

# The Florida Bar News

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## Free email service and e-discovery education programs now available

By Mark D. Killian  
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The Florida Bar is now offering free online educational programs to bring members up to speed on the Supreme Court's new service by email and e-discovery rules.

Those new mandates are part of the transition to a court system where filing, service, and access will be largely electronic. (The court also has released an opinion (case no. 11-399) which sets deadlines for requiring electronic filing of documents with the court through a developing statewide Internet portal.)



Service by email becomes mandatory September 1 in civil, probate, small claims, and family law divisions of the trial courts, as well as for all appellate cases. For criminal trial court matters, the court acknowledged that state attorneys, public defenders, and regional conflict counsels have limited staff and budgets to accommodate the technology improvements and training necessary for service by email. It set the deadline for service by email in those cases for October 1, 2013. ([Case no. SC10-2101.](#))

Terry Hill, director of the Bar's Programs Division, said Board of Governors member Laird Lile, who also serves on the Supreme Court's Florida Technology Commission overseeing the technological overhaul of the courts, has put together a PowerPoint presentation that will serve as a standalone education piece to steer Bar members through the new mandatory service by email requirement.

"The PowerPoint presentation is now available on the Bar website and will be distributed to the various sections and divisions of the Bar for incorporation into their upcoming CLE programs," Hill said.

The presentation can be accessed by going to [floridabar.org/LOMAS](http://floridabar.org/LOMAS).

The service by email rule (Rule of Judicial Administration 2.516) requires that attorneys who have email addresses provide the court with a primary email address and allows them to add two secondary email addresses for receiving service. Emails used for serving documents may not exceed five megabytes in size, although they can be broken up into multiple emails. The email must contain, in all capital letters, in the subject line the words "SERVICE OF COURT DOCUMENT," along with the case number for that proceeding. Documents must be in PDF format.

### E-discovery Education

The Florida Supreme Court has also approved procedural rule amendments governing the discovery and production of electronically stored information in civil cases.

"Every Florida lawyer handling matters governed by the Rules of Civil Procedure must understand and be able to apply the new e-discovery rules," Hill said.

Hill said the Bar recorded a three-hour CLE education program concerning the newly adopted e-discovery rules.

"This course is taught by three practicing attorneys who helped draft the rules and a former Florida circuit judge, three of whom are also e-discovery educators," Hill said. "The presenters thoroughly cover the new electronic discovery rules and provide guidance on how to utilize the rules to meet professional obligations and to diligently advocate for clients regardless of practice area."

The course covers:

- \* What Florida's new electronic discovery rules are, why each rule was adopted, and how the rules fit in the framework of existing law and civil procedure rules.
- \* How and why electronically stored information changed the way information exchanges must be handled in discovery and litigation.
- \* How electronically stored information changed the relationship between lawyers and the courts and between opposing counsel.
- \* What old habits lawyers must modify and change.
- \* Basic strategies and practices lawyers can adopt to keep them from running afoul of the new rules.
- \* How to make sure lawyers know enough about e-discovery to meet their professional responsibilities and be zealous advocates for their client.

The e-discovery program may be accessed by visiting [floridabar.org/lomas](http://floridabar.org/lomas).

## Changes Yet to Come

Literally just hours after the Supreme Court released its June 21 opinion setting deadlines by which attorneys are required to use email to serve documents, the Rules of Judicial Administration Committee voted to file an emergency petition with the court to clarify the rule.

Committee member Paul Regensdorf said the amendments address the differences between service by email and e-service. Service by email, he explained, is what the court has now ordered in Case No. 10-2101 and sets deadlines for lawyers to electronically exchange documents instead of mailing them. But that is only temporary, as the system will eventually evolve to e-service, where an enhanced version of the portal can handle those service duties.

"Right now when you e-file a document with the portal, there is no component in that system to serve it on anybody," Regensdorf said. But, he added, that is being worked on and the committee's amendment will have a rule in place when court clerks are ready to offer that enhancement to the portal and the Supreme Court approves that upgrade.

He noted the system will be the same as in federal courts, where service is done electronically by the e-filing system.

Like the federal system, it's anticipated that lawyers will not actually get a copy of the electronic document with the automatic system, Regensdorf said. Rather they will get a link to the document, which then can be downloaded, saved, and/or printed.

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News HOME