

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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: **MDL No. 1358 (SAS)**
In Re: Methyl Tertiary Butyl Ether : **Master File C.A. No.**
("MTBE") Products Liability Litigation : **1:00-1898 (SAS)**
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This Document Relates To: :
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All Cases :
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STIPULATION AND ORDER

IT IS HEREBY STIPULATED BY AND BETWEEN THE PARTIES that whenever a party to this Litigation is required by the Federal Rules of Civil Procedure to serve a document on counsel of record, that party may effectuate service of the document by the procedure set forth in this Stipulation and Order, subject to the exceptions outlined herein, as permitted by Federal Rules of Civil Procedure 5(b), 6(e) and 77. All references to "document" in this Stipulation and Order shall be interpreted to include any exhibits or attachments to said document.

I. LEXISNEXIS FILE & SERVE

1. In order to facilitate case management, document retrieval and case organization, the parties will utilize the services of LexisNexis File & Serve ("LNFS") and its litigation system (the "System") 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, or any Special Master appointed by this Court, may also use LNFS and its System for these purposes as well.

II. SERVICE ONLY

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

III. SERVICE LIST & SIGN-UP

3. Within five (5) days of this Order, liaison counsel for plaintiffs and defendants shall submit to the LNFS representative a complete and current service list of counsel of record for each litigation. Within 15 days of this Order, each attorney of record for each litigation, or within 10 days of the entry of appearance for a new attorney of record, shall sign up for electronic service in this litigation by completing the application located at the website for **LexisNexis File & Serve *Advanced*** located at <http://www.lexisnexis.com/fileandserve>.

IV. ELECTRONIC SERVICE OF DOCUMENTS

A. Establishment and Use of the LNFS System Generally

4. When any counsel of record in this case wishes to serve a document, that counsel shall serve the document according to all the requirements and procedures of this Order and in accordance with the terms and conditions of the System. All references to “document” in this Order shall be interpreted to include any exhibits or attachments to the document and shall include both court-filed and discovery-related documents. Each attorney shall determine individually whether to utilize the System to serve by and

amongst counsel of record the actual production of discovery documents in response to another party's request for production.

5. LNFS shall establish and maintain an Internet website on the System for this litigation. All documents served by the parties will be posted by LNFS to the System as provided in this Order. LNFS will post documents to the System and shall serve each document as provided in this Order on the parties included on the service list provided to LNFS in accordance with the procedures herein.

6. All documents to be served shall be sent to LNFS via electronic transfer of the document file to LNFS via the Internet (either as a word-processing file or a scanned image of the document). Unless another Order specifies a time for service, any document electronically served pursuant to this Order shall be deemed to have been served under the Federal Rules of Civil Procedure.

7. After LNFS receives a document, LNFS shall convert it into Adobe Portable Document Format ("PDF") and post it to the System within one (1) hour of receipt.

8. Within one hour of the time a document is posted to the System, LNFS shall send an email to all registered users notifying them that the document has been posted to the System (unless the user has otherwise requested not to be notified of the service of documents). The email shall contain hypertext link(s) to the document location(s) on the System (or, if so designated by the recipient, the email shall have the filed document attached thereto).

9. In the event a document that is to be filed with the Court is rejected by the Court for filing after it has been posted on the System by LNFS, the rejection was caused by an aspect of the caption of the document, and the party seeking to file the document successfully files it with the Court within two (2) business days of its rejection with revisions to the caption only, then the party filing the document shall promptly submit a notice of successful filing, including the date of the filing and the revised page(s) of the caption, to LNFS for posting on the System. In all other circumstances in which a document to be filed with the Court is rejected for filing after it has been posted on the System by LNFS, the party that caused the document to be posted shall promptly notify LNFS in writing that the document was rejected by the Court for filing. LNFS shall promptly notify all parties on whom that document was served of the fact of rejection, and shall cause a permanent notation to be placed on the System in conjunction with that document memorializing the fact of rejection.

10. The System shall contain an index of all served documents for the litigation that will be searchable and sortable according to methods that provide useful 24/7 access to the documents.

11. Access to the System will be limited to registered users. Registered users will consist of authorized Court personnel, counsel of record and their designated staff members and client representatives. LNFS will provide each registered user with a user name and password to access the System and the documents filed in each litigation. LNFS personnel will perform all administrative functions for the System, but all initial data, additions, deletions or changes to the service list must be approved by the Plaintiffs and Defendants Steering Committees.

12. 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 State Bar of [State] number of such attorney. Typographical signatures shall be treated exactly as personal signatures for purposes of electronically served documents under the Federal Rules of Civil Procedure. The filer 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 filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has their actual authority to submit the document electronically. The filer must maintain any records evidencing this concurrence for subsequent production to the Court if so ordered or for inspection upon request by a party.

13. Any document transmitted to the System shall certify in the Proof of Service that a true and correct copy was electronically served on counsel of record by transmission to LNFS.

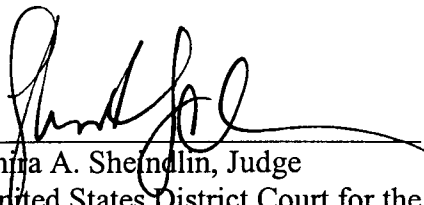
14. Until further notice, documents filed under seal (“sealed documents”) shall not be served through the System. Instead, the service of sealed documents shall be made pursuant to the applicable Federal Rules of Civil Procedure.

15. If electronic service does not occur due to (1) technical problems with the LexisNexis system, (2) failure to serve by LexisNexis; or (3) erroneous exclusion of a party or nonparty from the service list, the party or nonparty that should have been served shall be entitled to (on proper showing to the Special Master or the Court depending on

the document at issue) an order extending the date for any response or the period within which any right, duty, or other act must be performed.

16. To address any technical questions that may arise during the course of this litigation, LNFS shall have available to counsel of record and the Court a 24-hour 7-days a week help desk hotline at (888) 529-7587.

IT IS SO ORDERED.


Shira A. Sheindlin, Judge
United States District Court for the
Southern District of New York

Dated: Sept. 21, 2004