

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA
IN RE: MINGO COUNTY COAL SLURRY LITIGATION
CIVIL ACTION NO. 10-C-5000
2010 JUN 24 PM 2:29
ELECTRONIC FILING

THIS DOCUMENT APPLIES TO ALL CASES

ELECTRONIC FILING AND SERVICE CASE MANAGEMENT ORDER

By order of the Mass Litigation Panel ("Panel") entered on June 4, 2010, all civil actions in the Mingo County Coal Slurry Litigation are subject to electronic filing and service ("e-filing and service") beginning on **June 28, 2010**.

To facilitate expeditious and efficient communication by and among counsel, as well as case management, document retrieval and case organization, the parties will utilize the services of LexisNexis® File & Serve, for providing electronic filing and service, notification, storage and delivery of court-filed documents through a secure website.

Consistent with the requirements of West Virginia Trial Court Rule 15.01 *et seq.*, the Court has determined that certain procedures must be followed to facilitate uniformity of case captions, case numbering and designation, and to maintain case and party information when e-filing and serving documents in any cases in the Mingo County Coal Slurry Litigation. Pursuant to Trial Court Rule 15.08, the Court hereby **ORDERS** the following procedures to be followed by all counsel when e-filing and e-serving documents in the Mingo County Coal Slurry Litigation using LexisNexis® File & Serve.

1. **Registration and Training for LexisNexis® File & Serve.** Registration and training for e-filing and service is *mandatory*. Even if a party has registered with LexisNexis and received training for e-filing and service in other Mass Litigation cases, there is specific training for e-filing and service in the Mingo County Coal Slurry Litigation that all parties must

receive. To register with LexisNexis and to make arrangements for training, contact the **LexisNexis Customer Service Department at 1-888-529-7587** or at the following hyperlink: <http://www.lexisnexis.com/fstraining/>. Counsel are responsible for regularly checking the LexisNexis Resource Center for updates to West Virginia Attorney Special Instructions, Frequently Asked Questions, File & Serve Newsletters and any other resources periodically posted by LexisNexis to assist parties with appropriate procedures and best practices for successful e-filing and service.

2. Addition of New Parties. To properly function, the e-filing and service system requires certain case information to be loaded and parties to be registered users in order to receive service, access the register of actions, and use the system to file and serve documents. The filing party is responsible for updating LexisNexis File & Serve with case and party information as outlined in the procedures below and, if applicable, for notifying national counsel of its responsibility to register with LexisNexis File & Serve.

Within **five (5) business days** of serving an amended complaint, a third-party complaint or a motion or pleading seeking to add a new party to a case, the moving party shall add the new party's information to the LexisNexis File & Serve system using the Case & Party Management feature. A new party shall not be served with an amended complaint or a third-party complaint using e-filing and service, but shall be served pursuant to Rule 5 of the Rules of Civil Procedure. See Trial Court Rule 15.02(b). If a party sought to be added to a case by motion or pleading does not have a user registered with LexisNexis, the moving party shall serve the party sought to be added with the motion or pleading pursuant to Rule 5 of the Rules of Civil Procedure.

3. Updating Case and Party Information. Within **five (5) business days** of a case or party being dismissed, a withdrawal or substitution of counsel, or any other event that changes

case information, the moving party shall update the LexisNexis File & Serve system with the information necessary to effect the change in case or party status using the Case & Party Management feature. The moving party must provide LexisNexis with verification of the change in case or party information, either by providing LexisNexis with the Transaction ID Number of the order or other document that verifies the change, or by uploading a copy of the order or document that verifies the change.

4. **Adding New Cases.** Within **five (5) business days** of filing a new case, plaintiffs are **ORDERED** to provide LexisNexis with a case specific service list containing all parties and any known corresponding representation in the editable electronic spreadsheet format specified by LexisNexis File & Serve. Following is the link to the editable electronic spreadsheet: <http://www.lexisnexis.com/documents/335-20081208120111.xls> . Plaintiffs shall email their spreadsheet to the LexisNexis Data Integrity Group at the following email address: lngcl-efile-di@lexisnexis.com .

Within **five (5) business days** from the date the LexisNexis Data Integrity Group uploads the case specific service list for a new case, plaintiffs are **ORDERED** to e-file the "Filed" stamped copy of their Complaint and Civil Case Information Statement in .pdf format into LexisNexis File & Serve using only the document types "Filed Complaint" or "Filed Class Action Complaint" and "Civil Case Information Sheet – Complaint" in the transaction. There will be no LexisNexis transaction fee associated with this transaction. While LexisNexis may send a courtesy email notifying plaintiffs that a new case has been uploaded and is available on File & Serve, it is plaintiffs' responsibility to check LexisNexis in order to determine when the case specific service list for a new case has been uploaded.

5. **Case Captions.** The cover page of each pleading shall contain the following information in the order listed below:

- a. The name of the court where the pleading is being filed (i.e., In the Circuit Court of Ohio County);
- b. The name of the mass litigation case type and number (i.e., In re: Mingo County Coal Slurry Litigation, Civil Action No. 10-C-5000);
- c. A notation indicating whether the pleading applies to all cases or only a subset of cases (i.e., THIS DOCUMENT APPLIES TO ALL CASES or THIS DOCUMENT APPLIES TO:);
- d. A list of the short case title and case number of each case to which the document applies, including the initiating case number and three-letter county identifier (i.e., Mary E. Rogers v. ABC Corp., et al. Civil Action No. 04-C-123 MNG). A table of the three-letter county identifiers is attached as **Appendix A**.
- e. If applicable, the caption shall also state whether the filing is related to cases in a particular trial group (i.e., 2010 June Trial Group);
- f. A title stating the party and subject matter of the document (i.e., Defendant XYZ Corporation's Motion for Summary Judgment).

Specific examples of case captions are attached as **Appendix B**.

6. **Master Case File.** The Mingo County Coal Slurry Litigation has a Master Case File bearing the caption: "In Re: Mingo County Coal Slurry Litigation Civil Action No. 10-C-5000." *The Master Case File shall contain only pleadings or documents of general applicability to the entire Mingo County Coal Slurry Litigation*, such as trial calendars, case management orders, other orders of general applicability, notices of deposition if they are not case-specific, master pleadings, master discovery and other similar documents.

When a document is intended to be applicable to all cases within the Mingo County Coal Slurry Litigation, the title page of the document shall contain the notation "THIS DOCUMENT

APPLIES TO ALL CASES" and the document shall be filed in the Master Case File. See Appendix B.

7. **Individual Case Files.** When a document is intended to be applicable to a specific case or specific cases, the title page of the document shall contain the notation "THIS DOCUMENT APPLIES TO" and each case shall be listed separately using the initiating case number(s) with the three-letter county identifier. See Appendix B.

8. **Case Groups.** The presiding judicial officer may designate certain case groups to be utilized within the e-filing and e-service system (i.e., 2010 June Trial Group), and may further require Counsel to confer and maintain those case groups.

9. **Document Title Section in the LexisNexis E-Filing System.** When e-filing and/or e-serving a document, the following information shall be provided in the document title section of LexisNexis File & Serve to enable the Court and the parties to search for information in the system:

- a. the party or parties filing the document;
- b. a descriptive title of the document;
- c. the party or parties against whom relief is sought, if any;
- d. the nature of relief sought;
- e. the initiating case number(s) with the three-letter county identifier if the document applies to a specific case or cases (i.e., DEF ABC Corp.'s MOT FOR SJ, Civil Action No. 04-C-123 MNG; PL Robert Robinson's MOT to COMP DISC from DEF XYZ Corp, Civil Action No. 04-C-456 MNG).

A standard list of abbreviations which should be used in titling documents in the document title section of the e-filing and e-service system is attached as **Appendix C**. A sample of document titles and descriptions is attached as **Appendix D**.

10. Stapling and Linking Documents. West Virginia Trial Court Rule 15.10(b) requires all e-filed documents relating to a single pleading or document submitted in the same transaction to be “electronically stapled” together using the “main” and “supporting” functionality of the e-filing and service system. This enables multiple related documents, such as a motion, memorandum of law in support and proposed order to be kept together and identified in one transaction.

Trial Court Rule 15.10(c) requires any e-filed document directly related to a previously e-filed document, such as a response to a previously e-filed motion, to be linked to the previously e-filed document using the “linked document feature” in the e-filing and service system. This allows the Court to more easily find documents that are related to one another. Use the “link to” column every time a responsive pleading is filed. Because attorneys and the Court need to be able to go to one location to see all related documents, it is better to take a liberal approach in using the “link to” column. Failure to appropriately link a responsive pleading may result in the Court refusing to consider the response.

11. Discovery Materials. As required by Rule 5(d)(2) of the Rules of Civil Procedure, “Unless it is required by the court on motion or upon its own initiative, depositions, interrogatories, requests for admissions, requests for production and entry, and answers and responses thereto shall not be filed.” However a certificate of service of discovery materials shall be filed.

12. Oversized Documents, DVDs and Other Items That Cannot Be Filed and Served Electronically. Oversized documents, including but not limited to maps or charts, DVDs, manuals and other items that cannot be filed and served electronically shall be filed conventionally in the office of the Clerk of the Ohio County Circuit Court and served conventionally. Within twenty-four (24) hours of conventionally filing such oversized document or other item, the filing party is **ORDERED** to e-file a “docket entry transaction” in LexisNexis® File & Serve providing a full description of the oversized document or item filed and served conventionally. There will be no LexisNexis transaction fee associated with e-filing the docket entry transaction, however, the docket entry transaction must be a separate transaction and not included with other documents.

To file the docket entry transaction the filing party will go through the File & Serve process, but instead of uploading the oversized document or other item, the filing party will select the document type “Oversized Document/Item,” select “Submitted conventionally” from the access drop down, and enter a document title description in accordance with the requirements of Section 9 of this Order.

If the oversized document or item is an exhibit to an e-filed document, the Transaction Identification Number of the e-filed document shall be placed in the upper right-hand corner of the exhibit, (i.e., Exhibit A to Transaction ID 12345678) and the docket entry transaction shall be linked to the e-filed and served document using the “linked document feature”. See Section 10 of this Order.

13. Pro Hac Vice Motions. A motion for admission to practice pro hac vice shall not be filed in the Master Case or in multiple cases as one transaction. The motion shall be filed in each individual case in which counsel seeks admission to practice. See Rule 8.0(b) of the Rules

for Admission to the Practice of Law. If a motion for admission to practice pro hac vice is filed into the Master Case or using the multi-case feature, the Clerk's Office shall reject the filing.

14. **Sealed Documents.** Pursuant to Trial Court Rule 15.12, a motion to seal documents shall be e-filed and e-served. However, any documents that are the subject of a motion to seal shall be filed directly with the Court enclosed in sealed envelopes to be opened as directed by the Court, and a copy of the documents that are the subject of the motion to seal shall be provided to the Presiding Judge for review.

15. **Personal Data Identifiers.**

a. **E-service of Documents Containing Personal Data Identifiers.** If a party wishes to serve counsel of record with pleadings or other documents that contain personal data identifiers or other confidential information, the party shall use the "serve only – private" feature in LexisNexis File & Serve. This will cause the document to be accessible only by the parties selected to be served.

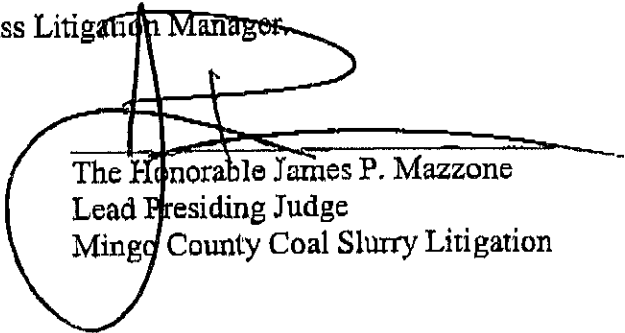
b. **E-filing and Service of Documents Containing Personal Data Identifiers.** To promote electronic access to case files while also protecting personal privacy and other legitimate interests, counsel and the parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the Court, including exhibits attached to pleadings, whether filed electronically or in paper, unless otherwise ordered by the Court. Responsibility for redacting personal data identifiers rests solely with counsel and the parties. **The Clerk will not review each pleading for compliance regarding redaction of personal data identifiers.**

1. **Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four (4) digits of that number should be included.

2. **Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be used.
3. **Financial account numbers.** If financial account numbers are relevant, only the last four (4) digits of those numbers should be used.
4. **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
5. **Medical information.** If medical information is intended to be disclosed in any public filing, the party intending to disclose such information shall give the party whose medical information is the subject of such disclosure ten (10) days notice of such intended disclosure, including identification of the specific medical information the party intends to disclose. If the party whose medical information is intended to be disclosed believes such information requires the additional protection of filing with the Court under seal, that party shall identify the medical information it believes should be filed under seal to the party who intends to disclose the information as soon as practicable, but no later than ten (10) days after receiving notice of such intended disclosure. If the parties are unable to agree as to the extent of additional protection, if any, to be applied, the party whose medical information is intended to be disclosed shall file a motion to seal with the Court for a determination as to whether, and to what extent, the identified medical information shall be sealed or otherwise further protected.

The Clerk is **ORDERED** to provide a certified copy of this Order to all Counsel of record, any self-represented parties and the Mass Litigation Manager.

ENTER: June 24, 2010



The Honorable James P. Mazzone
Lead Presiding Judge
Mingo County Coal Slurry Litigation

APPENDIX A

West Virginia County Listing
File & Serve Abbreviations

| Abbreviation | County | Judicial District |
|--------------|------------|--------------------------------|
| BRB | Barbour | Nineteenth Judicial Circuit |
| BER | Berkeley | Twenty-Third Judicial Circuit |
| BNE | Boone | Twenty-Fifth Judicial Circuit |
| BRX | Braxton | Fourteenth Judicial Circuit |
| BRK | Brooke | First Judicial Circuit |
| CBL | Cabell | Sixth Judicial Circuit |
| CAL | Calhoun | Fifth Judicial Circuit |
| CLA | Clay | Fourteenth Judicial Circuit |
| DOD | Doddridge | Third Judicial Circuit |
| FAY | Fayette | Twelfth Judicial Circuit |
| GIL | Gilmer | Fourteenth Judicial Circuit |
| GRT | Grant | Twenty-First Judicial Circuit |
| GRN | Greenbrier | Eleventh Judicial Circuit |
| HMP | Hampshire | Twenty-Second Judicial Circuit |
| HNK | Hancock | First Judicial Circuit |
| HDY | Hardy | Twenty-Second Judicial Circuit |
| HRR | Harrison | Fifteenth Judicial Circuit |
| JKN | Jackson | Fifth Judicial Circuit |
| JFN | Jefferson | Twenty-Third Judicial Circuit |
| KAN | Kanawha | Thirteenth Judicial Circuit |
| LWS | Lewis | Twenty-Sixth Judicial Circuit |
| LCN | Lincoln | Twenty-Fifth Judicial Circuit |
| LGN | Logan | Seventh Judicial Circuit |
| MRN | Marion | Sixteenth Judicial Circuit |
| MSH | Marshall | Second Judicial Circuit |
| MAS | Mason | Fifth Judicial Circuit |
| MCD | McDowell | Eighth Judicial Circuit |
| MER | Mercer | Ninth Judicial Circuit |
| MIN | Mineral | Twenty-First Judicial Circuit |
| MNG | Mingo | Thirtieth Judicial Circuit |
| MON | Monongalia | Seventeenth Judicial Circuit |
| MNR | Monroe | Thirty-First Judicial Circuit |
| MGN | Morgan | Twenty-Third Judicial Circuit |
| NIC | Nicholas | Twenty-Eighth Judicial Circuit |
| OHI | Ohio | First Judicial Circuit |
| PND | Pendleton | Twenty-Second Judicial Circuit |
| PLE | Pleasants | Third Judicial Circuit |
| PHS | Pocahontas | Eleventh Judicial Circuit |

| Abbreviation | County | Judicial District |
|--------------|----------|---------------------------------|
| PRN | Preston | Eighteenth Judicial Circuit |
| PNM | Putnam | Twenty-Ninth Judicial Circuit |
| RAL | Raleigh | Tenth Judicial Circuit |
| RND | Randolph | Twentieth Judicial Circuit |
| RIT | Ritchie | Third Judicial Circuit |
| RNE | Roane | Fifth Judicial Circuit |
| SMR | Summers | Thirty-First Judicial Circuit |
| TLR | Taylor | Nineteenth Judicial Circuit |
| TKR | Tucker | Twenty-First Judicial Circuit |
| TYL | Tyler | Second Judicial Circuit |
| UPR | Upshur | Twenty-Sixth Judicial Circuit |
| WNE | Wayne | Twenty-Fourth Judicial Circuit |
| WBR | Webster | Fourteenth Judicial Circuit |
| WTZ | Wetzel | Second Judicial Circuit |
| WRT | Wirt | Fourth Judicial Circuit |
| WDE | Wood | Fourth Judicial Circuit |
| WMG | Wyoming | Twenty-Seventh Judicial Circuit |

Note: Abbreviations used in case number field on LexisNexis File Serve.

APPENDIX B

EXAMPLES OF CASE CAPTIONS

For a document that applies to all cases:

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

IN RE: MINGO COUNTY
COAL SLURRY LITIGATION

CIVIL ACTION NO. 10-C-5000

THIS DOCUMENT APPLIES TO ALL CASES

CASE MANAGEMENT ORDER

For a document that applies to specific cases:

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

IN RE: MINGO COUNTY
COAL SLURRY LITIGATION

CIVIL ACTION NO. 10-C-5000

THIS DOCUMENT APPLIES TO:

- | | |
|--|-------------------------------|
| John S. Doe v. ABC Corporation, et al. | Civil Action No. 04-C-123 MNG |
| Jane E. Smith v. ABC Corporation, et al. | Civil Action No. 04-C-124 MNG |
| Jill Jones v. ABC Corporation, et al. | Civil Action No. 04-C-125 MNG |
| Mary E. Rogers v. ABC Corporation, et al. | Civil Action No. 07-C-222 MNG |
| James E. Jones v. ABC Corporation, et al. | Civil Action No. 07-C-561 MNG |
| Suzy Harris v. ABC Corporation, et al. | Civil Action No. 08-C-124 MNG |
| James Abbott (Jon Adams) v. ABC Corporation, et al. | Civil Action No. 06-C-255 MNG |
| James Abbott (Gail E. Harris) v. ABC Corporation, et al. | “ ” |
| James Abbott (Tammy J. Craig) v. ABC Corporation, et al. | “ ” |
| James Abbott (George Jones) v. ABC Corporation, et al. | “ ” |
| Gerald A. Cart v. ABC Corporation, et. al | Civil Action No. 06-C-555 MNG |

DEFENDANT ABC CORPORATION'S MOTION TO DISMISS

APPENDIX C

STANDARD LIST OF ABBREVIATIONS
FOR USE IN THE DOCUMENT TITLE FIELD
OF THE E-FILING AND SERVICE SYSTEM

| | |
|----------|-------------------------|
| ABST | ABSTRACT |
| A | ADMINISTRATIVE |
| ADM | ADMISSION |
| AFD | AFFIDAVIT |
| AMD | AMENDED |
| AGRMT | AGREEMENT |
| AMOTH | AMONG OTHER THINGS |
| ANS | ANSWER |
| ATTY | ATTORNEY |
| COS | CERTIFICATE OF SERVICE |
| CC | CERTIFIED COPY |
| CM | CERTIFIED MAIL |
| CMC | CERTIFIED MAIL CARD |
| CLK | CLERK |
| CIR | CIRCUIT |
| CIV | CIVIL |
| COMP | COMPEL |
| CONF | CONFERENCE |
| CPY | COPY |
| C OF R | COUNSEL OF RECORD |
| CNTR-CLM | COUNTERCLAIM |
| CT | COURT |
| CP | CREDIBLE PERSON |
| CR CL | CROSSCLAIM |
| DEFS | DEFENDANTS |
| DISCOV | DISCOVERY |
| DISCL | DISCLOSURE |
| DISM | DISMISSAL |
| DOCS | DOCUMENTS |
| EXH | EXHIBIT |
| GAL | GUARDIAN AD LITEM |
| GRT | GRANTED/GRANTING |
| HRG | HEARING |
| ID | IDENTIFY/IDENTIFICATION |
| INSTR | INSTRUCTIONS |
| INTERR | INTERROGATORIES |
| ISD | ISSUED |
| JDG | JUDGE |
| JUDG | JUDGMENT |
| JRY | JURY |

| | |
|---------|-------------------------|
| JV | JURY VERDICT |
| LET | LETTER |
| MEMO | MEMORANDUM |
| MOT | MOTION |
| NOT | NOTICE |
| NOT APP | NOTICE OF APPEARANCE |
| NOT HRG | NOTICE OF HEARING |
| NOS | NOTICE OF SERVICE |
| NPT | NUNC PRO TUNC |
| OBJ | OBJECTION |
| OPPOS | OPPOSITION |
| OBO | ON BEHALF OF |
| O | ORDER |
| PET | PETITION |
| PLS | PLAINTIFFS |
| POD | PRODUCTION OF DOCUMENTS |
| PROT O | PROTECTIVE ORDER |
| REC | RECEIVE |
| REPS | REPRESENTATIVE |
| REQ | REQUEST |
| RESP | RESPONSE |
| R/S | RETURN OF SERVICE |
| SCHED | SCHEDULING/SCHEDULED |
| SO | SCHEDULING ORDER |
| S | SETTLEMENT/SETTLE |
| S/F | SIGNED FOR |
| SH | SHERIFF |
| SOS | SECRETARY OF STATE |
| STIP | STIPULATION |
| SUBP | SUBPOENA |
| SUBP DT | SUBPOENA DUCES TECUM |
| SJ | SUMMARY JUDGMENT |
| SUPP | SUPPLEMENTAL |
| TRANS | TRANSCRIPT |
| TRANSF | TRANSFER |
| TR | TRIAL |
| TD | TRIAL DATE |
| VERD | VERDICT |
| VERIF | VERIFICATION |
| W/ | WITH |
| W/D | WITHDRAW |
| W/O | WITHOUT |
| WIT | WITNESS |

APPENDIX D

EXAMPLES OF DOCUMENT TITLE DESCRIPTIONS

“Defendants ABC Corporation’s and XYZ Corporation’s Motion for Summary Judgment”

Document Title Description:

DEFS ABC Corp.’s and XYZ Corp.’s MOT for SJ

“Plaintiff’s Certificate of Service of Interrogatories and Request for Production of Documents on ABC Corporation”

Document Title Description:

PLS COS of INTERR and REQ for POD to ABC Corp.