

WSAJ NURSING HOME LITIGATION LIST SERVE TERMS OF USE AGREEMENT –  
Amended October 2013

Purpose

The primary purpose of the Nursing Home Litigation list serve is for WSAJ EAGLE members to evaluate cases, share references and background of experts, share information about recent developments in the law and court rules, share work product that is not subject to client privilege, and confer with each other confidentially.

Access

Your access to the Nursing Home Litigation list serve is subject to approval by the section chairs.

You are permitted to post to, receive from or otherwise use or access the Nursing Home Litigation list only if you are a "Regular WSAJ member" (from the personal injury and employment cases handled, 50% or more are on behalf of plaintiffs) **and** you are a current member of the EAGLE Program. Do not allow nonmembers to use your user name to access or continue List use after your log-in or to post to a List. Nonmembers are not to be allowed access to any messages or attachments you have downloaded, except for your support staff instructed to follow these List Serve Terms of Use. Except for information marked as publicly available or permitted for disclosure, you may not disclose information received through this list, except as permitted by these terms and you must receive an enforceable commitment from the recipients to abide by the nondisclosure terms.

It is of utmost importance that you insure downloaded messages and material not be accessible to attorneys whose practice is primarily tort defense litigation. Except for material available for use publicly, you may not share any e-mail, posted information, or documents obtained from or through the List Serve with any law firm, attorneys or staff working for lawyers whose practice is primarily tort defense litigation. If you work in a law firm with attorneys whose practice is primarily tort defense litigation, you are required as a condition of access to the List Serve to take all measures necessary to prevent those attorneys and their support staff from being able to access any of your e-mail or attachments obtained from WSTLA Lists.

Denial of Access and Suspension and Appeal Policy for member Conflicts

WSAJ reserves the right to restrict access to one or more lists and bar or remove an attorney or law firm from a list or lists, including the Medical Negligence List Serve, for any of the following reasons: (i) violation of the List Serve terms of use; (ii) having as part of your law practice, or of other businesses or interests, an interest that conflicts with the purposes and mission of WSAJ; (iii) filing in a proceeding a copy of a List Serve transmission without either permission of the author or pursuant to court order entered after notice to the author and WSAJ; or (iv) while a member is a named party and/or acting as counsel in any type of proceeding involving a party represented by a fellow WSAJ or Eagle member and a request for action is made by a fellow WSAJ member acting on behalf of an adverse party's interests in the involved proceeding. Relevant to item (iv), above, if and when a request for action is made, the individual circumstances of the case/proceeding/situation will be reviewed to ascertain whether or not in the judgment of the WSAJ Executive Director (or Deputy), after consultation with the current WSAJ President, the noted activity constitutes representation of interests that conflict with the purposes and mission of WSAJ.

Generally, if a WSAJ member is engaged in insurance defense or similar defense work relevant to a personal injury, products liability, employment, workers compensation, nursing home, medical or other professional negligence claim, or performing defense work in a given claim or proceeding deemed to be contrary to the purposes and mission of WSAJ, the remedy will be to remove that member from all WSAJ list serves until final conclusion of the claim or proceeding at issue. A “proceeding” is any action, suit or other legal-related proceeding, whether civil, criminal, administrative or investigative and whether formal or informal, filed or unfiled. If you believe you or your law firm has been wrongfully denied access, barred or removed from a WSAJ sponsored list or List Serve, you may, at any time within 10 days of being denied access, barred or removed from any WSAJ sponsored list or List Serve, appeal such action by sending a Request for Reconsideration to the WSAJ Executive Director. A written decision will be issued by the Executive Director in all such circumstances either denying or overturning the initial decision, with said decision to be issued within 10 days of a Request for Reconsideration being made. If the Executive Director denies the Request for Consideration, then within 30 days of the date of the written denial of a Request for Reconsideration, you must, in writing, appeal to the WSAJ Executive Committee, and as part of your written appeal, you may request an oral hearing. The WSAJ Executive Committee’s decision on the merits of your appeal, after hearing, is final.

#### General Guidelines on Use

- Do not post racist, sexist or other derogatory remarks or jokes that might be offensive to other people.
- Without permission from WSAJ or the owners of the addresses, do not sell or transfer for commercial or charitable purposes any e-mail addresses acquired from the List Serve.
- Do not endorse candidates and do not solicit contributions for causes or political candidates.
- Messages posted on WSAJ's List Serves may not be posted or forwarded to other lists without permission from the author.
- Do not use the list to advertise CLE programs except WSAJ's.
- Do not use the lists to recruit new associates, partners, or legal staff. This can be done best by putting an ad in Trial News or posting it on the WSAJ message board in the WSAJ Member Only section of our website or posting it on the WSAJ e-classifieds.
- Before sending an attachment to the list, please scan your document for viruses. Your virus detection program must be updated to the most current release and update from your provider.
- Keep paragraphs and messages short.
- Focus on one subject per message and always include a pertinent subject title for the message.
- Always sign your message with your name and preferred e-mail address.
- Send all e-mail and attachments to the list in text format, not HTML or other formats.
- The most appropriate and confidential way to respond to most messages is to reply to the sender only ('Reply' or 'reply to sender'). If your reply is truly of interest to the entire list, you should choose the option 'Reply to all' and your reply will be posted to the entire list (and anyone else the message was sent to).

#### Restrictions on Transmitting Materials

You are responsible for all content that you upload, post, e-mail or otherwise transmit. Although WSAJ does not generally control transmissions, WSAJ retains the right to bar any user who violates any of the List Serve Terms of Use, including transmission of objectionable material. You agree to follow the General Guidelines on Use and not to transmit:

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2. Material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment, or which negatively affects other users' ability to upload, download, communicate in real time, or utilize features as they have been designed to function.
3. Material that violates a copyright, license, right of privacy, right of publicity, trademark, privilege, right of confidentiality, fiduciary obligation, trade secret, employment obligation, agreement or other restriction on use.
4. Material whose use is authorized only when accompanied by a copyright notice, source credit or other required marking or language, unless accompanied by the required marking or language.
5. Content that constitutes, encourages or provides instructions in committing a criminal offense, violation of another's rights, conduct which is likely to give rise to liability or violation of Court Rules or Rules of Professional Conduct, or violation of these List Serve Terms of Use.
6. Advertisements, solicitations, promotions or announcements of goods or services for commercial purposes, except for the purpose of sharing information with users about third party services that are likely to be of interest to such users. In the event you do have a financial interest, you must disclose it.
7. Material that contains known falsehoods (unless for the purpose of disclosing and pointing out such falsehoods), including use of inaccurate identification of content, author, source, your identity or affiliation.
8. Content outside the stated purpose and scope of the List.
9. Briefs, declarations, depositions or expert testimony subject to outstanding confidentiality agreements or orders, unless in compliance therewith. You must delete material that reveals client confidences, secrets, trade secrets or privileged information, unless the client consents to posting or revelation of the information.

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efforts itself with respect to such violations, but may bar violators and their law firms from the Lists and from WSAJ membership.

#### Warning of Possible Third Party Access

Even though the WSAJ list is private and intended only for the use of members, and WSAJ prohibits transmission of materials to non-members, we cannot guarantee confidentiality. E-mail is easily forwarded and in some offices e-mail is accessible to a variety of people despite the users' commitment to these List Serve Terms of Use. Some firms have a mixed practice, representing both plaintiffs and defendants. Be aware that defense counsel may obtain or have a copy of your e-mail. Consider your comments to be public. Therefore be professional and careful about what you say.

#### Disclaimer

UNLESS OTHERWISE STATED, VIEWS AND OPINIONS EXPRESSED ON THE LIST SERVES HAVE NOT BEEN APPROVED BY WSAJ AND DO NOT NECESSARILY REPRESENT THE POLICY OF WSAJ. WSAJ MAKES NO WARRANTY OR GUARANTEE CONCERNING THE ACCURACY OR RELIABILITY OF THE CONTENT. WSAJ DOES NOT SCREEN USER-GENERATED MATERIAL, NOR VERIFY THE SOURCE. WSAJ SUGGESTS YOU DO NOT RELY ON THE STATED IDENTITY, CONTENT OR SOURCE OF SUCH MATERIAL WITHOUT YOUR INDEPENDENT CONFIRMATION.

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These Terms of Use contain provisions addressing the confidentiality of the transmissions through this List and obligations of nondisclosure by users. By signing below or by using this List in any manner you agree to abide by the confidentiality and nondisclosure terms. This obligation continues in effect until and unless you receive permission from the source of the information to disclose it and you abide by the permitted terms and scope of disclosure. Whenever you disclose confidential information received through this list, it must be disclosed only as permitted by these terms and you must receive an enforceable commitment from the recipients to abide by the nondisclosure terms. By signing below you also acknowledge that remedies at law may be inadequate to protect against breach of the nondisclosure provisions and that WSAJ and the users of this List Serve may obtain an injunction to enforce these provisions without proof of damages.

You further agree to notify the List Serve and request that WSAJ and the List Serve users have an opportunity to respond if you are requested or ordered by any governmental entity to disclose confidential information obtained through the List Serve, and you will seek an appropriate protective order for the confidential information. Information that becomes generally known to the public or the legal community without disclosure by you is no longer deemed confidential information.

I agree to the above terms of use for the WSAJ Nursing Home Litigation List Serve:

Date \_\_\_\_\_

\_\_\_\_\_  
EAGLE Member Signature

\_\_\_\_\_  
Date