

DEC - 5 2014

1 IN THE SUPERIOR COURT OF CALIFORNIA

2 IN AND FOR THE COUNTY OF SOLANO

By

A. Wojan
DEPUTY CLERK

3
4 In re Complex Litigation

Standing Order No. 2015-001-CV

5 **AMENDED STANDING ORDER FOR**
6 **ELECTRONIC SERVICE OF**
7 **DOCUMENTS IN COMPLEX**
8 **LITIGATION**

9 **A. FINDINGS**

10 The court finds that entry of a standing order requiring mandatory electronic service
11 of all pleadings and documents in all cases that it identifies as “complex” per California
12 Rules of Court, rule 3.403 will benefit the court, attorneys, and litigants, and will further the
13 orderly conduct and management of complex litigation in this jurisdiction. The court further
14 finds that electronic service will not cause undue hardship or significant prejudice to any
15 party.

16 **B. ELECTRONIC SERVICE OF DOCUMENTS**

17 1. Effective January 1, 2015, the court orders that all documents shall be served
18 electronically as set forth in this order and in California Rules of Court, rule 2.251. This
19 standing order shall apply to all cases pending on January 1, 2015, and to all cases filed on
20 or after January 1, 2015. Unless otherwise agreed by the parties, this order does not apply to
21 any documents filed or served prior to January 1, 2015.

22 2. Original documents must be filed with the court as required by the Code of
23 Civil Procedure, the California Rules of Court, or the local rules of the Superior Court of
24 California, County of Solano. Nothing in this standing order shall be construed to require or
25 permit electronic filing of documents with the court.

1 3. Per California Rules of Court, rule 2.253(b)(1)(F), this standing order shall
2 apply only to cases designated as complex per California Rules of Court, rules 3.400
3 through 3.403.

4 4. This standing order shall apply to all attorneys in a complex matter. This
5 standing order shall apply to self-represented litigants only if they elect to participate in
6 electronic service. Unrepresented litigants who do not elect to participate in electronic
7 service shall serve and shall be served documents in the manner required by the Code of
8 Civil Procedure, the California Rules of Court, and/or the local rules of the Superior Court
9 of California, County of Solano.

10 5. The following documents shall not be served electronically:

11 a. Documents filed under seal or subject to a pending motion to seal, unless
12 electronic service is permitted or required by specific court order.

13 b. Documents directed to an unrepresented party who has not elected to
14 participate in electronic service.

15 c. A summons, complaint, or cross-complaint.

16 6. The documents enumerated in (B)(5), *supra*, shall be served pursuant to the
17 applicable provisions of the Code of Civil Procedure, California Rules of Court, and/or the
18 local rules of the Superior Court of California, County of Solano.

19 **C. DEFINITIONS**

20 1. The definitions in California Rules of Court, rule 2.250(b) shall apply to this
21 standing order.

22 2. The term “plaintiff” includes a cross-complainant or an intervenor.

23 3. The term “initial complaint” includes a cross-complaint or a complaint in
24 intervention.

1 4. The term “amended complaint” includes an amended cross-complaint or an
2 amended complaint in intervention.

3 **D. DESIGNATION OF ELECTRONIC SERVICE PROVIDER**

4 1. The court designates File & ServeXpress as the electronic service provider (“the
5 ESP”). File & ServeXpress shall serve as the ESP absent notice by the court that the ESP has
6 been changed or further court order. File & ServeXpress may be contacted by visiting
7 <http://www.fileandservexpress.com> or by calling 888-529-7587.

8 **E. NOTICE OF STANDING ORDER**

9 1. If a plaintiff designates the case as complex on the initial complaint, a copy of
10 this standing order shall be served on all defendants concurrently with the summons and
11 complaint. If a plaintiff does not designate the case as complex on the initial complaint but
12 designates it as complex on an amended complaint, a copy of this standing order shall be
13 served on all defendants concurrently with the amended complaint.

14 2. If a defendant designates the case as complex on the initial answer, a copy of
15 this standing order shall be served on all plaintiffs concurrently with the answer. If a defendant
16 does not designate the case as complex on the initial answer but designates it as complex on an
17 amended answer, a copy of this standing order shall be served on all plaintiffs concurrently
18 with the amended answer.

19 3. If neither party designates the case as complex but the court determines the case
20 is complex per California Rules of Court, rule 3.403(b), the plaintiff shall serve a copy of this
21 standing order on all defendants within 5 calendar days of being notified by the court of the
22 complex designation.

23 4. Any party that joins a new party into this action shall serve a copy of this
24 standing order on the new party at the time of initial service.

25

1 **F. REGISTRATION WITH ELECTRONIC SERVICE PROVIDER**

2 Upon the court designating a civil action as complex per California Rules of Court,
3 rules 3.402 and 3.403, the following registration procedures shall apply:

4 1. Within 15 days of the court's designation of the case as complex, the
5 plaintiff's attorney, or the plaintiff if self-represented, shall submit to the ESP and to the
6 court a complete and current list of the parties, party types, and counsel representing each
7 party. The list shall include the names of any lead and other associated attorneys, together
8 with addresses, telephone and facsimile numbers, and e-mail addresses. All lists shall be
9 sent to the following e-mail address: eservice@fileandservexpress.com. The ESP shall
10 promptly notify all Registered Users of any changes to this e-mail address.

11 2. If an unrepresented party affirmatively consents to electronic service, the
12 plaintiff's attorney, or the plaintiff if self-represented, shall submit to the ESP and to the
13 court the unrepresented party's address, telephone number, facsimile number, and e-mail
14 address in the same manner and within the same time limits as for attorneys.

15 3. All attorneys, and any unrepresented parties who consent to electronic
16 service, shall register with the ESP in the manner designated by the ESP.

17 4. Each attorney and unrepresented party registered with the ESP shall keep his or
18 her service information current and accurate with the ESP, all other attorneys and
19 unrepresented parties, and the court.

20 5. Each attorney and unrepresented party registered with the ESP shall be referred
21 to in this order as a "Registered User."

22 **G. ESTABLISHMENT AND STRUCTURE OF COMPLEX LITIGATION**

23 **WEBSITE**

24 1. For each complex litigation case subject to this standing order, the ESP shall
25 establish and maintain an Internet website ("the Website"). The ESP shall post to the Website

1 all documents submitted to the ESP by any Registered User and shall serve each document
2 pursuant to the service list provided to the ESP in accordance with the procedures herein.

3 2. Access to the Website will be limited to Registered Users and authorized court
4 personnel. The ESP will provide each Registered User and authorized court personnel with a
5 user name and password to access the Website and the documents served in this action. The
6 ESP personnel will perform all administrative functions for the Website, but all initial data,
7 additions, deletions or changes to the service list must be submitted by the attorneys and/or
8 parties.

9 3. All documents posted on the Website will be identified by: (1) the name of the
10 serving party or attorney; (2) the caption(s) of the case(s) to which the document belongs; (3)
11 the title of the document set forth on its caption; and (4) the identity of the party on whose
12 behalf the document is being served.

13 4. The Website shall contain an index of all served documents for the litigation
14 that will be searchable and sortable according to methods that provide useful access to the
15 documents.

16 **H. CONTENT AND FORMAT OF DOCUMENTS SERVED THROUGH THE ESP**

17 1. The document shall be served to the ESP either as a word-processing file or as a
18 scanned image of the document. Each document shall be titled so as to identify the type and
19 purpose of such document and the identity of the attorney or party who is serving such
20 document.

21 2. Every pleading, document and instrument served electronically shall bear a
22 facsimile or typographical signature of at least one of the serving attorneys and/or parties,
23 along with the typed name, address, telephone number and State Bar of California number,
24 where applicable, of such attorney or party. Typographical signatures shall be treated exactly
25 as personal signatures for purposes of electronically served documents under the Code of Civil

1 Procedure. The attorney and/or party serving any document requiring multiple signatures (e.g.,
2 stipulations, joint status reports) must list thereon all the names of other signatories by means
3 of a “_s/_” block for each. By submitting such a document, the serving party certifies that
4 each of the other signatories has expressly agreed to the form and substance of the document
5 and that the serving attorney or party has the actual authority to submit the document
6 electronically. The serving attorney or party must maintain any records evidencing this
7 occurrence for subsequent production to the court if so ordered or for inspection upon request
8 by any party.

9 3. A Registered User’s service of any document through the ESP shall be deemed
10 to include an implied warranty that to the best of the Registered User’s knowledge, the
11 transmitted document does not contain malware.

12 **I. PROCEDURE FOR SERVICE THROUGH THE ESP**

13 1. A document shall be served through electronic transmission to the ESP over the
14 Internet.

15 2. After the ESP receives a document, the ESP shall convert such document into
16 Adobe Portable Document Format (“PDF”) and post it to the Website within one (1) hour of
17 receipt.

18 3. Within one (1) hour of the time a document is posted to the Website, the ESP
19 will notify all Registered Users that a document has been posted to the Website. Registered
20 Users will also receive a courtesy e-mail notification of a filing with which they have been
21 served. The email shall contain a hyperlink to the document location(s) on the Website .

22 5. Each Registered User shall retain an original dated hard copy with hand written
23 signature of all documents served electronically by that Registered User. All such hard copies
24 shall be made available for inspection in the manner set forth in California Rules of Court,
25 rules 2.251(i) and 2.257(a).

1 **J. PROOFS OF SERVICE**

2 1. Written proofs of electronic service shall conform to Code of Civil Procedure
3 section 1013a and California Rules of Court, rule 2.251(i). The ESP's transaction receipt may
4 operate as the proof of service so long as it complies with California Rules of Court, rule
5 2.251(i), and California Code of Civil Procedure section 1013a.

6 3. A proof of service page may be attached to the last page of any electronically
7 served document. Neither a separate caption page nor a separate filing of the proof of service is
8 required so long as the proof of service page contains a caption referencing the case name and
9 action number, is attached as the last page of the electronically served document to which it
10 refers, and references the ESP's transaction receipt.

11 **K. EFFECT OF ELECTRONIC SERVICE**

12 1. Each document electronically served pursuant to this standing order shall be
13 presumed to have been served in compliance with the Code of Civil Procedure.

14 2. The effective date of service shall be governed by California Rules of Court,
15 rule 2.251(h).

16 **L. TECHNICAL PROBLEMS AND ERRORS**

17 1. If electronic service does not occur or is delayed because of (1) an error in
18 the transmission of the document to the ESP or served party which was unknown to the
19 sending party, (2) a failure to process the electronic document when received by the ESP,
20 (3) an erroneous exclusion from the service list, or (4) other technical problems experienced by
21 the ESP, the party or parties affected shall, absent extraordinary circumstances, be entitled to
22 an extension for any response or the period within which any right, duty, or other act must be
23 performed, provided the Registered User demonstrates that he or she attempted to file or
24 complete service on a particular day and time.

25

1 2. In the event the technical difficulties described above result in a Registered User
2 being unable to comply with a statutory, court-ordered, or mutually-agreed deadline, the
3 Registered User may obtain an ex parte court order granting an extension of time by following
4 the standard ex parte procedure in the California Rules of Court and the court's local rules.
5 Provided the technical problem has been resolved and the Website is operating normally,
6 notice of the ex parte application may be given through the ESP. In addition to the ex parte
7 application, the Registered User shall file and serve a declaration which describes the
8 attempt(s) made, provides the reason service did not occur or was delayed, states how and
9 when the non-service or delay in service was discovered, details the person's efforts made to
10 rectify the situation, and states with specificity the extension of time sought.

11 3. If the technical difficulties described above do not prevent a Registered User
12 from meeting a statutory, court-ordered, or mutually-agreed deadline, the Registered User may
13 file and serve a declaration which describes the attempt(s) made to serve the documents,
14 provides the reason(s) service did not occur or was delayed, states how and when the non-
15 service or delay in service was discovered, details the person's efforts made to rectify the
16 situation, and states with specificity the extension of time the party believes appropriate.

17 **M. ELECTRONIC SERVICE OF ORDERS AND OTHER PAPERS BY COURT**

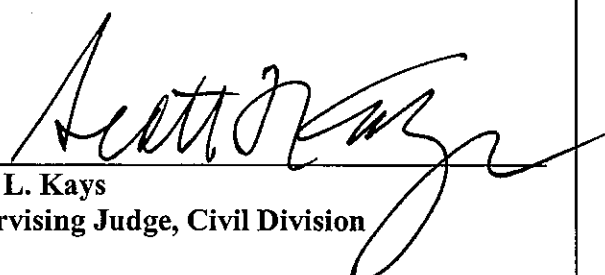
18 The court may serve notices, orders, and other documents electronically subject to the
19 provisions of this order.

20 **N. MODIFICATIONS TO STANDING ORDER**

21 The court may, on a party's motion or on its own motion, order modifications to this
22 standing order in a specific case.

23 **It is so ordered.**

24 **Date:** 12-4-14

25 

Scott L. Kays
Supervising Judge, Civil Division