

IN RE: PERSONAL INJURY
ASBESTOS CASES

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IN THE
CIRCUIT COURT
FOR
BALTIMORE CITY
ALL CASES

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**FIRST AMENDED CASE MANAGEMENT ORDER FOR THE
ELECTRONIC FILING OF PLEADINGS, PAPERS AND DOCUMENTS
IN ASBESTOS PERSONAL INJURY CASES**

1. Application of Case Management Order

a. The Court hereby orders that all cases in the Baltimore City Personal Injury Asbestos Litigation (hereinafter, "Asbestos Litigation") shall be governed by this First Amended Case Management Order (hereinafter, "Order"). All cases in the Asbestos Litigation are assigned to the electronic filing and service project known as and hereinafter referred to as "eFiling" as established by an Agreement between CourtLink Corporation (hereinafter, "eFiling System," "LexisNexis CourtLink Inc" or "Vendor") or any successor system, and the Circuit Court for Baltimore City. Pursuant to an Order of the Court of Appeals of Maryland, all parties to any Asbestos Litigation pending in this court may elect to be a Participant to this project. If such an election is made, that party is ordered to comply with this Order. If a party elects not to be a Participant (hereinafter, "Non-Participant"), that party must bring a 3½ inch diskette containing the documents to be filed in any pending case to the Clerk's office to be uploaded by the party into the eFiling system. Service copies from the Non-Participant to other parties in the case shall be made in the conventional manner in accordance with the Maryland Rules. Participants in this project shall electronically serve copies of their documents to the Non-Participant using the eFiling system.

b. If a new party is brought into the Asbestos Litigation after the signing of this Order, then counsel representing the claiming party shall serve a copy of this Order on the newly-added party and advise such party of its right to participate in this project. The Court shall provide a newly-added party with a reasonable amount of time to become a participant in eFiling, but in no event shall this election to participate exceed sixty (60) days from the date of service of a copy of this Order on that party. During the

period prior to electing to subscribe to the eFiling system, that party must bring a 3½ inch diskette containing the documents to be filed to the Clerk's office to be uploaded by the party into the eFiling system. Prior to electing to participate, service copies from the newly-added party to other parties in the case shall be made in the conventional manner in accordance with the Maryland Rules.

c. Pro Se Parties - Pro se parties may elect to participate in the eFiling system. By opting to participate, all pro se parties will be treated the same as a law firm and will have the same access and functionality as a law firm and must, in turn, agree to abide by the same conditions for using eFile as a law firm user. If they choose not to participate, then service upon the pro se party must be made by the other parties conventionally.

2. Definitions

In this Order, the following terms shall be defined as follows:

a. Asbestos Litigation Those cases in which an individual has claimed personal injury and damages as a result of being exposed to asbestos-containing products. Not included are property damage disputes or claims, insurance coverage disputes related to asbestos, or workers' compensation appeals related to asbestos.

b. Electronic Filing Electronic transmission of an original pleading, paper, order or document to or from the Circuit Court for Baltimore City via Vendor's eFiling system.

c. Participant A party that elects to participate in eFiling.

d. Non-Participant A party that elects not to participate in eFiling.

e. Typographical signature The signature on an electronic filing which is not in the personal hand of the signing party or a facsimile of a hand signature. Rather, the signing party may type his or her name in the place on the document which would otherwise be hand-signed if filed conventionally. The typographical signature shall be accompanied by the symbol "/s/" and treated as a personal signature for all purposes under the Maryland Rules.

3. Operation of Electronic Filing and Service Procedure

a. Obtaining Access to the eFiling System Counsel for all Participants shall promptly take steps

necessary to enable them to electronically file, serve, receive, review, and retrieve copies of all pleadings, papers, orders, and other documents filed in the Asbestos Litigation electronically by registering with and entering into a subscription agreement with the Vendor. If counsel has access to the eFile system as a result of participation in another Court using the LexisNexis CourtLink eFile system, then an additional account is not required.

- i. At the completion of the subscription process, the Vendor shall assign a confidential user name(s) and password(s) to the Participant's designated representative(s), which may thereafter be used to access the eFiling system. This user name and password will permit the Participant's representatives to file, serve, receive, review, and retrieve electronically filed pleadings, papers, and other documents filed in an assigned case.
 - ii. No attorney shall knowingly authorize or permit his or her user name and password to be utilized by anyone else. Attorneys may authorize other attorneys or employees of the attorney's law firm to receive their own user name and password to file on their behalf. Co-counsel of a Participant who are in different firms will be required to subscribe separately with Vendor. No person shall knowingly use another's user name and password or cause or permit another person to use them without the express permission from the holder of the user name and password.
- b. Electronic Filing and Service - Except as provided in Paragraph 3j of this Order, all pleadings, papers, or other documents required to be filed with the Court in connection with the Asbestos Litigation shall be electronically filed and served by all Participants on both Participants and Non-Participants.

The Vendor shall allow All Participants, Parties and Non-Parties access to view, at no charge all pleadings, papers, or other documents required to be electronically filed with the Court in connection with the Asbestos Litigation.

A party generating discovery material shall electronically file with the Court and serve discovery material upon all parties to the case, in lieu of the notice requirement of Md. Rule 2-401(d)(2). Attachments to discovery requests and responses that were created electronically shall be electronically filed with the Court and served upon all parties to the case. **An attachment that was not created electronically may be**

conventionally filed and served pursuant to the Maryland Rules. The filing party shall place a marker in the eFiling system designating that the attachments were filed conventionally thereby maintaining a complete record of all filings for the electronic case record.

The party generating discovery requests must comply with Maryland Rule 2-431 (Certificate Requirement) before bringing a discovery dispute before the Court. In the case of Request for Admissions, the party generating such discovery must first notify any party recipient if a response is past due before taking the position that the requests are deemed admitted.

Graphical images of documents (scanned documents) that exceed 50 pages shall be filed in intervals of 50 pages or less. For example, a 150 page scanned filing should be filed as 3 separate documents labeled as follows; 1 of 3, 2 of 3 and 3 of 3.

c. Initial Complaints and Third Party Complaints - Effective the date this Order is approved by the Court of Appeals, all Complaints and Third Party Complaints shall be electronically filed with the Court. In order to initiate the case with the Clerk of the Court, the claiming party must use the "file in a new case" feature in the eFiling system to file a Complaint. Once the Clerk of the Court completes the review process of the newly filed Complaint, an email notification will be generated to the filing party advising that party of the new case name and number. Service of the Complaint and the initial Summons shall be made conventionally in accordance with the Maryland Rules. The claiming party shall add Third Party Defendants and other subsequently added Defendants to a case by using the "Case Profile" feature in the eFiling system. Service of Third Party Complaints and summonses shall be made conventionally in accordance with the Maryland Rules.

d. Return of Service - Plaintiffs and Third-Party Plaintiffs shall electronically file returns of service or notice of same in the eFiling system.

e. Orders, Opinions, and Communications of Court - All judicial rulings, opinions, orders, and other communications of the court shall be electronically filed and served upon all parties to a case. Such documents shall be signed with a typographical signature.

f. Notice of Electronic Service - The electronic service of a pleading, paper or other document will provide an automatic online notification to all Participants served with the document.

g. Filing Related Documents - All documents relating to a single pleading or paper may be electronically filed together in a single filing transaction. For example, a motion, a memorandum in support of the motion, a proposed order and related affidavits should be filed as separate documents under a single transaction however, the proposed order shall be submitted as a separate document. The filing type "Proposed Order" must be selected for all proposed orders.

All documents, papers or pleadings directly relating to a previously filed document, paper or pleading shall be linked to the previously filed document, paper or pleading utilizing the "Linked Documents" feature in the eFiling system.

h. Electronic Service of Pleadings and Other Documents - All Participants shall conduct service upon other Participants electronically through the eFiling system. Participants shall receive all documents electronically served upon them via access to the Vendor's system. The electronic service of a pleading or other document in the eFiling service is considered valid and effective service on all Participants and shall have the same legal effect as conventional service of an original paper or document. The filing Participant is not required to conventionally serve a paper copy of the electronically filed document on Non-Participants. The Vendor shall serve Participants electronically and Non-Participants via facsimile.

i. Certificates of Service - Except for pleadings, papers or documents served by Non-Participants, Certificates of Service following eFiled documents shall only be required to state the date and method of service. The Proof of Service in the eFiling system shall serve as a substitute for the list of parties to whom service has been made. Separate Notices of Service of Discovery filings are no longer required.

j. Conventional Filing of Documents - Notwithstanding the provisions of Paragraph 3b of this Order, the following types of papers or documents shall be filed conventionally

i. Exhibits and/or attachments to pleadings or papers that are real objects or which otherwise may not be comprehensibly viewed in an electronic format may be filed and served conventionally, in their original form, e.g., x-rays. A marker designating the conventional filing shall be placed in the electronic record. Any exhibits designated for conventional filing shall be provided to the Court within five (5) days of the corresponding eFiling along with a cover page that describes the related electronically filed documents.

The Clerk of Court shall place such exhibits in the Court file or such other Court repository.

k. Service of Conventionally Filed Pleadings, Papers or Documents - Any conventionally filed pleading, paper or document shall be served on all other parties to the case in accordance with Rule 1-321 and Title 2, Chapter 100 of the Maryland Rules.

l. Sealed Documents - Motions to file documents under seal shall be electronically filed and served on all parties in the case. Once the motion is granted, the documents to be filed under seal shall be electronically filed utilizing the sealed access feature in the efile system. **The Vendor shall provide levels of security for filing sealed documents such that the filing party may restrict viewing by non-Parties or by parties not affected by such documents.**

m. Representations by Using a Typographical Signature - Every eFiled pleading, paper, and document 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 e-mail address (if available) of that attorney. Typographical signatures shall be treated as personal handwritten signatures for all purposes contemplated by the Maryland Rules.

n. Maintaining Copies of Electronically-Filed Pleadings, Papers or Documents - Only an original pleading, paper or document which must be signed by a Participant or other individual shall be maintained by counsel for the Participant and shall be made available, upon reasonable notice, for inspection by other counsel.

o. Time for Filing and Effect of Use of eFiling - Any paper or document filed electronically shall be considered as served and filed with the Clerk of the Court when it is completely submitted and receives an authorized date and time. Any paper or document filed electronically before midnight shall be deemed filed for purposes of filing deadlines. Regardless of the location of counsel, the Vendor and this Court will apply Eastern Time to all pleadings, papers and other documents. Thus, for example, if the deadline for filing a paper is March 15, if that paper is filed electronically at 11:59 p.m. ET on March 15, it will be deemed timely filed. The Vendor is hereby appointed the limited agent of the Court Clerk as to the electronic filing, receipt, service, and/or retrieval of any pleading, paper or document with the Vendor. All documents filed conventionally shall comply with the Maryland Rules for filing. Any paper or document electronically filed shall be considered docketed by the Clerk of the Court for all purposes contemplated by the Maryland Rules upon acceptance by the Clerk; the docketed date shall be the same as the authorized date and time.

p. Problems in transmission of an electronic filing - Participants are encouraged by the court to be reasonable with each other if a technical problem arises which will cause a deadline to be missed for a filing Participant. In such an event, Participants may, by consent and without the necessity of an order of court, agree to an extension of a filing deadline. If an agreement cannot be reached however, and an electronic filing cannot be filed because of (1) inaccessibility to Vendor, (2) downtime of a Participant's Internet Service Provider, (3) an error in the transmission of the pleading, paper or document to the Vendor which was unknown to the filing Participant, or (4) a failure to process the electronic filing when received by the Vendor, the court may enter such order as is necessary to permit the late filing of the pleading, paper or document.

q. Time for Responding to an eFiled Pleading, Paper or Document - Unless otherwise provided by an order of court, a party has eighteen (18) days to respond to an eFiled motion. All other response times for responding to eFiled documents shall be governed by the Maryland Rules.

r. Public Access to the Electronically Filed Pleadings, Papers and Documents - The Court Clerk's office shall make available to members of the general public, without charge and during normal business hours, at least one computer terminal capable of searching and reviewing pleadings, papers and documents filed of public record in Asbestos Litigation cases. The Clerk shall make copies of any publicly filed electronic pleadings, papers and documents at the rate established by the State Court Administrator pursuant to Section 7-202, Courts and Judicial Proceedings, Annotated Code of Maryland.

4. Form of Pleadings, Papers and Documents Electronically Filed

a. Format of Electronically Filed Pleadings, Papers and Documents - All electronically filed pleadings, papers and documents shall, to the extent practicable, be formatted in accordance with the applicable rules governing the formatting of paper pleadings and papers, and in such other and further format as the Court may require from time to time. Pleadings, papers or other documents when eFiled are digitally converted to a portable document format (PDF) by the Vendor. In the conversion process, a document may be lengthened which may cause such document to exceed a page limit rule that may exist in a given case. As such, the document will be accepted as conforming to the page limit rules as long as the Participant's own electronic copy of the pleading, paper or document, when viewed, conforms to the page limit restriction.

b. Title of Pleadings, Papers and Other Documents - The title of each electronically filed pleading,

paper or other document ("paper"), including multi-case filings, shall include a brief but informative description of the paper. The caption of the paper shall also contain the following information:

- i. the party or parties filing the paper;
- ii. the nature of the paper;
- iii. the party or parties against whom relief, if any, is sought; and,
- iv. the nature of the relief sought (e.g., "John Doe's Motion to Compel Discovery and for Sanctions against Jim Smith").

The signature page of any paper filed shall contain the name of the attorney and, if applicable, the name, address, phone number and e-mail address (if available) of the law firm representing the party, and the name of the party on whose behalf the paper is filed.

c. Multiple Case Filing - When individual cases have been grouped for trial, known as "trial clusters", a Participant shall eFile a pleading, paper or document in the group case number and will be assessed one LexisNexis CourtLink transactional filing fee for each filing. When a party files a pleading, paper or document in more than one case, including trial clusters, that party may use the multi-case filing function in the eFile system. The party shall caption the pleading, paper or document to include all relevant trial cluster case numbers and individually affected cases. Further, the top of the caption, below the Court's name, shall state "multi-case filing." Transactional filing fees associated with multi-case filing are attached hereto as Exhibit A.

5. Appeals of Asbestos Litigation Cases - The parties to an appeal shall work with and provide to the Clerk of the Circuit Court any materials required by Rule 8-413 that were originally filed in an electronic format pursuant to this Order. The parties are urged to work together, and with the Court of Special Appeals pursuant to Rule 8-206 (b), to minimize the creation of hard copy documents originally filed electronically. This determination may include, in each appeal as is appropriate and accepted by Order of the Court of Appeals or the Court of Special Appeals, the following: the use of an electronic transcript; the use of the deferred record extract procedure; limitations of issues and/or the content of the record, pursuant to Rule 8-206 (b); a statement in lieu of the record pursuant to Rule 8-413 (b); and/or, employment of the electronic filings in lieu of some or all hard copy of each filing in the case.

6. Technical Requirements of Participants

- a. Vendor shall maintain a list of System Requirements and specifications on its website.

- b. All electronically filed pleadings, papers and documents may be filed in Adobe Acrobat Portable Document Format (PDF) directly, WordPerfect and Microsoft Word formats or other word processing formats that can be converted by the current versions of WordPerfect or Word as of the date of this Order. To ensure all Participants will be able to print the retrieved documents from CourtLink correctly, CourtLink converts the electronic document to the Adobe Acrobat Reader's portable document format (PDF). Digital images of documents may be filed in tagged image format (TIF.)
7. Availability of Electronically Filed Pleadings, Papers and Documents ("Documents") - Documents filed electronically will be available immediately for retrieval on the Vendor's eFile system.
8. Fees The transactional fees for the use of the Vendor's eFile system are set forth in the Schedule of Fees attached as Appendix A, as may be amended from time to time. No fees will be increased by the Vendor without giving at least sixty (60) days prior notice to all Participants and approval by the Court.
- a. Any instrument requiring payment of a filing fee to the Clerk of the Court in order to achieve valid filing status shall be filed electronically in the same manner as any other eFile document.
 - b. The Vendor, as limited agent for the Clerk of the Circuit Court, will collect filing fees from Participants through direct billing of the Participant.
 - c. The Vendor will electronically transmit all filing fees to a financial account designated by the Court's bank and will electronically provide the Civil Finance Office with whatever information it requires for each deposit.

Ellen Heller
Administrative Judge

Date:

Appendix A: eFile Pricing

Filing with the Court	
\$6.00 per filing an unlimited number of pages Additional court filing fees may apply	
Official Service	
To other subscribers:	To non-subscribers:
\$10.00 per filing an unlimited number of pages on an unlimited number of parties	20¢ a page via fax (\$2 minimum) 10¢ a page plus postage via U.S. mail (\$2 minimum)
Notice	
Part of Service if online (same fax costs for non-Subscribers)	<i>Notice only, no document. Provides e-mail or fax notification that a document(s) has been filed with the court and/or served to other parties.</i>
Part of Service if online (same fax costs for non-Subscribers)	<i>Notice with document. Provides e-mail or fax notification with a copy of the filed document(s) that a document(s) has been filed with the court and/or served to other parties.</i>
Accessing Documents	
For documents officially served on or filed by your firm:	All other documents:
No charge to view, print and or download	\$5.00 per non-Baltimore asbestos document
Fax File and/or Serve on Behalf Of	
\$10 plus standard filing and/or service fees.	<i>Faxed documents filed and/or served by CourtLink on behalf of faxing party</i>
Multiple Case Filing	
\$6.00 per filing plus \$2.00 posting fee for each additional case	