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Special Report to Attorney/Trust Officer Liaison Conference

On June 21, 2012, the Florida Supreme Court issued its ruling in SC10-2101, regarding service by e-mail, and its ruling in SC11-399, regarding electronic filing. Electronic filing is not mandatory until April 1, 2013. However, service by e-mail for probate and civil matters is mandatory on **July 1, 2012**, yes 2012.

Mechanically, a new Rule of Judicial Administration, 2.516, now applies in all types of proceedings. The Probate Rules, at 5.041, now cross-reference to Rule 2.516.

RULE 5.041. SERVICE OF PLEADINGS AND ~~PAPERS~~ DOCUMENTS

~~(a) Service; When Required.~~ Unless the court orders otherwise, [everything] shall be served on interested persons as set forth in Florida Rule of Judicial Administration 2.516 unless these rules, the Florida Probate Code, or the Florida Guardianship Law provides otherwise. ... For purposes of this rule an interested person shall be deemed a party under rule 2.516.

In order to implement service by e-mail, e-mail addresses are required to be provided by attorneys who appear in a proceeding.

RULE 2.515. SIGNATURE OF ATTORNEYS AND PARTIES

(a) Attorney Signature. Every pleading and other paper of a party represented by an attorney shall be signed by at least 1 attorney of record in that attorney's individual name whose current record Florida Bar address, telephone number, including area code, primary e-mail address and secondary e-mail addresses, if any, and Florida Bar number shall be stated, ...

Service by e-mail is mandatory as of July 1, 2012

(over)

Summary of new Rule 2.516

New Rule 2.516 mandates e-mail service for attorneys practicing in the civil, probate, small claims, and family law divisions of the trial courts, as well as in all appellate cases, when the rule amendments take effect on July 1, 2012. See www.LairdALile.com for a link to the court's opinion and Rule 2.516. Highlights of the new Rule are:

1. E-mail service by attorneys on attorneys is mandatory for filings other than those served by formal notice or required to be served in the manner provided for service of formal notice.
2. When an attorney appears in a proceeding, the attorney must serve a designation of a primary e-mail address and may designate one or two secondary e-mail addresses.
3. Service must be directed to all designated e-mail addresses in that proceeding.
4. Every document filed by an attorney must include the primary e-mail address of that attorney and any secondary e-mail addresses. If an attorney does not designate any e-mail address for service, documents may be served on that attorney at the e-mail address on record with The Florida Bar.
5. An attorney may be excused from this rule only upon demonstrating to the court the attorney has no e-mail account and lacks access to the Internet at the attorney's office.
6. E-mail service is not mandatory for any party not represented by an attorney. However, an unrepresented party may serve a designation of a primary e-mail address and one or two secondary e-mail addresses, in which event the e-mail service rule applies to that party.
7. Service by e-mail is deemed served on the date sent. However, if the sender learns the e-mail did not reach the address of the person to be served, the sender must immediately send another copy by e-mail, or by another authorized means.
8. E-mail service is treated as service by mail for the computation of time.
9. Service of a document by e-mail is made by attaching a copy of the document in PDF format to an e-mail sent to all addresses designated by the attorney or party.
 - a. The e-mail message must contain a subject line beginning with the words **SERVICE OF COURT DOCUMENT** in all capital letters, followed by the case number of the proceeding in which the documents are being served.
 - b. The body of the e-mail must identify the court in which the proceeding is pending, the case number, the name of the initial party on each side, the title of each document served with that e-mail, and the sender's name and telephone number.
 - c. Any e-mail which, together with its attached documents, exceeds five megabytes (5MB) in size, must be divided and sent as separate e-mails, no one of which may exceed 5MB in size and each of which must be sequentially numbered in the subject line.