

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF SCHOOLCRAFT

Robert P. Hinkson

Case No. 17-5174-NP

Terry J. Selling

Case No. 17-5175-NP

Plaintiffs

v

Hon. William W. Carmody

ABB, Inc., et al.

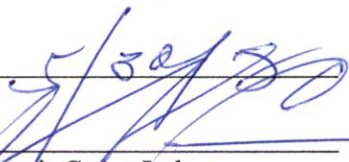
Defendants



**DISCOVERY AND SCHEDULING ORDER**

At a session of said Court held on:

PRESENT: HON.

  
\_\_\_\_\_  
Circuit Court Judge

Following is the Court's Discovery and Scheduling Order entered in the above-referenced case.

NOW THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

**I. GENERAL**

The purpose of this Order is to establish a uniform procedure for the conduct and coordination of orderly discovery, to uniformly and consistently resolve common issues of law in such cases, to facilitate orderly pretrial proceedings and to dispose of the cases by avoiding duplication of effort and reducing the cost of such proceedings for all litigation.

The Court, mindful of similar litigation pending throughout the State, and the creation of a "Master File for the Personal Injury Asbestos Docket" by the Wayne County Circuit Court, #03-310422, hereby orders:

**II. PLEADINGS**

- A. Plaintiff shall submit Answers to Defendants' Standard Wayne County Circuit Court Asbestos Interrogatories.

- B. Defendants shall submit Answers to Plaintiffs' Standard Interrogatories to Defendant and Request for Production of Documents – Revised Version 2003. Defendant is required to supplement those interrogatory answers under the Michigan Court Rules if additional information becomes known.
- C. Any party may submit Supplemental Interrogatories as to matters and issues not covered by the Standard Wayne County Interrogatories.

### **III. DISCOVERY SCHEDULE**

A. A preliminary settlement conference on each case individually is scheduled for **February 26, 2019**, at Plaintiff's office in Southfield, with the oldest case first and will proceed until each case is discussed by Plaintiffs' Counsel and Counsel for remaining defendants; a final settlement conference is scheduled for **March 11, 2019 at 9:00 a.m.** in Honorable William W. Carmody's courtroom, Mackinac County Circuit Court, 100 Marley St., St. Ignace; Motions in Limine and a final status conference is scheduled for **April 1, 2019 at 9:00 a.m.**; a jury trial is scheduled for **April 2, 2019** for one or more cases to be selected by the Court, consistent with Michigan Supreme Court Administrative Order No. 2006-6, Prohibition on "Bundling" Cases.

1. It is further ordered that counsel together with the person or persons with authority to settle on behalf of the defendants in the case(s) subject to this Order which have not been resolved shall be physically present at the **March 11, 2019** final settlement conference.

- B. The case shall not be scheduled for case evaluation.
- C. Parties are to answer the standard interrogatories by **July 20, 2018**.
- D. Six months prior to the original trial date it shall be the duty of the plaintiff's attorney, or the plaintiff if not represented by counsel, to make available a copy of all submitted bankruptcy claim forms to all defendants in compliance with MCL 600.3012.
- E. Plaintiff shall submit to representatives of the defendants all expert medical reports, x-rays, tissue samples or other data by **October 25, 2018**.
- F. Plaintiff shall submit to defendants a Discovery Brochure, see below, by **October 25, 2018**. A defendant may serve supplemental interrogatories regarding additional information noted in the brochure.
- G. The deadline for deposing the plaintiff is **January 10, 2019**.
- H. Parties shall exchange witness lists by **March 4, 2019**. Except for good cause shown, the parties shall be prohibited from calling a witness at trial that has not been disclosed in the witness lists or Discovery Brochure. During trial, each side will be required to provide opposing counsel with a list of witnesses 36 hours before those witnesses will testify. This notice provision will also apply to any documentary evidence that will be introduced at trial.
- I. Defendants shall serve on plaintiff by **February 11, 2019** a Discovery Brochure as to any non-party identified as a result of information obtained from plaintiff's Brochure or at



plaintiff's deposition. Defendants' Brochures shall comply with the Brochure elements required in section V below.

- J. Defendants shall submit expert's medical reports, and shall return all x-rays, tissue samples or other data to plaintiffs by **February 11, 2019**.
- K. Discovery (other than expert witness depositions) shall be concluded by **March 26, 2019**.
- L. Plaintiff shall submit any rebuttal reports in response to defense medical reports, and any data in support thereof, by **March 11, 2019**.
- M. Dispositive motions must be filed timely and heard on or before the date of the final settlement conference. Moving Party must confirm with the court the date to be heard.
- N. Exhibit lists shall be exchanged by **March 15, 2019**.

#### **IV. DISCLOSURE OF ASBESTOS EXPOSURES**

In plaintiff's Answers to Interrogatories and Product Identification Brochure ("Brochure"), plaintiff shall disclose information concerning all exposures to asbestos-containing products known or reasonably available to plaintiff.

#### **V. BROCHURES AND FACT WITNESS DEPOSITIONS**

##### **A. Elements of the Product Information Brochure**

The elements of the Brochure are intended to include reasonable notice to defendants of product identification information reasonably available to plaintiff and/or plaintiff's counsel. The Brochure shall be deemed Supplemental Answers to Interrogatories and is to be signed by the plaintiff or plaintiff's attorney. To the extent reasonably available, the elements of the brochures shall include:

1. The specific product name or description of the product and manufacturer/supplier of products to which the plaintiff was exposed.
2. Names of employers.
3. Specific location of the job site where plaintiff worked and where the products were used or observed on the site, including the name and address of the job site.
4. The date(s) plaintiff worked on each job site.
5. The identification of all other products that were used on the same job site and at the same time which may contain asbestos.
6. The names, addresses and telephone number of witnesses whom plaintiff or defendant believes to have personal knowledge of the above information.
7. The identity (by document number or otherwise) of any writing supporting identification.



8. The names and addresses of all persons known to plaintiff or plaintiff's counsel who worked with the plaintiff at each site.
9. A brief synopsis of other evidence which plaintiff claims establish product identification against a defendant, whether or not directed to a specific job site.

B. Evidence excluded if not in Brochure

1. Except for good cause shown, plaintiff or defendant shall be prohibited from introducing product identification evidence, including for use in allocation of fault or apportionment, where the same has not been disclosed in the Brochure.

- a. If a defendant or a plaintiff conducts a deposition of a co-worker and during the deposition additional exposures or job sites are developed a party may move to amend the Brochure to add the additional exposures or job sites developed by submitting a proposed order to amend under the seven- (7) day rule provision of MCR 2.602 (B)(3), stating specifically the information the party requests to be added to the Brochure.

- b. If a defendant is not present at the deposition of the co-worker identified by the plaintiff because the Brochure did not include evidence that said co-worker would identify defendant's products or defendant's job site, then any information developed during the deposition regarding the said defendant cannot be used against the defendant at trial unless another party of record obtains an order from the Court based upon a showing of good cause. This shall not be applicable to a co-worker's deposition taken before the Brochure is filed.

2. Discovery depositions of fact witnesses may be taken up to the date set for the close of fact witness depositions. De bene esse depositions of fact witnesses may be taken up to date set for trial.

3. Whenever a defendant attends a deposition of a fact witness listed in plaintiff's Brochure, because the Brochure indicated that the witness would testify plaintiff was exposed to the defendant's asbestos containing product(s) or worked at a premises-liability defendant's job site, and the witness during the course of the deposition is asked if he can identify that defendant's product(s) or job site, and exposure to plaintiff, as identified in plaintiff's Brochure, and said witness states under oath that he cannot identify said defendant's product(s) or a job site as specified in plaintiff's Brochure, and at time when plaintiff reasonably may have been exposed to that product or job site, the defendant may file a motion requesting costs for the time incurred in the preparation, travel to, and attendance at the deposition. Unless plaintiff is able to demonstrate to the Court that a reasonable basis existed at the time of filing of the Brochure upon which to believe the witness would identify the defendant's product(s) or job site and exposure to plaintiff, the Court shall assess costs in an amount which the Court deems to be reasonable and just under the circumstance. This provision shall not be applicable to a co-worker's deposition taken before the Brochure is filed.



4. The Brochure shall identify which witnesses plaintiff or defendant reasonably believe can identify a defendant's product(s) although unable to place the product(s) on a job site at a particular time, if the submitting party, plaintiff or defendant, reasonably believes the witnesses will be able to testify that more likely than not the plaintiff was exposed to that defendant's product(s) during plaintiff's working career.
5. In plaintiff's answers to interrogatories and Brochure, plaintiff shall disclose information concerning all exposures to asbestos-containing products known or reasonably available to plaintiff or plaintiff's counsel, including exposures to products manufactured and/or distributed by companies which are not defendants to the action. The above shall not require plaintiff or plaintiff's counsel to search for all non-defendant asbestos related exposures.

## **VI. PLAINTIFF DEPOSITION**

- A. Any party may take the deposition of the plaintiff at any time after the filing of the Brochure and in accordance with the deadlines set forth herein, absent special circumstances meriting a deposition of the plaintiff at an earlier date.
- B. Unless otherwise ordered by the Court or stipulated to by all parties, before the plaintiff's de bene esse deposition is taken, defendants shall have a reasonable opportunity to obtain a discovery deposition, if same was not previously taken.
- C. Prior to the discovery and de bene esse deposition of the plaintiff, the plaintiff shall provide all defendants with answers to the standard set of interrogatories, a Brochure, any and all available medical records of the plaintiff and an affidavit which sets forth adequate reasons why the plaintiff's testimony must be preserved by de bene esse deposition.

## **VII. MEDICAL DISCOVERY**

### **A. Production of Materials for Review by Defendants**

1. Plaintiff shall provide the defense medical counsel assigned to the case with all tissue, slides and x-rays with notice to other defense medical counsel in accordance with the deadlines set forth herein.
2. The defense medical counsel assigned to the case shall coordinate activities for purposes of sharing the material and to the extent possible the cost of review of the material by defense expert(s).
3. In the event cooperation cannot be achieved among medical counsel for defendants in this regard, the Court will meet informally, in chambers, with the counsel involved, and assign time limits for sharing the medical.
4. Defendants shall return to plaintiff's attorney any and all items that were provided to defendants' attorney in accordance with the deadlines set forth herein.

B. Medical Authorizations

Plaintiff shall provide medical authorizations to any party who advises plaintiff that they will be a medical counsel for the case, whether it be a medical counsel on behalf of a group of defendants or a single defendant.

C. Medical Experts

1. No medical expert (except for treating physicians, fiber defense and state of the art witnesses) shall be allowed to testify at trial unless a report has previously been provided pursuant to the requirements of this order, unless the Court, based upon good cause, allows the expert to testify without having previously submitted a report.
2. De bene esse and discovery depositions of experts may be taken at any time except during trial hours.

D. Expert Medical Reports

1. Plaintiff shall provide all attorneys of record with a copy of plaintiff's experts' medical reports which shall include an opinion on diagnosis and prognosis, as well as a statement of material reviewed, significant medical findings, tests performed, results of the tests, interpretations of said tests, interpretations of each physical exam, if performed, and an opinion on whether or not any abnormality found is related to asbestos exposure. The letter shall not contain an opinion regarding issues of liability.
2. Defendants shall provide plaintiff with medical experts' reports which will set forth the same type of information as plaintiff are required to provide in plaintiff's experts' reports.
3. In the event plaintiff intends to provide medical rebuttal evidence at the time of trial, plaintiff must provide the defendants with the medical expert's report which will include additional and revised opinions of the plaintiff's expert in accordance with the deadlines set forth herein.

**VIII. MOTION PRACTICE**

A. Non-Dispositive Motions

1. Whenever a non-dispositive motion is directed to one defendant or made by one defendant, it shall only be necessary to serve copies and responses upon counsel for the opposing party for that specific motion.
2. All counsel, however, shall be provided a cover letter summarizing the nature of the motion, the relief sought and the date set for hearing.
3. Upon request, copies of such pleadings and documents filed with the Court shall be furnished to other counsel in the case.



B. Dispositive Motions

1. Any defendant may serve a dispositive motion based on lack of product identification at any time after the filing of the Brochure, or in the case of premises defendants at any time after plaintiff has answered the master set of interrogatories. No dispositive motion may be filed within seven-(7) days of commencement of or during a "time out" period.

2. For good cause, a defendant, who contends that there is little likelihood of product identification, may serve a dispositive motion based upon lack of product identification at any time after the filing of the answers to interrogatories. If any defendant believes special circumstances exist which merit the serving of a dispositive motion prior to plaintiff serving answers to interrogatories, that party may file a motion pursuant to the requirements set forth within this order.

3. No dispositive motion may be filed within seven (7) days of commencement of or during a "time out" period.

C. Motions Applicable to More Than One Party

1. One moving party shall file motions seeking relief, which would be applicable equally to all parties in the same position or situation as the movant. All other parties, who are equally affected by such motion, shall refrain from filing concurring motions which repeat any argument or position already made by the original movant. Relief may be granted or denied as to all parties in the identical legal position of the movant without the necessity for other parties to file a motion for relief. A party who does not wish to be affected by the motion may opt out by letter to the Court.

2. Motions that apply to more than the movant shall have endorsed on the praecipe and on the first page of the motion the legend, "This Motion Applies to All (e.g., Defendants)," or, "This Motion Applies Only to (e.g., Defendants Smith, Jones and Doe)."

D. Motions Applicable to More Than One Case

When a motion applies to more than one case, the following procedure shall be followed:

1. The Praecipe, the motion and all other related documents shall have the caption and the number of the first case filed (oldest case) to which the motion applies.

2. The Praecipe and motion shall indicate under the case number, "Applies to all listed cases attached to motion."

3. Attached to the motion shall be a listed of all cases to which the motion applies. The cases shall be listed numerically beginning with the first case filed (oldest case) to which the motion applies.

4. A motion fee shall be paid for each case listed.

5. The motion shall only be filed in the case file of the first case filed (oldest case) to which the motion applies. The motion shall not be filed in any other case file.

6. The same procedure applies to an answer to a motion, except that attached to the answer shall be a list of all cases to which the answer applies.

7. An Order shall be entered and filed in every case file to which the motion applies. The Order shall indicate **“Relief is granted pursuant to the motion filed in (insert case number of the first case filed (oldest case) to which the motion applies.)”**

E. Entry of Orders on Unopposed Motions

Motions that are not expected to be opposed may be accompanied by an order noticed under the seven-(7) day rule, pursuant to MCR 2.602(B)(3). If no objections are filed within the seven-(7) day period, the Court will rule on the motion without oral argument. If objections are received within the seven-(7) day period, the Court will set the motion for hearing and notify the parties.

F. Motions for Change of Venue

The defendants shall have the right to file a motion to decline jurisdiction or change venue but not before the filing of a plaintiff's Brochure and no later than thirty-five (35) days after the filing of a plaintiff's Brochure. Either party may serve Interrogatories on opposing parties as to any matter related to the issue of jurisdiction or forum non conveniens.

G. Emergency Motions

If an emergency situation exists, a party wishing to file an emergency motion shall obtain a date from the court and shall advise all appropriate parties of record of the date and time of the motion hearing.

H. Motion Titles

All motions shall be titled, specifically indicating briefly the nature of the relief sought, e.g., “Defendant's Motion for Summary Disposition Based on Statute of Limitations,” or, “Defendant's Motion for Summary Disposition Based On Lack Of Product Identification.”

I. Orders Indicating Application to Parties

All orders entered shall contain a statement on the face of the order, indicating that this order applies to all parties or only to specific parties.

**IX. SOCIAL SECURITY PRINTOUT**

If not previously requested, counsel for plaintiff shall immediately apply for a Social Security Printout. When the Social Security Printout is received, counsel for the plaintiff shall promptly supply each counsel for the defendants with a copy of the Social Security Printout.



## **X. TIME-OUT PERIODS**

To facilitate planning for vacations and holidays considering the number of attorneys involved in the asbestos litigation statewide, the Court will adopt "time-out" periods during which no motions, depositions nor other asbestos matters will be permitted except by unanimous stipulation of all counsel involved in matter to be scheduled. The Court, hereby Orders that the time-out periods established by Order of the Wayne County Circuit Court shall be fully in effect regarding the asbestos cases enumerated in this Order, to wit: **Dates will be adopted consistent with the Wayne County Circuit Court's time-out dates for July 30, 2018 to August 12, 2018 and December 22, 2018 to January 6, 2019.**

## **XI. ADMISSION OF ATTORNEYS**

Motions pursuant to MCR 8.126 Temporary Admission to the Bar, may be filed as provided for in paragraph VIII. D. above. Admission of an attorney *pro hac vice* shall remain totally within the discretion of the Court and the Court shall retain full authority to withdraw this privilege.

## **XII. SUBMISSION OF RELEASES AND SETTLEMENT PAYMENTS**

### **A. Releases**

Unless otherwise agreed between the parties, a settling Defendant shall submit a Release to Plaintiff no later than fourteen (14) days after a Settlement Agreement is reached. If the settlement agreement date is unclear, it is presumed to be the trial date. In the event a Defendant fails to submit a Release consistent with this Order, interest may accrue from the date the settlement was reached in the event of late payment of the settlement proceeds. Furthermore, should Defendant fail to submit a timely Release consistent with this Order, Plaintiff shall be permitted to:

1. Prepare a Release consistent with the most recent Release Form provided by said Defendant for a similarly situated Plaintiff; or
2. Obtain Ex-Parte Order for Defendant's Counsel to appear and Show Cause to this Court as to the reason the release has not been provided. The Show Cause hearing will be noticed by Plaintiff's counsel for a date not less than seven (7) days from the date the release was due.

### **B. Settlement Payments**

Unless otherwise agreed between the parties, payment of all settlement proceeds by a specific Defendant for a particular trial group shall be due twenty-eight (28) days after a specific Defendant has received all the properly executed Releases, Stipulations for Dismissal or Orders Approving Settlement and forms required by WCC CMO No. 19 ("settlement documents") via File and Serve with a statement when the aforementioned settlement documents have been provided and the date payment is due (hereinafter referred to as "Notice Letter").

A defendant has fourteen (14) days from the service of the plaintiff's Notice Letter to dispute the receipt of any of the settlement documents. Defendant's notice of dispute must specify the specific documents that are alleged to be missing. If no dispute is raised within fourteen (14) days of the service of Plaintiff's Notice Letter, it is conclusively presumed that Defendant has received all settlement documents necessary to make timely payment. If, based on Defendant's notice of



dispute, it is determined that Defendant did in fact not receive a necessary settlement document, payment for the particular trial group is due within twenty-eight (28) days from the date the settlement document is provided to Defendant.

If the full settlement amount is not paid by the due date set forth above, Plaintiff may obtain an Ex Parte Order compelling the appearance of an insurance adjuster or corporate representative to appear in Court to Show Cause as to why payment has not been made. The Show Cause hearing will be noticed by Plaintiff's counsel for a date not less than seven (7) days from the date payment was due. Failure to make timely payment and/or failure to appear on the Show Cause hearing pursuant to the Court's Order may result in monetary penalty of up to \$1,000 and/or other sanctions against said Defendant.

1. Death of the Plaintiff

If a living plaintiff becomes deceased with (63) days before the scheduled trial date, or after settlement is agreed upon, then plaintiff's counsel may seek an order from the Court severing the case from a particular settlement group, and requiring that the defendant comply with paragraphs A. and/or B. above with respect to the remainder of that particular settlement group.

2. Other Exceptions

The order described in paragraph XII. (B.)(1.) above may also be sought if plaintiff's counsel demonstrated that one or more plaintiffs cannot or will not comply with the release signing or Order Approving Settlement requirements in a reasonably timely fashion.

### **XIII. AMENDMENT OF PLEADINGS**

In the event plaintiff determines there are additional parties that should be added to the case, Plaintiff must obtain an ex parte order permitting said amendment to add parties and serve the amended summons and complaint on said added parties. At time of service, Plaintiff shall notify each added defendant's known counsel and provide each added party with Plaintiff's responses to Defendant's standard interrogatories, deposition notice and scheduling order if issued. If the order permitting amendment to add parties is entered within 35 days of the Plaintiff's brochure due date, and an added party requests adjournment, Plaintiff shall request that the court enter an order adjourning the trial date for a period of not less than 120 days and extending discovery accordingly as to all parties.

### **XIV. MEDICARE SECONDARY PAYER ACT**

Wayne County Case Management Order #17, Regarding Requirements of MMSEA Sec. 111 and Medicare Secondary Payer Act, entered June 18, 2010, as amended by CMO #20, regarding Participants in Garretson Firm Resolution Group, entered March 8, 2013 and CMO #21, regarding Release Language, entered June 21, 2013, is adopted and incorporated into the Order, in total.



## **XV. ELECTRONIC SERVICE**

### **A. FILEandSERVEXPRESS**

1. In order to facilitate case management, document retrieval and case organization, the parties will utilize the services and litigation system FileandServeXpress for providing electronic service, storage and delivery of court-filed and discovery-related documents through a secure website to facilitate expeditious, efficient and economical communication by and amongst counsel. The Court, at its option, may also use FileandServeXpress for these purposes as well to communicate with counsel of record.

### **B. SERVICE ONLY**

1. FileandServeXpress shall apply only to the service of documents, and not to their filing with the Court. Original documents must still be filed in the traditional manner (i.e., filing the signed original document with the Court), pursuant to the applicable Michigan Rules of Civil Procedure and Local Rules of this Court.

### **C. SERVICE LIST & SIGN-UP**

1. Within five (5) days of this Order or five (5) days of the initiation of a new case in this litigation, plaintiff's or liaison counsel to FileandServeXpress shall submit via email to FileandServeXpress, <https://secure.fileandservexpress.com>, a complete and current service list of counsel of record for this litigation. Within five (5) days of this Order, each attorney of record for this litigation, or within five (5) days of the entry of appearance for a new attorney of record, shall register for electronic service in this litigation by completing the registration located at the following website: <https://secure.fileandservexpress.com/Home/Home.aspx?oldui=true> and shall notify **plaintiff's** counsel that they will need to be added to the service list.

2. Plaintiffs' Counsel shall be liaison counsel to FileandServeXpress for all service list changes. Plaintiffs' Counsel shall be responsible for monitoring the service list and advise FileandServeXpress of any changes or corrections. The service list will identify counsel of record for each firm along with parties they represent, who are to receive service documents in the case utilizing FileandServeXpress. Once a firm is registered on FileandServeXpress, each firm will be provided functionality on FileandServeXpress to designate a firm administrator to control the addition and deletion of registered users on FileandServeXpress for their firm.

### **D. SERVICE OF DOCUMENTS AND WEBSITE**

#### **1. Establishment and Use of the FileandServeXpress Website Generally**

a. When any counsel of record wishes to serve a document, that counsel shall serve the document according to all the requirements and procedures of this Order. All references to "document" in this Order shall be interpreted to include any exhibits or attachments to the document and shall include both pleadings and discovery-related documents (such as interrogatories, requests for production, deposition notices/transcripts, etc.); provided, however, that each attorney shall determine individually whether to utilize FileandServeXpress to serve



correspondence and/or the actual production of discovery documents in response to another party's request for production.

b. FileandServeXpress will maintain the FileandServeXpress internet website ("FileandServeXpress") for this litigation. When a transaction is submitted on FileandServeXpress, FileandServeXpress will electronically serve each document on the parties included on the service list provided to FileandServeXpress in accordance with the procedures herein.

c. Each attorney shall serve each document via electronic transfer of the document through FileandServeXpress via the Internet (either as a word-processing file or a scanned image of the document). Each attorney shall title each document to identify the type and purpose of each document and the party who is submitting such document. Each document electronically served pursuant to this Order shall be deemed to have been served under the Michigan Court Rules.

d. After an attorney uploads a document onto FileandServeXpress, FileandServeXpress will convert such document into Adobe Portable Document Format (".pdf")

e. All documents posted on FileandServeXpress will be identified by: (a) the name of the serving law firm; (b) the caption(s) of the case(s) to which the document belongs; (c) the title of the document set forth on its caption; and (d) the identity of the party on whose behalf the document is being served.

f. Access to FileandServeXpress will be limited to registered users. Registered users will consist of authorized Court personnel, counsel of record and their designated staff members. Upon registration, FileandServeXpress will provide each registered user with a user name and password to access FileandServeXpress and the documents served in the litigation.

g. Every pleading, document and instrument served electronically shall bear a facsimile or typographical signature of at least one of the attorneys of record, along with the typed name, address, telephone number and Bar number of such attorney. Typographical signatures shall be treated exactly as personal signatures for purposes of electronically served documents under the Michigan Court Rules. The serving party of any document requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all the names of other signatories by means of an "/s/ \_\_\_" block for each. By submitting such a document, the serving party certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the serving party has the actual authority to submit the document electronically. The serving party must maintain any records evidencing this concurrence for subsequent production to the Court if so ordered or for inspection upon request by a party.

h. Any document transmitted to FileandServeXpress shall certify in the Proof of Service that a true and correct copy was electronically served on counsel of record by transmission through FileandServeXpress, the date and time to be used on the Proof of Service will be the date and time reflected on the Transaction Receipt provided after submitting a transaction on FileandServeXpress.

i. FileandServeXpress will make available to counsel of record and the Court a 24-hour 365 days Customer Support hotline at (888) 529-7587. In



addition, each attorney is instructed to review Exhibit A attached to this Order which sets forth the procedure for registration with and service through FileandServeXpress. See Exhibit A; FileandServeXpress Information.

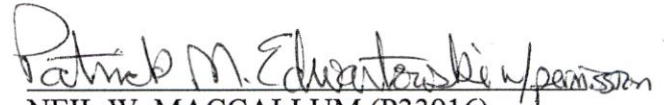
j. This Order relates only to the process by which documents are served. Nothing in this Order shall have any effect on the process by which documents are filed in this Court. All documents filed with the Court shall be made via traditional means.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
CIRCUIT COURT JUDGE

Approved as to form and submitted by:

  
\_\_\_\_\_  
LANE A. CLACK (P38835)  
Attorney for Plaintiffs

  
\_\_\_\_\_  
NEIL W. MACCALLUM (P33916)  
PATRICK M. EDWARTOWSKI (P76534)  
Coordinating Attorneys for Defendants

## Exhibit A

### *FileandServeXpress Information*

If this is your firm's first FileandServeXpress case, *you will need to create a LNF&S account before registering. The firm must designate an administrator who will create the account and add users. The administrator will follow the Instructions for New Subscribers in Section A.*

If your firm has a FileandServeXpress account, *contact your firm's administrator to obtain a user name and password for yourself and anyone else who will need to serve or access documents in the case. The administrator will follow the Instructions for Existing Subscribers in Section B.*

To find out if your firm has a FileandServeXpress account or the name of your administrator, please call Customer Support at 1.888.529.7587.

#### **Section A: Instructions for New Subscribers**

**(Administrator sets up account and registers new users)**

1. Visit fileandservexpress.com.
2. Add organization information.
3. Add user information for administrator (primary contact).
4. Add user information for every attorney and staff member in your firm who will need a user ID and password. Include full name, phone, fax, email and bar number (for attorneys). **All attorneys of record must have a user ID and password.**
5. Review system requirements.
6. Review and accept Terms of Service Agreement by selecting an authorizing attorney.

#### **Section B: Instructions for Existing Subscribers**

**(Administrator adds users to existing account)**

1. Sign on to fileandservexpress.com
2. Select Preferences in the upper right hand corner of the screen. Click Firm Profile.
3. Click the Add Users tab and enter user information for every attorney and staff member who will need a user ID and password. Include full name, phone, fax, email and bar number (for attorneys). **All attorneys of record must have a user ID and password.**

1.888.529.7587 – FileandServeExpress Customer Service

<https://secure.fileandservexpress.com/Login/Login.aspx?FI=56348607>