

1 SUPERIOR COURT OF THE STATE OF CALIFORNIA

2 COUNTY OF SAN DIEGO

FILED
Clerk of the Superior Court

JUL - 8 1999

3
4 Coordination Proceeding)
5 Special Title [Rule 1550(b)])
6)
7 TOBACCO CASES II)
8

No. JCCP 4042

General Order 1:

Electronic Filing

By: *mer* M. RADEMAKER, Deputy

9 1. APPLICATION OF GENERAL ORDER. The Court hereby designates all
10 cases in the Judicial Council Coordinated Proceeding Tobacco
11 Case #JCCP-4042 (hereinafter referred to as Tobacco
12 Litigation) as EFile cases as described and governed by this
13 General Order. All cases in Tobacco Litigation are assigned
14 to the electronic filing and service system created by a
15 Service Agreement between JusticeLink and the San Diego
16 Superior Court (hereinafter referred to as SDSC), or any
17 successor system. All parties to any Tobacco case pending in
18 this court shall be deemed to consent to the entry of this
19 General Order, and to be bound by its provisions, by entering
20 into an EFile Subscriber Agreement with JusticeLink or the
21 then-current vendor ("the Vendor"). The commencement date for
22 the electronic filing and service system shall be September 1,
23 1999.

24
25 2. DEFINITIONS. The following terms in this General Order shall
26 be defined as follows:

27 A. EFile - Electronic transmission of an original document
28 (pleading) to the Superior Court via the Vendor's system.

1 An EFile consists of either an EDocument, an EImage, or
2 both.

3 B. EService - Electronic transmission of an original
4 document (pleading) to all other designated recipients
5 via the Vendor's system. Upon the completion of any
6 transmission to the Vendor's system, a certified receipt
7 is issued to the sender acknowledging receipt by the
8 Vendor system. Once the Vendor has served all recipients,
9 proof of electronic service is returned to the sender.

10 C. EDocument - An electronic file of a word processing
11 document which contains almost exclusively text.

12 D. EImage - An electronic file of a document that has been
13 scanned or converted to a graphical or image format.

14
15 3. PUBLIC ACCESS TERMINAL. The public can research, download,
16 view, and print electronically filed documents on a Public
17 Access Terminal located in the San Diego Superior Court's
18 business office located at the Hall of Justice, 330 West
19 Broadway, 2nd Floor. Such persons may be charged for printed
20 copies of documents.

21 4. ASSIGNMENT BY THE VENDOR OF PERSONAL IDENTIFICATION NUMBERS.
22 Upon receipt by the Vendor of a properly executed EFile
23 Subscriber Agreement, the Vendor shall assign to the party's
24 designated representative(s) a confidential Personal
25 Identification Number (PIN) used to file, serve, receive,
26 review, and retrieve electronically filed pleadings, orders,
27 and other documents filed in the assigned case. No attorney
28 shall knowingly authorize or permit his/her PIN to be utilized

1 by anyone other than authorized attorneys or employees of the
2 attorney's law firm, or designated co-counsel, where it has
3 been established in writing that designated counsel may file
4 documents on behalf of the assigning counsel.

5 5. ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS. As of the
6 commencement date of this General Order, except as expressly
7 provided herein, all pleadings, motions, memoranda of law,
8 orders, or other documents filed in Tobacco Litigation, other
9 than the first filing on behalf of a party in each case, shall
10 be filed electronically through the system.

11 A. Original Complaint and First Pleading. Plaintiff may
12 file the complaint in each case in paper form or may use
13 the Vendor's system. Each defendant shall either file
14 its first pleading in each case in paper form or shall
15 make alternative arrangements with the Vendor in such
16 manner as the Vendor shall establish to enter its
17 appearance and file its first pleading electronically in
18 newly filed cases.

19 B. Subsequent Pleadings. The clerk shall not accept or file
20 any pleadings or instrument in paper form. Parties must
21 EFile a document either:

22 (1) Through access to the Vendor's system from the
23 filing attorney's office;

24 (2) In person, by electronically filing through the
25 Public Access Terminal located at the clerk's
26 office. Parties filing in this manner shall be
27 responsible for furnishing the pleading or
28

1 instrument on an IBM formatted 3 1/2" computer disk,
2 CD ROM, or any other disk compatible with the
3 clerk's office-system to be uploaded in person; or,

4 (3) By faxing all documents and attachments thereto to
5 Vendor. Vendor shall then convert said documents to
6 electronic form, file said documents with the
7 Court, and serve designated parties as provided
8 herein. Parties choosing to file via facsimile
9 through Vendor shall be charged fees reflecting
10 Vendor's then-current published rates for filing and
11 service in this matter.
12

13 C. Maintenance of Original Documents. Unless otherwise
14 ordered by the Court, an original of all documents filed
15 electronically, including original signatures, shall be
16 maintained by the party filing the document and shall be
17 made available, upon reasonable notice, for inspection by
18 other counsel or the court.

19 D. Time For Filing And Effect of Use of EFile. Any pleading
20 filed electronically shall be considered as filed with
21 the Clerk of the Superior Court when it is first
22 transmitted to EFile and transmission is completed
23 ("authorized date and time") except that any document
24 filed after 4:30 p.m. (Pacific Time) on a day the court
25 is open for business shall be deemed to have been filed
26 on the next court day. Vendor is hereby appointed the
27 agent of the Clerk of the Superior Court as to the
28 electronic filing, receipt, service, and/or retrieval of

1 any pleading or document in EFile. Upon receipt and
2 filing of a document the Vendor shall issue a
3 confirmation that the document has been received and
4 filed. The confirmation shall serve as proof the
5 document has been filed.

6 E. If the electronic filing is not filed with the court
7 because of (1) an error in the transmission of the
8 document to the Vendor which was unknown to the sending
9 party, or (2) a failure to process the electronic filing
10 when received by the Vendor, the court may enter an order
11 permitting the document to be filed nunc pro tunc.
12

13 6. FORM OF DOCUMENTS ELECTRONICALLY FILED.

14 A. Format of Electronically Filed Documents. All
15 electronically filed pleadings shall, to the extent
16 practicable, be formatted in accordance with the
17 applicable rules governing formatting of paper pleadings,
18 and in such other and further format as the Court may
19 require from time to time. Pleadings, briefs or other
20 instruments may exceed page limitation rules to a maximum
21 of two (2) additional pages when the additional pages are
22 attributed to the electronic conversion or filing
23 process. The date and time of the hearing or trial in
24 connection with which the document is submitted shall be
25 designated on the cover page of each document.

26 B. Representations by Using a Typographical Signature.
27 Every pleading, document, and instrument filed in the
28 EFile system shall be deemed to have been signed by the

1 attorney or declarant and shall bear a facsimile or
2 typographical signature of such person, along with the
3 typed name, address, telephone number, and State Bar of
4 California number of a signing attorney. Typographical
5 signatures shall be treated as personal signatures for
6 all purposes under the California Code of Civil
7 Procedure.

8 C. Electronic Title of Pleadings and Other Documents. The
9 electronic title of each electronically filed pleading or
10 other document ("papers"), shall include:

- 11 (1) the corresponding case number, if any, from the
12 original pre-consolidation jurisdiction,
13 (2) the party or parties filing the paper,
14 (3) the nature of the paper,
15 (4) the party or parties against whom relief, if any, is
16 sought, and
17 (5) the nature of the relief sought (i.e., "797362-6:
18 John Doe, et al.'s Motion to Compel Discovery and
19 for Sanctions against Jim Smith").
20

21 The title shall be used for administrative purposes only.

22 7. ELECTRONIC SERVICE OF PLEADINGS AND OTHER DOCUMENTS. All
23 parties shall make service upon other parties electronically
24 through the EFile system. Parties, or their designated
25 counsel, shall receive all documents EFiled and EServed upon
26 them via access to the Vendor's system at their office.

27 A. Effect of Electronic Service. The electronic service of
28 a pleading or other document in EFile shall be considered

1 as valid and effective service on all Parties and shall
2 have the legal effect as an original paper document.

3 B. Service on Parties; Time to Respond or Act.

4 EService shall be deemed complete at the time a document
5 has been received by Vendor's system as reflected by the
6 authorized date and time appearing on the electronic
7 transmittal. Notwithstanding any prior order of this
8 Court, any period of notice or any right or duty to do
9 any act or make any response within any period or on a
10 date certain after the service of the document, which
11 time period or date is prescribed by statute or rule of
12 court, shall be extended after service by electronic
13 transmission by two (2) court days, but the extension
14 shall not apply to extend the time for filing notice of
15 intention to move for new trial, notice of intention to
16 move to vacate or notice of appeal.

17 C. If electronic service on a party does not occur because
18 of (1) an error in the transmission of the document to a
19 party which error was unknown to the serving party or
20 Vendor, (2) a failure to process the electronic filing
21 for service when received by the Vendor, OR (3) the party
22 was erroneously excluded from the service list, the party
23 to be served, in the absence of extraordinary
24 circumstances, shall be entitled to an order extending
25 the date for any response or the period within which any
26 right, duty or other act may be performed.

27
28 8. CONVENTIONAL FILING OF DOCUMENTS. Notwithstanding the
foregoing, the following types of documents may be filed

1 conventionally and need not be filed electronically, unless
2 expressly required by the Court or the Superior Court Clerk.

3 A. A motion to file documents under seal shall be filed and
4 served electronically. However, the documents to be filed
5 under seal shall be filed in paper form.

6 B. Exhibits to declarations or other documents that are real
7 objects or which otherwise may not be comprehensibly
8 viewed in an electronic format may be filed and served
9 conventionally, in paper form.

10 C. Documents attached to a Notice of Lodgment may be lodged
11 and served conventionally in paper form. However, the
12 actual document entitled "Notice of Lodgment" shall be
13 filed electronically.
14

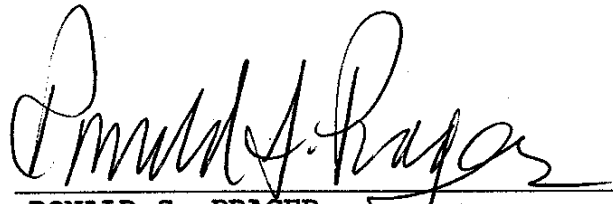
15 9. COLLECTION OF FEES FOR INSTRUMENTS REQUIRING FEE PAYMENT.

16 A. Any instrument requiring payment of a filing fee to the
17 Clerk of the Superior Court in order to achieve valid
18 filing status shall be filed electronically in the same
19 manner as any other EFile document. If a filing fee is
20 required, immediately upon filing, the filing party shall
21 send to the Clerk of the Superior Court, a photocopy of
22 the face sheet of the filing, plus a check for filing
23 fee(s) in the proper amount in accordance with the San
24 Diego Superior Court Schedule of Fees. Statutory filing
25 fees must be tendered to the Clerk immediately following
26 an electronic filing and must in any event be postmarked
27 no later than the next business day following the
28 electronic filing.

1 B. Fees charged by Vendor to parties or attorneys for access
2 to and electronic transmission of documents are solely
3 the property of Vendor and are in addition to any charges
4 associated with required filing fees of the Superior
5 Court.

6 10. ELECTRONIC FILING AND SERVICE OF ORDERS AND OTHER PAPERS. The
7 Court may issue, file, and serve notices, orders, and other
8 documents electronically, subject to the provisions of this
9 General Order.
10

11 DATED: JUL 08 1999
12

13
14 
15 RONALD S. PRAGER
16 Judge of the Superior Court
17
18
19
20
21
22
23
24
25
26
27
28