice's survival and an ethical obligation you owe to your clients.

Look around you. If your computer crashed or was ruined in a disaster, how much would the downtime cost you? Even a relatively minor calamity can wreak devastation on your law practice. Just consider the prospect of recreating all your documents, forms, client billing, time records, calendar entries, contacts, and emails. Scary, isn't it? If you aren't safeguarding your data on a regular basis, keep reading so you can learn how to get a system in place. Even if you have the support of an Information Technology (IT) department for your law office, keep reading so that you understand what they are doing and can apply it to your home computer.

DATA BACKUP OR DISK IMAGING?

The term "data backup" refers to backing up or making a duplicate copy of selected information stored on your computer. The term "disk imaging" refers to making a duplicate copy of everything on your computer – operating system, software applications, program customizations, folders, and files – not just the data. Disk imaging is the better choice. Why is disk imaging so important? Imagine that your computer hard drive has crashed. Everything is gone. Luckily, you took the time to back up your data. However, before you can access it, you must first reinstall your operating system, programs, security patches, updates, etc. Only then can your computer read the data you saved. If you need further convincing, take a moment to look at all the programs you have on your computer. If the prospect of reloading all those programs seems daunting – as it should – consider buying a disk imaging program for your office. A disk imaging program is inexpensive, easy to use, and allows you to get back up and running quickly. (See Resources at the end of this article.) It will prove its worth in gold, or at least in many, many billable hours.

CHOOSING A BACKUP AND RECOVERY SYSTEM

A good backup and recovery system has three elements: (1) automatic backup software; (2) a reliable storage device that is kept offsite; and (3) someone who can be trusted to ensure that the system is working. A good backup and recovery system will let you sleep easier knowing that your valuable information is protected.

1. Make It Automatic. The key to the software is that it must work well for the user. Otherwise, the user won't use it. Automatic backup software is the safest choice because you don't have to fit backing up into your day. Instead of an annoying pop-up window asking if you want to back up now or later, it just quickly and quietly does the backup automatically. It doesn't allow you to elbow it aside when you're rushed and taking the short view of your priority list. The automatic software program you choose should be easy to set up. Typically, once you install the program, an interactive setup allows you to specify what you want backed up, when, and how often. Select a program that has a restore feature so that any archived information can be restored to your computer.

2. Storage Devices. Once you have backed up all the data and programs on your hard drive, you will need to find a place to store the data until you back up again. Dedicating an external hard drive to the backup process is far superior to downloading the backup files onto numerous discs. A second removable hard drive or other external storage device is an affordable convenience; it will allow you to make a duplicate backup to be stored offsite, with the original locked in your law office's fireproof safe or file cabinet. When buying an external hard drive, purchase the largest capacity you can reasonably afford. Another storage option is the Iomega Rev, a combination of hard drive and special disks. Useful for PCs or Macs, it is a greatly improved combination of the Iomega Zip Drive and the Iomega Removable Hard Disk Drive. It claims to provide fast and easy backup, disaster recovery, and data transport solutions for a single PC. Other features include password protection, encryption, and removable disks, making it more secure and flexible than an external hard disk drive. The sealed disks are more durable and have higher capacity than CDs or DVDs. For more information, visit www.iomega.com. Especially in areas prone to natural disasters, the safest storage of backup information is offsite, preferably in another geographic location. The importance of this topic was recently underscored by the devastation delivered by Hurricanes Katrina and Rita. Using Internet-based backup services is one possible solution. If you choose this option, read and understand [Oregon Formal Opinion No. 2011-188](#), Information Relating to the Representation of a Client: Third-Party Electronic Storage of Client Materials. Also see [Odds & Ends, Safeguarding Client Information in a Digital World](#) by Helen Hirschbiel, Oregon State Bar Bulletin (July 2010).
3. Disk Imaging /System Backup Policies and Procedures. If you choose a disk imaging program, your computer backup and recovery policy is simple – just set the frequency of the backup. How often should you perform backups? The frequency should be dictated by your comfort level with risking any data created or received since your last backup. Most technology advisors recommend that you back up your new file information once daily, back up your full system once weekly, ship backups out of the geographic area semi-weekly (if living in a disaster-prone area), and do periodic restores semi-weekly or monthly. Your policy should also designate the person who is responsible for performing periodic test restores to be sure the program is working. Part of ensuring that the system is working is to periodically check to see whether you can restore a file and then compare it carefully with the file you backed up. The restored information should be identical to the backed-up information. The time to check is before you need the information. A recovered file that is unreadable because it is corrupt is not a surprise you want in the eleventh hour of any case.

SELECTING YOUR BACKUP SOFTWARE

When you compare backup software products, look for one that allows you to: (1) recover entire operating systems and/or individual files; (2) schedule backups to occur automatically; (3) customize the timing of backups based on the occurrence of events such as billing; (4) back up and restore quickly; and (5) test the restoration process. To recover entire operating systems, applications, and data, use disk imaging software. If you need assistance with these or other practice management questions, call the PLF at 503-639-6911 or 1-800-452-1639.

RESOURCES

For Product Reviews and Articles:

Law Technology Today Resource Center (ABA) – Data Backups, SaaS (cloud computing), and Ethics of Online Backups –

<http://www.lawtechnologytoday.org/2012/10/5-steps-to-a-better-backup-strategy/>

http://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/databackupfyi.html

http://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/saas.html

http://www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/OBSethicsfyi.html

Law Practice Today – http://www.americanbar.org/groups/law_practice_management.html

Law Technology News – www.lawtechnologynews.com

Legal Ethics Forum – www.legalethicsforum.com

Backup Review – a top 25 list of online backup providers (updated monthly) –

<http://www.backupreview.info/>

CNet.com – www.cnet.com

PC Magazine online – www.pcmagazine.com

To Comparison Shop:

Cyberguys.com – www.cyberguys.com

PriceGrabber.com – www.pricegrabber.com

Google Shopper Mobile app - <http://www.google.com/mobile/shopper/>

Disk Imaging/System Backup Software:

Windows

Acronis True Image – <http://www.acronis.com/>

Paragon Drive Backup – <http://www.drive-backup.com/>

Norton Ghost, Backup Exec, and other products – www.norton.com

O & O DiskImage - <http://www.oo-software.com/home/en/>

Mac

Carbon Copy Cloner - <http://www.bombich.com/>

Time Machine – built into Mac OS, version X or later.

Intego Personal Backup for Mac - http://download.cnet.com/Intego-Personal-Backup/3000-2242_4-27044.html

Drop DMG – <http://www.macupdate.com/app/mac/7099/dropdmg>

Hard Drive Clones:

SATDOCK22R – <http://us.startech.com/>

Online Data Storage Resources (Cloud Computing/SaaS):

Backup Review – a top 25 list of remote backup providers (updated monthly) – <http://www.backupreview.info/>

Carbonite – www.carbonite.com

CrashPlan – www.crashplan.com

EVault – www.evault.com

Files Anywhere – www.filesanywhere.com

Iron Mountain – www.ironmountain.com

Mozy – www.mozy.com (ABA Member discounts)

Vault Logix - <http://www.dataprotection.com/>

NOTE

The information in this practice aid is provided to assist attorneys in setting up effective backup systems. It does not establish, report, or create the standard of care for attorneys, nor does it constitute an endorsement of a particular product or vendor. Attorneys who elect to use online data storage resources should carefully review [Oregon Formal Opinion No. 2011-188](#) and conduct their own appropriate research.

Online Data Storage Providers

An online data storage provider is an Internet-based service that backs up your entire system automatically and stores the data on the Internet in a secure form and location. You may see this process referred to as storing your data “in the cloud,” Web-based data storage, or “software as a service” (SaaS). Online data storage providers were previously referred to as “Application Service Providers” (ASPs).

This online data storage method for backup and recovery has generated much discussion in legal circles. Using Internet-based backup services is one possible solution; it is not a required solution. Before choosing this option, read and understand [Oregon Formal Opinion No. 2011-188](#), *Information Relating to the Representation of a Client: Third-Party Electronic Storage of Client Materials*. Also see [Odds & Ends, Safeguarding Client Information in a Digital World](#) by Helen Hierschbiel, *Oregon State Bar Bulletin* (July 2010). See also [Cloud Caution: Look Before You Leap](#) by Joshua Poje, *YourABA* e-newsletter, ABA Legal Technology Resource Center (2010). Online data storage can provide access to documents in a way that offsite backup cannot – especially if your offsite backup is stored in your same town or locale. This is one of the many tragic lessons learned in the wake of Hurricane Katrina, when one-third of the lawyers in Louisiana lost their offices, libraries, computers, client files, and homes. Even if the lawyers had backup devices or CDs at their home or other local site, few were able to access the backups. The ability of displaced lawyers to retrieve their client documents and financial data through the use of online storage provides a powerful incentive to consider this alternative.

Online backup for PCs and servers can provide up-to-the-minute data backup protection; however, many lawyers have reservations about using online data storage. Generally, the security issues associated with storage are the main concern. Placing client information in the hands of third parties, the solvency of the provider, the security of the storage location, the method of storage, and the preservation of confidentiality are high on the list of reasonable concerns considered by lawyers. These concerns apply whether lawyers are storing paper files in a document storage facility or storing electronic data through an online provider. With a paper document storage facility, once you are confident that the facility either has no access to your stored documents or maintains confidentiality and privacy, you turn over the boxes of client files for storage and periodic retrieval. Placing electronic client data in the hands of third parties who remotely upload it to their Web site is really not any different. Proper security is crucial for each. A hacker can access an electronic site that isn't secure; a thief can break into and enter a paper storage facility that isn't secure.

Both a physical storage center and an online provide the user with a special key. An online provider's security can be so restrictive that the user may be the only person who has the “key” – an aspect of storage that requires thought, planning, and safeguarding. There may be no electronic “locksmith” to help you enter your “storage facility” if the key is lost. Therefore, if you are the only key holder, you should store the key (usually a password) locally somewhere that is secure, such as a safe deposit box, and also somewhere secure in another geographic area. Don't rely on your memory – this is a key (password) you hopefully will never have to use.

When choosing an online data backup, storage, and restore system, you may want to ask these questions:

- Does the system offer the highest form of security data encryption available in the United States: Advanced Encryption Standard (AES)?
- Does the system offer a private encryption key that is held only by your office?
- Does the system encrypt all transmitted data at the source?
- Does the system provide continuous, automatic backups?
- Does the system have the capability to back up time-sensitive data like open files, e-mails, and databases?
- Does the system provide full coverage for complete data protection and recovery, including backup, offsite storage, ability to restore data over the network or dedicated storage device, online remote recovery, and offline archiving and recovery?
- Does the system provide instant file restores 24 hours a day, 7 days a week, 365 days a year?
- Does the system provide automatic notification of exceptions or problems encountered?
- Does the system provide detailed activity reports?
- Is the online data server in a geographic location that is separate from your locale?
- Does the online data storage provider take precautions for disasters in its own area, such as backing up on a server in another location?
- Is the online data storage provider's physical site secure? (The highest level of security is a Tier One Data Center Facility.)
- Is there a secure way for your firm to access the stored information if someone loses the law firm encryption key?
- What access does the cloud service provider have to your data? Be sure to review the Term of Service (TOS) or End User Licensing Agreement (EULA) or Service Level Agreement (SLA). Make no assumptions.
- Does the cloud service provider actually store your data, or is it stored elsewhere? Review any agreement between the cloud service provider and its data storage facility. Make no assumptions.

Online Data Storage Resources (Cloud Computing/SaaS):

Backup Review – a top 25 list of remote backup providers (updated monthly) –

<http://www.backupreview.info/>

Carbonite – www.carbonite.com

CrashPlan – www.crashplan.com

EVault – www.evault.com

Files Anywhere – www.filesanywhere.com

Iron Mountain – www.ironmountain.com

Mozy – www.mozy.com (ABA Member discounts)

Vault Logix - <http://www.dataprotection.com/>

NOTE

The information in this practice aid is provided to assist attorneys in understanding online storage provider when evaluating their backup and storage systems. It does not establish, report, or create the standard of care for attorneys, nor does it constitute an endorsement of a particular product or vendor. Attorneys who elect to use online data storage resources should carefully review [Oregon Formal Opinion No. 2011-188](#) and conduct their own appropriate research.

Zero Tolerance for e-Filing Error: Avoid Committing Malpractice, with a Few Clicks of Your Mouse

By Beverly Michaelis

Online case management and electronic case filing systems (CM/ECF) offer great convenience for lawyers and legal staff — extended hours, online document filing, easy access to court calendars and more. But with technological advancement comes peril.

In recent years, courts have punished lawyers mercilessly for CM/ECF-related mistakes.

What Can Go Wrong

In 2007, an attorney who failed to appear in Colorado was required to pay the opposing party's attorney fees when his firm's spam filter inadvertently blocked the court's e-notice of a settlement conference. *Pace v. United Serv. Auto. Ass'n*, 2007 U.S. Dist. Lexis 49425 (D. Colo. July 9, 2007). When the firm's I.T. administrator adjusted the spam filter to block messages with offensive content, he failed to white-list the court's e-mail domain. He never checked the spam filter to see whether e-mail messages from the court were being blocked.

Two years later, the U.S. Court of Appeals for the 8th Circuit was equally unsympathetic when the losing party failed to timely file a notice of appeal because an employee at the law firm accidentally deleted an e-notice informing the parties that a final order had been issued. *American Boat Co. v. Unknown Sunken Barge*, 567 F.3d 348 (8th Cir. 2009).

In *Kinsley v. Lakeview Reg'l Med.Ctr. LLC*, 570 F.3d 586 (5th Cir. 2009) the plaintiff uploaded the wrong document to the CM/ECF system but argued that a deficiency notice directing him to refile within five working days extended the time for electronically filing a notice of appeal. The 5th Circuit disagreed. See Also *In re Sulzer*, No. 1:01-CV-9000, MDL Docket No. 1401, 2006 U.S. Dist. Lexis 10712, 2006 WL 4910299 (N.D. Ohio March 14, 2006). (Counsel failed to enter his e-mail address into ECF system and did not receive notice of entry of an order. The court denied his motion for extension of time to appeal.)

In 2010, the U.S. Court of Appeals for the 4th Circuit upheld the dismissal of a wrongful termination case when the plaintiff's lawyer failed to respond to a motion for summary judgment served by e-mail. The lawyer told the court he never received electronic notice of the motion because of his various computer problems, including a malware virus. *Robinson v. Wix Filtration Corp* 599 F.3d 403 (4th Cir. 2010). The *Robinson* case was particularly egregious, as the lawyer knew the deadline for dispositive motions in the case was pending during the time his firm was experiencing a computer meltdown. He never checked the ECF system for docket activity and failed to inform the court of his inability to receive e-notices. To make matters worse, when Robinson became aware that the deadline had passed, he made a strategic decision not to contact opposing counsel or the court.

In 2011, a lawyer in Philadelphia lost the right to pursue a \$35,000 fee claim because he did not receive electronic notice of the scheduled arbitration. The lawyer relied on his wife, who was also his secretary, to retrieve and read e-mail. When she broke her arm and was out of the office for an extended period, the lawyer simply allowed e-mail to accumulate. He made no alternative arrangements to retrieve e-mail, failed to hire a temporary secretary during his wife's absence, and did not know how to use Philadelphia's ECF system to view upcoming docket activity. As with Robinson, the lawyer did not inform

the court of his inability to access e-mail. *Knox v. Patterson*, PICS Case No. 11-0256 (C.P. Philadelphia, Jan. 11, 2011).

How Can Oregon Lawyers and Staff Avoid These Traps?

Understand CM/ECF Systems

Attend training, watch tutorials, download manuals, read answers to frequently-asked questions, learn tips and tricks, and bookmark help desk pages by following these links:

U.S. District Court of Oregon (www.uscourts.gov/en/e-filing/cm-ecf-and-pacer);
U.S. Bankruptcy Court, District of Oregon (www.uscourts.gov/Ecf/helpdesk.cfm);
Oregon eCourt FAQs (<http://courts.oregon.gov/OJD/OnlineServices/eFile/electronicFilingFAQs.page>); and
Oregon eCourt Web Training and Online Study: <https://oregon.tylerhost.net/>.

To schedule a presentation on Oregon eCourt for your organization or agency, call or e-mail:

Oregon Judicial Department
Office of Education, Training and Outreach
503-986-5911
oeto@ojd.state.or.us

Use Technical Support if Necessary

The following technical support resources are available in Oregon:

Oregon Judicial Department Help Desk – Monday through Friday 7:00 am to 6:00 pm
503-986-5582 or 1-800-922-7391
ETSDHelp@ojd.state.or.us

OJIN Online Subscriber/Business Support – Monday through Friday 8:00 am to 5:00 pm
1-800-858-9658
OJIN.Online@ojd.state.or.us

File & Service/eFiling User Support – Monday through Friday 7:00 am to 7:00 pm
Tyler Technologies
1-800-297-5377
Efiling.support@tylertech.com

Learn How to Retrieve Docket Activity

Learn how to retrieve docket activity and search court calendars online for matters involving a specific attorney. In the U.S. Bankruptcy Court or U.S. District Court of Oregon, access the CM/ECF system, click on “Reports” in the blue navigation tab at the top of the page, click on the link “Docket Activity,” check the box “Only Cases to Which I Am Linked,” enter the desired date range, and choose “Run Report.”

For instructions on searching Oregon court calendars refer to the PLF Practice aid, “Searching Oregon eCourt Calendars,” available on the PLF Web site, www.osbplf.org.

Manage Your E-mail Carefully

Keep your e-mail address current with the Oregon State Bar (OSB). The Oregon eCourt system generates notices to the filing attorney at the e-mail address on file with the OSB. If you are using

eService through Oregon eCourt, you must manually update your contact information through the eService system.

In the federal CM/ECF system, you must log in to your account and update your information.

If you download e-mail into Outlook or a similar program, consider changing the default settings to prevent your trash from being automatically emptied each time you exit the program. Keeping your inbox lean and mean is usually a good idea, but what happens if you accidentally delete a court notice? If the trash is emptied automatically when you exit, it may be difficult, if not impossible, to recover the message. (Desktop search engines can find e-mail that is deleted and sitting in trash, but once the trash is emptied, the messages are no longer visible to the system.) Instead, consider taking manual control of emptying your deleted items so you can review them one last time.

If you accidentally delete a court notice and empty your e-mail program's trash, you can attempt to undelete the file and restore its path using Recuva, a free file recovery program from Piriform (www.piriform.com/recuva). Otherwise, log in to the court's eFiling system and run a docket activity report or check the court calendar online.

Know the capacity of your mailbox on the mail server and the consequences if your mailbox becomes full. In some cases, your Internet Service Provider (ISP) will block receipt of incoming messages and send a "bounce back" message if your mailbox is full. In other cases, the ISP may delete or archive older messages to make room for new messages. In either instance, you could miss an important court date.

Approach e-Filing Thoughtfully

Give documents meaningful file names so they are easily identified and distinguished. Carefully review all information entered into the ECF system, as well as the document selected for uploading. When filing is complete, check the confirmation.

Besides selecting the wrong document for uploading, other common e-filing mistakes include the following: entering incorrect party or event codes; failure to include a certificate of service; failure to associate the attorney with the filing party; failure to identify exhibits; inclusion of sensitive or confidential information; failure to segregate documents; and improper signatures. (Thankfully, at least one court has accepted a late notice of appeal in which the initial e-filing had an incorrect event code: *Vince v. Rock County*, 604 F.3d 391 (7th Cir. 2010).

Be aware of applicable ECF file size limitations. Jurisdictions vary, sometimes significantly. If you attempt to upload a document that is too large, your filing will be rejected and you may miss a deadline. See *Satterlee v. Allen Press Inc.*, 455 F. Supp. 2d 1236, 1244 (D. Kan. 2006) ("While plaintiff's counsel now contends that the documents were not filed because their large size exceeded the maximum amount allowed by the electronic filing system and that this was the fault of his legal assistant, plaintiff's counsel bears responsibility for this oversight....") Adobe Acrobat can help you properly split and label large files for uploading to ECF systems. The Oregon system can accommodate files sizes up to 25MB.

Keep your credit card information current with the court. Required fees must be paid when documents are electronically filed. If your card has expired and the fees are not paid, your filing will be rejected even if the document was uploaded prior to the deadline. See *Kellum v. Comm'r of Social Security*, 2008 FED App. 0591N, 2008 U.S. App. Lexis 21138 (6th Cir. 2008).

It is never a good idea to file at the last minute. E-filing is a somewhat tedious process: you must log in, enter the appropriate field codes, pay applicable fees, select and possibly split your documents for filing,

and so on. If you lose your Internet connection, your computer crashes or you encounter other technical difficulties, there is no time for recovery. Upload documents during regular business hours when help desk staff are available and you have sufficient time to remedy any technical glitches.

Remember the adage “two heads are better than one?” Add staff e-mail addresses to court filings whenever possible. This will ensure delivery of court notices to the attorney-of-record and designated staff members who can enter deadlines into the calendaring system. If the ECF system will not permit multiple e-mail addresses, establish a generic e-mail address for court notices, such as *docketing@abclawfirm.com*. Set mailbox permissions to give everyone access to the generic mailbox. You may also create rules in your e-mail program to forward copies of court notices to staff. This is the best approach in Oregon since notices are only sent to the filing attorney. Refer to the PLF Practice Aid, “eCourt Notices – Forwarding is Up to You,” available on the PLF Web site, www.osbplf.org.

All three approaches are designed to keep important notices from slipping through the cracks. If you are ill, on vacation or simply get buried by work and don’t have time to go through your inbox, staff can monitor incoming e-mail and docket court dates.

Know the Applicable Court Rules

Learn the rules and standing orders for each court you practice in.

Do “business hour” deadlines apply? In some jurisdictions, if your pleading is e-filed after the courthouse is closed, your document is deemed filed on the next business day. Does the filing deadline vary based on the type of document being filed? In Minnesota, “new cases” must be filed by 5 p.m. Other documents may be e-filed up to midnight on the day of the deadline.

Are you required to serve paper copies on non-e-filing parties or the judge?

Is the court in a different time zone? (One Oregon firm believed it had “beaten the clock” by uploading a document a few minutes before the Pacific Standard Time deadline, only to discover later that Mountain Time controlled.)

Keep Your Own File

Don’t rely on third parties to keep records for you. Be the keeper of your own file. Mistakes by court personnel are rare, but they do happen.

In 2003, nearly 50,000 court files were erased in Idaho’s 3rd District Court during an overhaul of the court’s computer system. The entire case log was affected, including all civil, criminal, traffic and family court matters.

In late 2012 or early 2013 the Washington State Administrative Office of Courts was hacked, exposing 160,000 social security numbers. See <http://oregonlawpracticemanagement.com/2013/05/09/washington-state-administrative-office-of-courts-hacked/>.

When three servers crashed in the New Orleans Civil District Court in 2010, more than 150,000 digital mortgage and conveyance records were lost. Soon after the crash, it was learned that the remote backups had also been wiped out because of a software problem.

While Oregon hasn’t experienced a technological catastrophe, our system isn’t problem-free. In 2010, the Professional Liability Fund (PLF) requested a court file only to find that a key document was missing.

It was logged in to OJIN and appeared on the OJIN Case Register but was missing from the scanned file. The court's original paper file had been shredded. The lawyer who submitted the document did not retain a copy.

More recently, the PLF has discovered instances where the Oregon eCourt REGISTER OF ACTIONS was incomplete or entry of documents into the system was significantly delayed.

Some Documents Must be Retained in Original Paper Form

In U.S. Bankruptcy Court "An electronically filed document described in FRBP 1008 [petitions, lists, schedules, statements, or amendments] or a properly completed, signed, and filed LBF #5005 [electronic filing declaration] ... must be maintained by the filing ECF Participant or the firm representing the party ... until the later of the closing of the case or the fifth anniversary of the filing of the document, except as otherwise provided for trustees by the U.S. Department of Justice. The filing ECF Participant or firm retaining the original document or LBF #5005 and scanned electronic replica of the document must produce it for review upon receipt of a written request." Oregon LBR 5005-4(e).

In Oregon eCourt "... an image of a document that contains the original signature of a person other than the filer ... (must be retained) in its original paper form for 10 years (unless the court orders otherwise) On reasonable notice, the filer must provide a paper copy of the original for inspection by another party, the clerk, or the court." Oregon UTCR 21.120 effective May 1, 2014. (Chief Justice Order 14-012 March 31, 2014.) "Filer means a person registered with the electronic filing system who submits a document for filing with the court." UTCR 21.010(6).

These examples are not exhaustive. Conduct your own appropriate legal research to identify other instances where original paper documents must (or should) be retained. See the PLF Practice Aid, "File Retention and Destruction," available on the PLF Web site, www.osbplf.org.

Secure Your Computer System

It is absolutely essential that you back up your computer system. This is even more critical as we become increasingly "paperless." For more information, see the PLF practice aid, How to Backup Your Computer, available on the PLF Web site (www.osbplf.org). Select Practice Aids and Forms, then Technology.

The American Bar Association Legal Technology Resource Center offers free resources to inform and update lawyers about security issues, including links to security sites, analysis tools, security accessories and security software. These resources can be found at:

www.americanbar.org/groups/departments_offices/legal_technology_resources/resources/charts_fyis/securityresearchfyi.html.

Practice Smart Spam and Junk Mail Filtering

While some courts have excused lawyers for missing a deadline due to an errant spam filter,¹ most are not given a second chance. Follow these steps to prevent court notices and other important e-mails from getting blocked:

Practice white-listing. Set your spam or junk e-mail filters to allow receipt of e-mails from approved senders or domains. Include courts, administrative agencies, key clients, opposing counsel and any other senders whose e-mail you don't want to miss. You may need to make this change at the ISP level and in the settings of your specific e-mail program. If you aren't sure how to white-list a sender or domain, search the Help or Support pages for your e-mail program or provider.

Review quarantine summaries daily. Aggressive spam filters like Google's Postini will occasionally block senders and domains you have added to your white-list if the filter finds content in the e-mail to be possible spam. Court e-mail addresses and domains can also change, causing new notices to be marked as spam.

Check junk mail folders daily. Approved senders and domains can make it past your ISP or server-level spam filter, then land in your e-mail program's junk mail folder. Outlook permits users to disable automatic filtering of junk mail to avoid this problem, but understand that if Outlook believes a message originated from a blocked sender, it will still land in your junk mail folder. The best practice is to check your junk mail folder regardless.

Is There a Safety Net?

Once you've learned how to retrieve docket activity online, consider making it a weekly routine. Every Friday, run a docket activity report for a specified date range or search circuit court calendars online. Compare the court's calendar with yours and update your calendar if necessary.

Thoroughly train support staff on CM/ECF systems, proper handling of court notices, and technology in general.

If you have no staff, consider creating a secondary e-mail account for yourself to which you can forward eCourt notices. If your primary e-mail account goes down, you can check the second account.

If you're experiencing problems, tell the court. The attorney who lost the right to arbitrate in Philadelphia would probably still have a viable \$35,000 fee claim if he had just picked up the phone. According to the judge, "A telephone call to (my) chambers might have avoided the whole predicament."

Endnote

See *Pace v. American Int'l Group*, 08 C 945 (N.D. Ill; Nov. 1, 2010) and *Shuey v. Schwab*, Case No. 08-4727 (3rd Cir. 2009). For a discussion of these cases, see Eric Goldman's Technology and Marketing Law Blog at <http://blog.ericgoldman.org/>. See posts dated Nov. 4, 2010 and Dec. 1, 2009.

ABOUT THE AUTHOR

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NOTE

Refer to the current Uniform Trial Court Rules regarding document retention by filers and other Oregon-specific e-filing requirements.

Originally published at <http://www.osbar.org/publications/bulletin/12febmar/practice.html>. Updated by the author 4/2014.

Oregon eCourt Resources

eCourt Training

User guides, reference guides, and rules can be found here:

<http://courts.oregon.gov/OJD/OnlineServices/OJDeFiling/Pages/index.aspx>. Free Web training sessions, including self-study online, are available here: <https://oregon.tylerhost.net/>.

Schedule a presentation on Oregon eCourt for your organization or agency. Call or e-mail:

Oregon Judicial Department
Office of Education, Training and Outreach
503-986-5911
oeto@ojd.state.or.us

Technical Support

Oregon Judicial Department Help Desk – Monday through Friday 7:00 am to 6:00 pm
503-986-5582 or 1-800-922-7391
ETSDHelp@ojd.state.or.us

OJIN Online Subscriber/Business Support – Monday through Friday 8:00 am to 5:00 pm
1-800-858-9658
OJIN.Online@ojd.state.or.us

File & Service/eFiling User Support – Monday through Friday 7:00 am to 9:00 pm (CT)
Tyler Technologies
1-800-297-5377
Efiling.support@tylertech.com

Learn More

- How to whitelist court e-mails and notices
- Checking junk mail and spam filters for court notices
- Achieving “Inbox Zero” and other tips
- Common eCourt mistakes

Articles

- Email Missteps: Documenting Email as Part of a Client's File, Part I
<http://www.osbar.org/publications/bulletin/13apr/managing.html>
- Filing Protocols to Capture It All: Documenting Email as Part of the Client's File, Part II
<https://www.osbar.org/publications/bulletin/13may/managing.html>
- Zero Tolerance for e-Filing Error: Avoid Committing Malpractice, with a Few Clicks of Your Mouse.
<https://www.osbar.org/publications/bulletin/13may/managing.html>

CLEs

“Organizing Your E-mail,” June 18, 2014 PLF CLE available on the PLF website, www.osbplf.org.
“Oregon eCourt Update,” November 19, 2014 OSB PLF CLE available on the PLF website, www.osbplf.org.

Tyler Technologies Odyssey eFile & Serve Training

Tyler Technologies, the vendor for Oregon eCourt, offers frequent efile & serve training sessions. Attorneys and staff are welcome to attend. All training sessions are free. Preregistration required.

Upcoming Training Dates

Thursday, November 20, 2:00 p.m. PST » <https://www1.gotomeeting.com/register/377868432>

Friday, November 21, 10:00 a.m.PST » <https://www1.gotomeeting.com/register/804806089>

Monday, November 24, 10:00 a.m.PST » <https://www1.gotomeeting.com/register/436076489>

Tuesday, November 25, 2:00 p.m. PST » <https://www1.gotomeeting.com/register/162463568>

Wednesday, November 26, 10:00 a.m.PST » <https://www1.gotomeeting.com/register/466228833>

Future Training Dates

Tyler Technologies adds training dates to its schedule on a regular basis. Visit their website at <http://www.tylertech.com/the-tyler-experience/events/client-training/odyssey-file-serve-online-training> for more information.

MCLE Accreditation

Some programs are *pre-approved* for MCLE credit, others are not, but all offerings should receive a 1.0 OSB MCLE practical skills credit.

Registration

As noted above, preregistration is required. Select one of the links above to register or visit <http://www.tylertech.com/the-tyler-experience/events/client-training/odyssey-file-serve-online-training> for more training options.

Who Can Attend

Lawyers or staff.

Cost

All sessions are free.

Oregon eCourt: eFiling UTCRs Amended

On September 29, 2014, the following Uniform Trial Court Rules (UTCRs) were amended out-of-cycle pursuant to Chief Justice Order 14-049: UTCR 21.040, 21.050, 21.070, 21.080, 21.090, 21.100, and 21.120. The changes are summarized below:

UTCR 21.040(2)

Simplifying the rules for filing documents

“When a document to be electronically filed includes one or more attachments, including but not limited to a documentary exhibit, an affidavit, or a declaration, the **electronic filing must be submitted as a unified single PDF file, rather than as a separate electronically filed documents, to the extent practicable.** An electronic filing submitted under this section that exceeds 25 megabytes must comply with subsection (1) of this rule.” Also see UTCR 21.040(2)(c). [Former UTCR 21.040(2) described a complex filing scheme with different rules for specific types of documents: motions to strike, motions for leave to amend, attachments to a petition for post-conviction relief, attachments to a Uniform Support Declaration. Under revised UTCR 21.040(2) all filings are unified by default. Over-size files must still be split. *Stand-alone* affidavits or declarations are filed separately. Otherwise, if they are attachments to another document, the entire document - along with its attachments - is filed as one unified PDF.]

UTCR 21.040(2)(a) and UTCR 21.040(3)

Adding new requirements regarding submission of electronic filings requiring court signature

- Orders, judgments, or other documents requiring court signature must be submitted separately from motions.
- Filers must include appropriate information in the filing comments field for each submission. For example: “Motion for Summary Judgment” and “Proposed Order Granting Motion for Summary Judgment.”
- Any electronically submitted document that requires a court signature must include a blank space “of not less than 1.5 inches and a blank line following the last line of text” to permit the court to affix a signature and signature date.

UTCR 21.040(2)(b)

Adding new requirements regarding submission of electronic filings that include confidential attachments

- If an electronic filing is not confidential but includes an attachment that is confidential (or exempt from disclosure), submit the attachment separately.
- Filers submitting a confidential attachment must select the “confidential check box” after attaching the confidential document.
- Filers must include appropriate information in the filing comments field for each submission. For example: “Motion for Stay” and “Confidential Attachment to Motion for Stay.”

UTCR 21.040(2)(c)
Clarifying requirements for filing affidavits and declarations

- Documents that *include* affidavits and declarations *as attachments* must be submitted as a unified single PDF under UTCR 21.040(2).
- Affidavits and Declarations that are *stand-alone documents* (not an attachment to another document) are filed separately.

UTCR 21.070(3)(d)
Motions for remedial contempt

Clarifying that motions for remedial contempt must be conventionally filed because they are created as new “criminal-base-type” cases in the eFiling system.

UTCR 21.070(3)(g) [Removed]
Amended pleadings

Permitting eFiling of amended pleadings that require payment of an additional filing fee. Former UTCR 21.070(3)(g) required conventional filing of such documents. Also see UTCR 21.050(1) above.

UTCR 21.070(3)(l)
Petitions or motions for waiver of eFiling

Adds petitions or motions for waiver of the mandatory eFiling requirement to the list of documents that must be filed conventionally.

UTCR 21.070(3)(m)
Stipulated and ex parte matters

Adds stipulated or ex parte matters listed in SLR 2.501 to the list of documents that must be filed conventionally. See Adoption of Oregon eCourt SLR Chapter 24 below.

UTCR 21.080(6)
Relation back due to system unavailability/technical problems

Adds a new provision permitting relation-back of filings due to system unavailability, errors in transmission, or other technical problems that prevent the eFiling system from receiving a document.

UTCR 21.090 and 21.100
Housekeeping updates

Housekeeping changes only, updating references to “subsections and “sections” for consistency throughout UTCR Chapter 21.

UTCR 21.120
Retention of documents

Reducing the retention period of documents that contain the original signature of a person other than the filer from 10 years to 30 days.

Adoption of Oregon eCourt SLR Chapter 24

As part of going live with Oregon eCourt, a judicial district adopts uniform “Oregon eCourt” SLR Chapter 24. As a companion to new UTCR 21.070(3)(m), each court’s SLR Chapter 24 – 24.501 – will be updated to permit courts to adopt an SLR (2.501) that lists certain stipulated/ex parte matters that must be presented conventionally in that court, instead of eFiled. The SLR update will be part of the SLR chapter for Josephine, Marion, and Douglas Counties when they roll out Oregon eCourt in December 2014, and otherwise in the existing eCourt counties as they do the annual adoption of their SLRs. It provides as follows:

24.501 STIPULATED OR EX PARTE MATTERS MAY BE ELECTRONICALLY FILED

- (1) Except as provided in subsection (2) of this rule, any stipulated or ex parte matter may be electronically filed for purposes of submitting to a judge for signature.
- (2) SLR 2.501 is reserved for judicial districts to adopt a local rule regarding specific stipulated or ex parte matters for which the documents must be presented conventionally and may not be electronically filed.

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In the Matter of Out-of-Cycle)	CHIEF JUSTICE ORDER
Amendment of UTCR 21.040, 21.050,)	No. 14-049
21.070, 21.080, 21.090, 21.100, and)	
21.120.)	ORDER OF OUT-OF-CYCLE AMENDMENT OF
)	UTCR 21.040, 21.050, 21.070, 21.080, 21.090,
)	21.100, AND 21.120

I HEREBY ORDER, pursuant to ORS 1.002 and UTCR 1.020, that:

1. Good cause has been shown and the effective date, requirements, and time limits established by UTCR 1.020(2), (3), and (4) are waived to make changes to the UTCR necessary for the Oregon eCourt Program implementation process.
2. The following UTCR, as shown in Attachment A to this order, are amended effective immediately: 21.040, 21.050, 21.070, 21.080, 21.090, 21.100, and 21.120. For the convenience of the reader, deleted wording is shown in *[brackets and italics]* and new wording is show in **{braces, underline, and bold}**.
3. The following UTCR are not amended by this order: UTCR 21.010, 21.020, 21.030, 21.060, 21.110, and 21.130. To provide context, clarity, continuity, and convenience to the public, the bench, and the bar, those rules are set out in Attachment A to this order in their current form.
4. The UTCR Reporter has posted for public comment the following rules amended by this order: UTCR 21.040, 21.070(3)(l), 21.080, and 21.120. The UTCR Reporter has considered the comments received and, pursuant to UTCR 1.020(5), will place those amendments and the amendments to UTCR 21.050, 21.070(3)(d), 21.070(3)(m), *former* 21.070(3)(g), 21.090, and 21.100 on the agenda of the next UTCR Committee meeting currently scheduled for October 17, 2014. The UTCR Reporter will post the changes authorized by this order for public comment with the other items discussed at that meeting.
5. This order takes effect immediately.

Dated this 29th day of September, 2014.



Thomas A. Balmer
Chief Justice

21.010 DEFINITIONS

The following definitions apply to this chapter:

- (1) "Conventional filing" means a process whereby a filer files a paper document with the court.
- (2) "Document" means a pleading, a paper, a motion, a declaration, an application, a request, a brief, a memorandum, an exhibit, or other instrument submitted by a filer, including any exhibit or attachment referred to in the instrument. Depending on the context, as used in this chapter, "document" may refer to an instrument in either paper or electronic form.
- (3) "Electronic filing" means the process whereby a filer electronically transmits to a court a document in an electronic form to initiate an action or to be included in the court file for an action.
- (4) "Electronic filing system" means the system provided by the Oregon Judicial Department for the electronic filing and the electronic service of a document via the Internet, excluding the electronic filing of a criminal citation under ORS 133.073. A filer may access the system through the Oregon Judicial Department's website (<http://courts.oregon.gov/OJD/Pages/index.aspx>).
- (5) "Electronic service" means the electronic transmission of a notice of filing by the electronic filing system to the electronic mail (email) address of a party who has consented to electronic service under UTCR 21.100(1). The notice will contain a hyperlink to access a document that was filed electronically for the purpose of accomplishing service.
- (6) "Filer" means a person registered with the electronic filing system who submits a document for filing with the court.
- (7) "Service contact" means any party to be served electronically by the electronic filing system, through email notification.
- (8) "Other service contact" means any person associated with the filer for purposes of an action whom the filer wishes to receive email notification from the electronic filing system of documents electronically served in the action. An "other service contact" includes another lawyer, administrator, or staff from the filer's place of business, or another person who is associated with the filer regarding the action or otherwise has a legitimate connection to the action.

21.020 APPLICABILITY; LOCAL RULES OF COURT NOT PERMITTED

- (1) As authorized by ORS 1.002, this chapter applies to those circuit courts that have approval from the State Court Administrator to accept filings electronically for designated case types and filers. The Oregon Judicial Department's website lists the circuit courts approved to accept filing electronically for designated case types and filers (<http://courts.oregon.gov/OJD/Pages/index.aspx>).
- (2) No circuit court may make or enforce any local rule, other than those local rules authorized by UTCR 4.090, governing the electronic filing and electronic service of documents.

21.030 FILERS

(1) Authorized Filers

- (a) Any person who completes an online registration form and obtains a login under subsection (b) of this section is an authorized filer in the electronic filing system.
- (b) A filer must complete an online registration form to request a login for access to the electronic filing system and must execute a user agreement. The filer must provide information sufficient to establish the filer's technical capacity to send and receive electronic filings and court notices. On receipt of the required information, the electronic filing system will send an email to the filer with an activation link and login information.

(2) Conditions of Electronic Filing

To have access to the electronic filing system, each filer agrees to, and must:

- (a) register for access to the electronic filing system;
- (b) comply with the registration conditions when using the electronic filing system;
- (c) maintain one or more operative email addresses at which the filer agrees to accept email notifications from the electronic filing system and electronic service of documents, provided that the filer has consented to electronic service in an action as provided in UTCR 21.100(2); and
- (d) furnish required information for case processing.

21.040 FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

- (1) A document submitted electronically to the court must be in the form of a text-searchable Portable Document Format (PDF) or a text-searchable Portable Document Format/A (PDF/A) file that does not exceed 25 megabytes. A document that exceeds the size limit must be broken down and submitted as separate files that do not exceed 25 megabytes each. A filer submitting separate files under this section must include in the [e]Filing Comment{s} field for each submission a description that clearly identifies the part of the document that the file represents, for example, "Motion for Summary Judgment, part 1 of 2."

- (2) Except as provided in subsections (a) through ~~(c)~~(d) of this section, when a document to be electronically filed includes one or more attachments, including but not limited to a documentary exhibit, an affidavit, or a declaration, **the electronic filing must be submitted as a unified single PDF file, rather than as separate electronically filed documents, to the extent practicable***[each attachment must be submitted through the electronic filing system as a separate electronically filed document. A filer submitting separate documents under this section must include in the eFiling Comment field for each submission a description that clearly identifies the filing, for example, "Affidavit of Jane Smith (Attachment to motion for summary judgment)."]* **An electronic filing submitted under this section***[An attachment file]* that exceeds 25 megabytes must comply with section (1) of this rule.
- (a) **If an electronic filing consists of a motion or similar document and a corresponding proposed order, judgment, or any other document that requires court signature, the filer must submit the document requiring court signature through the electronic filing system as a separate electronically filed document from the motion. A filer submitting separate documents under this subsection must include in the Filing Comments field for each submission a description that clearly identifies the filing, for example, "Motion for Summary Judgment" and "Proposed Order Granting Motion for Summary Judgment."***[An attachment to a motion to strike filed under UTCR 5.020(2) must be submitted together with the motion as a single, unified PDF or PDF/A file.]*
- (b) **If an electronic filing is not confidential but includes an attachment that is confidential or otherwise exempt from disclosure, the filer must submit the attachment through the electronic filing system as a separate electronically filed document. A filer submitting a confidential document under this subsection must select the confidential check box after attaching the confidential document. A filer submitting separate documents under this subsection must include in the Filing Comments field for each submission a description that clearly identifies the filing, for example, "Motion for Stay" and "Confidential Attachment to Motion for Stay."***[An attachment to a motion for leave to amend a pleading filed under UTCR 5.070 must be submitted together with the motion as a single, unified PDF or PDF/A file.]*
- (c) **The reference in section (2) to an affidavit and a declaration applies to only an affidavit or a declaration that is an attachment to another document.***[Attachments to a petition for post-conviction relief filed under ORS 138.580 must be submitted together as a single, unified PDF or PDF/A file. The attachment file must be submitted separately from the petition document.]*
- [(d) Attachments to a Uniform Support Declaration filed under UTCR 8.010(4) must be submitted together with the declaration as a single, unified PDF or PDF/A file.]*
- (3) **A proposed order or judgment, or any other document that requires court signature that is submitted electronically, must include, for the purpose of affixing a signature and signature date, a blank space of not less than 1.5 inches and a blank line following the last line of text.**

Example:

Petitioner's motion for a stay is granted. The proceedings in this action are held in abeyance pending further notification from petitioner of completion of the conditions set out in this order.

(at least 1.5 inches of blank space following last line of text)

(4)[3])When viewed in an electronic format and when printed, a submitted document must comply with the requirements of ORCP 9 E and UTCR 2.010 except as to any requirement that a document bear a physical signature when filed.

(5)[4])When submitting an electronic filing that creates a new case or adds a party to an existing case,

- (a) A filer must enter into the "Add Party" screen the names of all known parties or all parties being added; and
- (b) A filer must enter party names in proper case, for example, "John Doe" and not "JOHN DOE."}

(6)[5])The court may reject submitted documents that do not comply with these provisions as provided in UTCR 21.080(5).

21.050 PAYMENT OF FEES

(1) Payment Due on Filing

A filer must pay the filing fees for filing a document electronically at the time of electronic filing. *[As provided in UTCR 21.070(3)(h), a filer may not electronically file an amended civil complaint that, as a result of the amendment, requires payment of an additional filing fee.]*

(2) Fee Waivers and Deferrals

- (a) Except as provided in subsection (b) of this rule, a filer may apply for a waiver or deferral of court fees and costs, as provided in ORS 21.682 and ORS 21.685, when submitting for electronic filing a document that constitutes an appearance, motion, or pleading for which a fee is required, with an accompanying application for a waiver or deferral of a required fee. The document will not be accepted for filing unless the court grants the fee waiver or deferral.
- (b) A filer may not electronically apply for a waiver or deferral of court fees when submitting a document that initiates an action, as provided in UTCR 21.070(3)(~~1~~[b]).

21.060 FILES OF THE COURT

(1) Electronic Filing

- (a) The electronic filing of a document is accomplished when a filer submits a document electronically to the court, the electronic filing system receives the document, and the court accepts the document for filing.
- (b) When the court accepts the electronic document for filing, the electronic document constitutes the court's record of the document.

(2) Converting a Conventional Filing into an Electronic Format

The court may digitize, microfilm, record, scan, or otherwise reproduce a document that is filed conventionally into an electronic record, document, or image. The court subsequently may destroy a document that is filed conventionally in accordance with the protocols established by the State Court Administrator under ORS 8.125(11) and ORS 7.124.

21.070 SPECIAL FILING REQUIREMENTS

(1) Courtesy Copies and Other Copies

- (a) The court may require that a filer submit, in the manner and time specified by the court, a copy of the document that was filed electronically and a copy of the submission or acceptance email from the electronic filing system.
- (b) When a filer submits a document for conventional filing or electronic filing, the filer need not submit for filing additional copies of that document unless otherwise required by the court.
- (c) In a post-conviction relief proceeding filed under ORS 138.510 as limited by paragraphs (i) and (ii) of this subsection, if the petitioner intends to rely on the contents of the underlying circuit court criminal case file to support the allegations in the petition filed under ORS 138.580, then the petitioner must so state in the petition. If the petitioner intends to rely on some, but not all, of the contents of the underlying case file, then the petitioner must identify with reasonable specificity the materials on which the petitioner intends to rely. The petitioner need not attach to the petition, as part of evidence supporting the allegations, any document from the underlying case file. This subsection applies only if:
 - (i) Both the post-conviction court and the circuit court on the underlying criminal case are using the Oregon eCourt Case Information system; and
 - (ii) The underlying criminal case was filed on or after the date that the circuit court began using the Oregon eCourt Case Information system. The date that each Oregon eCourt Case Information circuit court began using that system is available at <http://courts.oregon.gov/Oregonecourt/pages/oregoneCourtMap.aspx>.

(2) Court Order Requiring Electronic Filing and Electronic Service

Except for any document that requires service under ORCP 7 or that requires personal service, the court may, on the motion of any party or on its own motion, order all parties to file and serve all documents electronically, after finding that such an order would not cause undue hardship or significant prejudice to any party.

(3) Documents that Must be Filed Conventionally

The following documents must be filed conventionally:

- (a) An accusatory instrument that initiates a criminal action, except as otherwise provided by ORS 133.073.
- (b) A petition that initiates a juvenile delinquency proceeding under ORS 419C.250.
- (c) A document that initiates an extradition proceeding under ORS 133.743 to 133.857.
- (d) (An initiating instrument in a contempt proceeding, **including for purposes of this rule***[other than]* a motion **and supporting documentation filed contemporaneously with the motion**), under ORS 33.055 (remedial) or an accusatory instrument that initiates a contempt proceeding **and supporting documentation filed contemporaneously with the initiating instrument** under ORS 33.065 (punitive).
- (e) A notice of appeal from a justice court or municipal court judgment under ORS 138.057 or ORS 157.020(1), a justice court order under ORS 157.020(2), or a municipal court conviction under ORS 221.359.
- (f) A document that initiates an action that is accompanied by an application for a waiver or deferral of a required fee.
- [(g) An amended pleading that, as a result of the amendment, requires payment of an additional filing fee.]*
- {g}***[h]*) A document filed under seal or subject to in camera inspection, including a motion requesting that a simultaneously filed document be filed under seal or subject to in camera inspection, except that a document may be electronically filed in an adoption case.
- {h}***[i]*) Except as provided in UTCR 21.090(4), a document that is required by law to be filed in original form, such as, but not limited to, an original will, a certified document, or a document under official seal.
 - (i) If applicable law requires an original document to be filed simultaneously with another document that is electronically filed, the filer must electronically file an image of the original document with the other electronically filed document and then conventionally file the original document within 7 business days after submitting the electronic filing. An original document conventionally filed under this paragraph is deemed filed on the date of filing of the electronically filed image of the same document.

- (ii) If the filer elects to electronically file an image of an original document as set out in paragraph (i)(i) of this subsection, the filer must include in the [e]Filing Comment{s} field a statement that the electronic filing submission includes an image of an original document and that the filer will conventionally file the original document within 7 business days.
- (iii) If the filer elects to electronically file an image of an original document as set out in paragraph (i)(i) of this subsection, when conventionally filing the original document, the filer must include a notification to the court that the image was previously electronically filed.

~~{i}~~{j}) A negotiable instrument tendered under UTCR 2.060 for entry of notation of judgment.

~~{i}~~{k}) A document delivered to the court under ORCP 55 (H)(2)(c).

~~{k}~~{l}) A Driver and Motor Vehicle Services Branch of the Oregon Department of Transportation (DMV) record, as defined in UTCR 10.020(1).

{l} A petition or motion for waiver of the mandatory eFiling requirement, as set out in UTCR 21.140(3).}

{m} Any stipulated or ex parte matter listed in SLR 2.501 in a Judicial District's Supplementary Local Rules.}

(4) Limits on Exhibits

- (a) A demonstrative or oversized exhibit must be filed conventionally.
- (b) Trial exhibits may not be filed electronically and must be submitted or delivered as provided in UTCR 6.050(2).

(5) Expedited Filings

A filer must include the words "EXPEDITED CONSIDERATION REQUESTED" in the Filing Comments field when preparing an expedited filing for submission through the electronic filing system.

21.080 **{ELECTRONIC FILING AND} ELECTRONIC FILING DEADLINES**

- (1) A filer may use the electronic filing system at any time, except when the electronic filing system is temporarily unavailable.
- (2) The filing deadline for any document filed electronically is 11:59:59 p.m. in the time zone where the court is located on the day the document must be filed.
- (3) The court considers a document submitted for an electronic filing when the electronic filing system receives the document. The electronic filing system will send an email to the filer that includes the date and time of receipt, unless the filer has elected through system settings not to receive the email.

- (4) If the court accepts the document for filing, the date and time of filing entered in the register relate back to the date and time the electronic filing system received the document. When the court accepts the document, the electronic filing system will affix the date and time of submission on the document, thereby indicating the date and time of filing of the document. When the court accepts a document for filing, the electronic filing system sends an email to the filer, unless the filer has elected through system settings not to receive the email.
- (a) The provisions of this subsection do not apply to a proposed order or judgment, or to any other document that requires court signature, that is electronically filed.
 - (b) When the court accepts a proposed order or judgment or any other document that requires court signature through the electronic filing system, the document is deemed submitted for judge review.
- (5) If the court rejects a document submitted electronically for filing, the electronic filing system will send an email to the filer that explains why the court rejected the document, unless the filer has elected through system settings not to receive the email. The email will include a hyperlink to the document.
- (a) A filer who resubmits a document within 3 days of the date of rejection under this section may request, as part of the resubmission, that the date of filing of the resubmitted document relate back to the date of submission of the original document to meet filing requirements. If the third day following rejection is not a judicial day, then the filer may resubmit the filing with a request under this subsection on the next judicial day. For purposes of this subsection, resubmission means submission of the document through the electronic filing system under section (3) of this rule or physical delivery of the document to the court. A filer who resubmits a document under this subsection must include:
 - (i) a cover letter that sets out the date of the original submission and the date of rejection and that explains the reason for requesting that the date of filing relate back to the original submission, with the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" in the subject line of the cover letter; and
 - (ii) if an electronic resubmission, the words "RESUBMISSION OF REJECTED FILING, RELATION-BACK DATE OF FILING REQUESTED" in the Filing Comments {F} field.
 - (b) A responding party may object to a request under subsection (a) of this section within the time limits as provided by law for the type of document being filed. For the purpose of calculating the time for objection provided by law under this subsection, if applicable, the date of filing is the date that the document was resubmitted to the court under subsection (a) of this section.

{(6) If the eFiling system is temporarily unavailable or if an error in the transmission of the document or other technical problem prevents the eFiling system from receiving a document, the court may, upon satisfactory proof, permit the filing date of the document to relate back to the date that the eFiler first attempted to file the document to meet filing requirements. Technical problems with the filer's equipment or attempted transmission within the filer's control will not generally excuse an untimely filing.

(a) A filer seeking relation-back of the filing date due to system unavailability or transmission error described in this section must comply with the requirements in subsection (5)(a) of this rule.

(i) The cover letter described in subsection (5)(a)(i) must include the date of the original attempted submission and the date that the filer was notified that the submission was not successful, and explain the reason for requesting that the date of filing relate back to the original submission, with the words "RESUBMISSION OF FILING, SUBMISSION UNSUCCESSFUL, RELATION-BACK DATE OF FILING REQUESTED" in the subject line of the cover letter."

(ii) The Filing Comment field notification for an electronic resubmission described in subsection (5)(a)(ii) must include the words "RESUBMISSION OF FILING, SUBMISSION UNSUCCESSFUL, RELATION-BACK DATE OF FILING REQUESTED."

(iii) The filer may include supporting exhibits that substantiate the system malfunction together with the filer's cover letter.

(b) A responding party may object in the same manner and subject to the same time calculations as in subsection (5)(b) of this rule.

21.090 ELECTRONIC SIGNATURES

- (1) The use of a filer's login constitutes the signature of the filer for purposes of these rules and for any other purpose for which a signature is required.
- (2) In addition to information that law or rule requires to be in the document, a document filed electronically must include an electronic symbol intended to substitute for a signature, such as a scan of the filer's handwritten signature or a signature block that includes the typed name of the filer preceded by an "s/" in the space where the signature would otherwise appear.

Example of a signature block with "s/":

s/ John Q. Attorney
JOHN Q. ATTORNEY
OSB #
Email address
Attorney for Plaintiff Smith Corporation, Inc.

- (3) When more than one party joins in filing a document, the filer must show all of the parties who join by one of the following:
 - (a) submitting an imaged document containing the signatures of all parties joining in the document;
 - (b) a recitation in the document that all such parties consent or stipulate to the document; or
 - (c) identifying in the document the signatures that are required and submitting each such party's written confirmation no later than 3 days after the filing.

- (4) Except as provided in [sub]section (5) of this section, when a document to be electronically filed requires a signature under penalty of perjury, or the signature of a notary public, the declarant or notary public shall sign a printed form of the document. The printed document bearing the original signatures must be imaged and electronically filed in a format that accurately reproduces the original signatures and contents of the document. The original document containing the original signatures and content must be retained as required in UTCR 21.120.
- (5) When the filer is the same person as the declarant named in an electronically filed document for purposes of ORCP 1 E, the filer must include in the declaration an electronic symbol intended to substitute for a signature, such as a scan of the filer's handwritten signature or a signature block that includes the typed name of the filer preceded by an "s/" in the space where the signature would otherwise appear.

Example of a signature block with "s/":

s/ John Q. Attorney
JOHN Q. ATTORNEY}

2011 Commentary:

The Committee does not intend the requirement to include an email address in a signature block to constitute consent to receipt of service of documents by email. Electronic service of documents may only be accomplished as specified in UTCR 21.100.

21.100 ELECTRONIC SERVICE

(1) Consent to Electronic Service and Withdrawal of Consent

- (a) A filer who electronically appears in the action by filing a document through the electronic filing system that the court has accepted is deemed to consent to accept electronic service of any document filed by any other registered filer in an action, except for any document that requires service under ORCP 7 or that requires personal service.
- (b) A filer who is dismissed as a party from the action or withdraws as a lawyer of record in the action may withdraw consent to electronic service by removing the filer's contact information as provided in subsection (2)(a) of this rule.
- (c) Except as provided in subsection (b) of this section, a filer may withdraw consent to electronic service only upon court approval based on good cause shown.

(2) Contact Information

- (a) At the time of preparing the filer's first electronic filing in the action, a filer described in [sub]section (1) of this rule must enter in the electronic filing system the name and service email address of the filer, designated as a service contact on behalf of an identified party in the action. If the filer withdraws consent to electronic service under subsection (1)(b) or (1)(c) of this rule, then the filer must remove the filer's name and service email address as a designated service contact for a party.

- (b) A filer described in subsection (1)(a) of this rule may enter in the electronic filing system, as an other service contact in the action:
 - (i) an alternative email address for the filer; and
 - (ii) the name and email address of any additional person whom the filer wishes to receive electronic notification of documents electronically served in the action, as defined in UTCR 21.010(8). If a lawyer enters a client's name and contact information as an other service contact under this subsection, then the lawyer is deemed to have consented for purposes of Rule of Professional Conduct 4.2 to delivery to the client of documents electronically served by other filers in the action.
- (c) A filer is responsible for updating any contact information for any person whom the filer has entered in the electronic filing system as either a service contact for a party or as an other service contact in an action.
- (d) A filer may seek court approval to remove a person entered by another filer as an other service contact in an action if the person does not qualify as an other service contact under UTCR 21.010(8).

(3) Selecting Service Contacts and Other Service Contacts

When preparing an electronic filing submission with electronic service, a filer is responsible for selecting:

- (a) the appropriate service contacts in the action, for the purpose of accomplishing electronic service as required by law of any document being electronically filed; and
- (b) the appropriate other service contacts in the action, if any, for the purpose of delivering an electronic copy of any document being electronically filed.

(4) Court Notification and Transmission Constituting Service

When the court accepts an electronic document for filing under UTCR 21.060(1)(a), the electronic filing system sends an email to the email address of each person whom the filer selected as a service contact or other service contact under [sub]section (3) of this rule. The email contains a hyperlink to access the document or documents that have been filed electronically. Transmission of the email by the electronic filing system to the selected service contacts in the action constitutes service.

(5) Completion and Time of Electronic Service

Electronic service is complete when the electronic filing system sends the email to the selected service contacts in the action.

(6) Applicability of ORCP 10 C

Electronic service performed in accordance with this chapter is equivalent to service by mail as provided in ORCP 10 C.

(7) Proof of Electronic Service

A filer must attach at the end of any document submitted electronically a list of names of all parties requiring conventional paper service, followed by a clearly identified list of the names of all parties requiring service that will be served electronically by the electronic filing system.

(8) Service Other than by Electronic Means

The filing party is responsible for accomplishing service in any manner permitted by the Oregon Rules of Civil Procedure and for filing a proof of service with the court for the following documents:

- (a) a document required to be filed conventionally under this chapter;
- (b) a document that cannot be served electronically on a party who appeared in the action; and
- (c) a document subject to a protective order.

21.110 HYPERLINKS

- (1) A document that is filed electronically may contain hyperlinks to other parts of the same document or hyperlinks to a location on the Internet that contains a source document for a citation or both.
- (2) A hyperlink to cited authority does not replace standard citation format. A filer must include the complete citation within the text of the document. Neither a hyperlink, nor any site to which it refers, is part of the record. A hyperlink is simply a convenient mechanism for accessing material cited in a document filed electronically.
- (3) The Oregon Judicial Department neither endorses nor accepts responsibility for any product, organization, or content at any hyperlinked site, or to any site to which that site refers.

21.120 RETENTION OF DOCUMENTS BY FILERS {AND CERTIFICATION OF ORIGINAL SIGNATURES}

- (1) Unless the court orders otherwise, if a filer electronically files an image of a document that contains the original signature of a person other than the filer, the filer must retain the document {in the filer's possession} in its original paper form for {no less than 30 days}*[10 years]*.
- (2) {When a filer electronically files a document described in section (1) of this rule, the filer certifies by filing that, to the best of the filer's knowledge after appropriate inquiry, the signature purporting to be that of the signer is in fact that of the signer}*[On reasonable notice, the filer must provide a paper copy of the original for inspection by another party, the clerk, or the court].*

21.130 PROTECTED INFORMATION

The use of information contained in a document filed electronically or information accessed through the electronic filing system must be consistent with state and federal law.