

Case Name _____

ACTION	SUGGESTED TICKLER DATE	TICKLER DATE*	DUE DATE*
Initial conflict check.	Before attorney meets with client.		
Meet with client.	As soon as possible.		
Assess case and ascertain deadlines: <ul style="list-style-type: none"> • Liability • Damages • Tort claim or similar deadlines • Statute of limitations • Determine client’s bankruptcy status: <ul style="list-style-type: none"> ○ Has client ever filed bankruptcy? ○ Has client <i>considered</i> filing bankruptcy? ○ Does client understand the effect of filing bankruptcy? ¹ • Determine bankruptcy status of potential defendants: <ul style="list-style-type: none"> ○ Has a potential defendant filed bankruptcy? ○ If so, how might the client’s case be affected? 	At or shortly after client meeting.		
Decline or accept case.	At or shortly after client meeting.		
If case declined: <ul style="list-style-type: none"> • Return client originals • Send nonengagement letter ² • Warn client about time limits • Enter case information into conflict system 	Immediately.		

CIVIL LITIGATION CHECKLIST

Case Name _____

<p>If case accepted:</p> <ul style="list-style-type: none"> • Obtain signed fee agreement ² • Obtain retainer (if appropriate) • Send engagement letter that identifies client(s) and scope of engagement. • Secure agreement from client to inform you immediately if client files bankruptcy.¹ • If fee is contingent, obtain client signature on OSB model explanation of contingent fee before agreement is signed. ORS 20.340 	<p>Immediately.</p>		
<p>Open file.</p>	<p>Within 5 days of accepting case.</p>		
<p>Enter client and matter information into conflict system.</p>	<p>Within 5 days of accepting case.</p>		
<p>Docket tort claim notice, dram shop or other similar deadlines, if applicable.</p>	<p>Tickle the actual deadline and multiple reminders: the day before, week before, 2 weeks before, 1 month and 3 months before.</p>		
<p>Docket statute of limitations.</p>	<p>Tickle the actual deadline and multiple reminders: the day before, 1 week before, 2 weeks before and at 1, 3 and 6 months out.</p>		
<p>Conduct necessary research and investigate client's case.</p> <ul style="list-style-type: none"> • Interview witnesses • Obtain and interview experts • Obtain reports • Gather necessary documents • Verify date of incident triggering statute of limitation • Verify applicable statute of limitation ³ • Identify all possible defendants • Run PACER check for bankruptcy filings as to client and potential defendant(s) or potential third-party defendant(s) ¹ 	<p>No later than 6 months before expiration of statute of limitations.</p>		

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Send tort claim notice(s), if applicable. ORS 30.275(2).	At least 2 months before deadline. Must be sent within 1 year of loss or injury for wrongful death and 180 days from occurrence for all other claims.		
Send dram shop notice(s), if applicable. ORS 471.565.	At least 2 months before deadline. Must be sent within 1 year of loss or injury for wrongful death and 180 days from occurrence for all other claims.		
Send client "loser pays" disclosure letter warning of costs, attorneys fees and enhanced prevailing fees which client could become liable for if client loses. ²	2 weeks before complaint is drafted.		
Draft complaint for client's review.	4 months before expiration of statute of limitations.		
Finalize complaint. <ul style="list-style-type: none"> • Review named parties for accuracy • Review allegations for accuracy • Identify parties for service, such as registered agents, parents in addition to named minors, etc. 	3 months before expiration of statute of limitations.		
Gather as much information as possible on each defendant or party to be served, including proper name, registered agent, work and home addresses, physical description, etc.	At same time complaint is finalized.		
Obtain check for filing fee and file complaint.	2 months before expiration of statute of limitations.		
Transmit copy of complaint to client.	Same day complaint is filed.		
Set spam and junk e-mail filters of Internet Service Provider and e-mail program to allow receipt of e-notices from court.	Same day complaint is filed.		

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<p>Create agent or rule in e-mail program to duplicate and forward copies of court notices from attorney-of-record to appropriate staff. Some electronic case filing systems only generate e-notices to the attorney-of-record. Staff e-mail addresses or firm addresses (docketing@johndoelawfirm.com) may not be permitted.</p>	<p>Same day complaint is filed.</p>		
<p>Prepare true copies of summons and complaint for each defendant to be served. See ORCP 7 C(3) for proper form of summons. Special requirements apply to join a party to respond to a counterclaim (ORCP 7 C(3)(b)) and for persons who may be liable for attorney fees (ORCP 7 C(3)(c)).</p>	<p>Same day complaint is filed.</p>		
<p>Make service arrangements with sheriff or process server. Give sheriff or process server information gathered on location and description of defendants or parties to be served along with clear instructions for service.</p>	<p>Same day complaint is filed.</p>		
<p>Obtain check(s) for service fee(s) and deliver true copies of summons and complaint to sheriff or process server.</p>	<p>Same day complaint is filed.</p>		
<p>Follow-up with sheriff or process server re status of service on each defendant.</p>	<p>Within 10 days of filing complaint. Continue following up at 30, 45 and 55 days until service obtained and all service steps have been completed.</p>		
<p>Complete service of process, including any follow-up mailings. (See PLF Service of Process Checklist.)</p>	<p>Subject to ORS 12.220, service must be completed within 60 days of filing complaint for date of service to be date of commencement.</p>		
<p>File Return of Service. UTCR 7.020(2).</p>	<p>File no later than 63 days after filing of complaint.</p>		

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First Appearance due for each defendant. ORCP 7 C(2).	Within 30 days of service unless extension obtained. ⁴		
If client has filed bankruptcy, confirm need to seek relief from bankruptcy stay before filing motion to dismiss. ¹	Prior to filing motion to dismiss		
Identify possible liens against client's future recovery: Medicaid, Medicare, Oregon Health Plan, private health insurer carrier, PIP, etc.			

¹ Personal injury claims must be fully disclosed in bankruptcy and included as an asset on Schedule B (Personal Property Schedule). Failure to disclose a personal injury claim in bankruptcy can result in permanent dismissal of the claim. Use PACER (Public Access to Court Electronic Records) to check for bankruptcy filings. Contact the US Bankruptcy Court at 503-326-2231 for more information if needed. See Personal Injury Claims and Bankruptcy, PLF *In Brief*, February 2008. Available online at www.osbplf.org.

The bankruptcy status of potential defendant(s) or third-party defendant(s) must also be determined. Filing an action against a party that has declared bankruptcy in the past may violate federal bankruptcy laws. Filing an action against a party with an "open" or pending bankruptcy case will very likely require additional steps to avoid violating such laws. Where a party has an open or pending bankruptcy case, it may be possible to lift the "automatic stay" via motion or stipulated order in the bankruptcy court.

² The PLF has sample engagement and nonengagement letters, as well as a sample retainer agreement, contingent fee agreement, and "loser pays" disclosure letter available on the PLF Web site at www.osbplf.org.

³ The time for determining a statute of limitations excludes the first day or day of the occurrence and includes the last day, unless it falls on a holiday or weekend and then includes the next judicial working day. In other words, if the date of the occurrence is on January 1, 2010 and the statute of limitations is 2 years, you start counting on January 2, 2010. Absent application of a discovery rule, the 2-year time limit would expire on January 1, 2012, unless that day is a Saturday, Sunday or legal holiday, in which case the statute would expire on the next day that is not a judicial holiday. ORS 174.120. Also see *Stupek v. Wyle Laboratories*, 327 Or 433, 963 P2d 678 (1988).

⁴ Extensions should be conditioned on the defendant agreeing to waive any potential defects in filing, service, timeliness, etc., if there is any possible statute of limitations issue.

IMPORTANT NOTICES

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