

**FOR PUBLICATION**  
**UNITED STATES COURT OF APPEALS**  
**FOR THE NINTH CIRCUIT**

YAGMAN & YAGMAN & REICHMANN,  
*Petitioner,*

v.

UNITED STATES DISTRICT COURT FOR  
THE CENTRAL DISTRICT OF  
CALIFORNIA,

*Respondent.*

No. 07-74834

ORDER

Filed December 31, 2007

Before: Alfred T. Goodwin, Stephen Reinhardt and  
William A. Fletcher, Circuit Judges.

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**ORDER**

We have reviewed the petition for writ of mandamus, the supplement thereto, the district court's response and petitioner's replies. In its response to the petition, the district court conceded that, given the plain language of Federal Rule of Civil Procedure 5(b)(2)(D), it may mandate electronic filing only if it allows attorneys to opt out of receiving service electronically, and represented that it has taken steps to amend its rules accordingly. Therefore, the petition for writ of mandamus is denied as moot.

Petitioner's third, fourth and fifth replies present matters that were not addressed in the original petition or in the district court's response. Accordingly, those matters are not properly before this court, but may be raised subsequently in an appropriate proceeding.

We grant petitioner's motion for costs. *See* Fed. R. App. P. 39(a). Petitioner may submit a bill of costs, and the district court may oppose it, pursuant to Ninth Circuit Rule 39-1. We direct the Appellate Commissioner to determine the amount of the award. *See* 9th Cir. R. 39-1.9.



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