CHAPTER 21—Filing and Service by Electronic Means

21.010 DEFINITIONS

The following definitions apply to this chapter:

(1) "Conventional filing" means a process where 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 of law, an exhibit, or other instrument submitted by a filer, including any exhibit or attachment referenced 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 where a filer electronically transmits to a court a document in an electronic form to commence an action or to be included in the court files 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. A filer may access the system through the Oregon Judicial Department's website (http://www.ojd.state.or.us).

(5) "Electronic service" means the electronic transmission of a notice of filing or a notice of a scheduled court proceeding by the electronic filing system to the electronic mail (e-mail) address of a party registered as a filer with the electronic filing system. The notice may contain a hyperlink to access a document that is filed electronically for the purpose of effecting service.

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

(7) "*Pro se* litigant" means a person who by law may appear in an action without a lawyer.

21.020 APPLICABILITY

As authorized by ORS 1.002, this chapter applies to those circuit courts that have written 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://www.ojd.state.or.us).

21.030 FILERS

(1) Authorized Filers

(a) The following may register as filers in the electronic filing system:

(i) any member of the Oregon State Bar who is authorized to practice law;

(ii) any lawyer admitted to the practice of law *pro hac vice* during the period of the lawyer's temporary admission;

(iii) a *pro se* litigant who is a party to the action; and

(iv) any other person as approved by the State Court Administrator.

(b) A filer must complete a registration form to request a login for access to the electronic filing system and sign 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, notice will be sent to the filer of his or her registration status. If the filer is approved to access the electronic filing system, a filer shall be assigned a login.

(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 e-mail addresses at which the filer agrees to accept service; and

(d) furnish required information for case processing.

21.040 FORMAT OF DOCUMENTS TO BE FILED ELECTRONICALLY

(1) All documents submitted to the court must be in a text-searchable Portable Document Format (PDF).

(2) 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.

(3) Submitted documents that do not comply with these provisions may be rejected as provided in UTCR 21.080.

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.

(2) Fee Waivers and Deferrals

A filer may apply for a waiver or deferral of court fees and costs at the time of filing a document electronically, as provided in ORS 21.682 and ORS 21.685. A filer may submit for 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 fee waiver or deferral is granted.

21.060 FILES OF THE COURT

(1) Electronic Filing

(a) The electronic filing of a document is accomplished when:

(i) a filer submits a document electronically to the court;

(ii) the electronic filing system sends a confirmation receipt to the filer that the electronic filing system received the document; and

(iii) 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

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 confirmation receipt from the electronic filing system.

(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) Attachments and Exhibits

(a) A filer must submit as an exhibit or attachment only an excerpt of the referenced material that is directly germane to the matter under consideration by the court. A responding party may timely file an additional excerpt or the complete document that the party believes is directly germane. The court may require a party to file an additional excerpt or the complete document.

(b) A demonstrative or oversized exhibit must be filed conventionally.

(c) Trial exhibits may not be filed electronically or conventionally with the court and must be delivered or submitted as ordered by the assigned judge.

21.080 ELECTRONIC FILING DEADLINES

(1) Electronic filing is permitted at all times, 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 filing when the electronic filing system receives the document and sends a confirmation receipt to the filer. The electronic filing system will affix to each document the time of day, day of the month, month, and year that the document is received and will issue a confirmation receipt to the filer that includes the date and time of receipt.

(4) If the court accepts the document for filing, the date and time of filing entered in the register relates back to the date and time the electronic filing system received the document. The electronic filing system will affix the date and time of acceptance on the document.

(5) If the court rejects a document submitted electronically for filing, the court will affix the date and time of rejection on the document and return the document to the filer with a notice that explains why the court rejected the document. The court may require a filer to resubmit the document to meet the filing requirements. If the court requires a filer to resubmit the document, the date and time of filing of the resubmitted document relates back to the date and time of the filing of the original document. The court may, by order, strike the document from the court's file in the action if the filer receives notice from the court and does not resubmit the document within the time period specified by the court.

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 have 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:
s/ John Q. Attorney
JOHN Q. ATTORNEY
OSB #
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 a scanned 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 three (3) days after the filing.

21.100 ELECTRONIC SERVICE

(1) Filers who are registered with the electronic filing system and who have appeared in the action and not withdrawn are deemed to consent to electronic service of all documents filed by the court or other registered filers in an action, except for any document that requires service under ORCP 7 or that requires personal service.

(2) When a filer submits a document through the electronic filing system, the electronic filing system transmits a notice of filing to the e-mail address of each party who is registered with the system to be served for the purpose of effecting service. The notice of filing contains a hyperlink to access a document that is filed electronically. Transmission of the notice of the filing by the electronic filing system constitutes service.

(3) Completion and Time of Electronic Service

Electronic service is complete when the electronic filing system transmits the notice of filing.

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

(5) Proof of Electronic Service

A filer must attach at the end of any document submitted electronically a list of names and addresses 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.

(6) Service Other Than By Electronic Means

The filing party is responsible for perfecting 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) documents required to be filed conventionally under this chapter;

(b) documents that cannot be served electronically on a party who appeared in the action; and

(c) documents subject to a protective order.

21.110 HYPERLINKS

(1) A document that is filed electronically may contain hyperlinks to other portions 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

(1) Unless the court orders otherwise, if a filer electronically files 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 ten (10) years.

(2) On reasonable notice, the filer must provide a paper copy 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.

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