

United States Courts
Southern District of Texas
FILED

MAR 29 2004

Michael N. Milby, Clerk of Court

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

United States District Court
Southern District of Texas
ENTERED

MAR 30 2004

323
Michael N. Milby, Clerk of Court

IN RE: SILICA PRODUCTS
LIABILITY LITIGATION

MDL No. 1553: ALL CASES

AGREED ORDER ON ELECTRONIC FILING AND SERVICE

IT IS HEREBY ORDERED:

The Court has considered the issue of electronic filing of pleadings and papers with the Court and service of pleadings among the parties and finds that electronic and/or web based service shall be used by the parties in MDL 1553. Until electronic filing of pleadings and papers are possible with the Clerk of the Court, the following protocol shall govern. When electronic filing with the Clerk of the Court is possible, the following protocol shall be modified to accommodate for electronic filing with the Clerk of the Court.

I. Protocol for filing with the Clerk of the Court by Counsel for the Plaintiffs and Defendants

A.. All parties shall submit hard copies of pleadings and papers required to be filed with the Clerk of the Court. Discovery shall not be filed with the Clerk of the Court pursuant to Order No. 4 Paragraph 21 and Local Rule 5.5 nor shall documents ordered to be produced to the Repository as identified, for example, in Order No. 4 Paragraph 18.

B. All Orders executed and entered by the Court shall be placed on www.MDL1553.com and LexisNexis File & Serve.

1. Plaintiffs' Liaison Counsel shall be responsible for obtaining the Court's Orders and placing them on the www.MDL1553.com website. Omni Litigation Support Services has been designated by Plaintiffs' Liaison Counsel to perform this task on his behalf. All Orders shall be placed on www.MDL1553.com website within one business day after entry on the case docket.

2. Defendants' Liaison Counsel shall be responsible for obtaining the Court's Orders and electronically serving them on Defendants through LexisNexis File & Serve. All Orders shall be served on Defendants through LexisNexis File & Serve within one business day after entry on the case docket.

II. Plaintiffs' Service on the Defendants

- A. The originating Plaintiffs' counsel shall serve via email a PDF version of each pleading/paper, including discovery papers but not discovery documents, to the Defendants' Liaison Counsel.
 1. The Defendants' Liaison Counsel shall be responsible for electronically serving all Defendants with the Plaintiffs' pleading/paper, including discovery papers but not discovery documents, using LexisNexis File & Serve within one business day of receipt from Plaintiffs' counsel. All Defendants' Counsel shall be obligated to participate in LexisNexis File & Serve. Electronic service to Defendants using LexisNexis File & Serve shall be considered valid and effective service.
 2. All Defendants' Counsel shall share in the cost of the service by Defendants' Liaison Counsel on a defendant by defendant basis, not by law firm. The Defendants' Liaison Counsel shall submit a statement for charges on a quarterly basis or more frequent, at its discretion.
- B. A paper hard copy and PDF version shall be served on the individual Defendants' Counsel by the originating Plaintiffs' Counsel, if the pleading/paper, including discovery papers but not discovery documents, is individual to the Defendants' Counsel's client or group of clients.
- C. Originating Plaintiffs' Counsel shall serve Plaintiffs' Liaison Counsel who, in turn, through Omni Litigation Support Services, will be responsible for placing the pleading/paper, including discovery papers but not documents, on the www.MDL1553.com website within 24 hours of receipt from Plaintiffs' Liaison Counsel. All Plaintiffs' Counsel are required to review the website.
- D. Service shall be deemed as though by mail. Thus, any pleading/paper, including discovery papers but

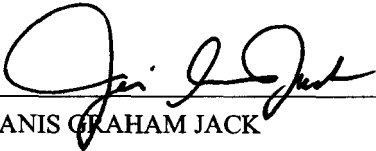
not discovery documents, shall be deemed served on the date the .PDF is sent via email so that response time does not begin to run until three days after receipt of the PDF by Defendants' Liaison Counsel and/or individual Defendants' Counsel, when appropriate, and time for responding is to begin three days thereafter. Plaintiffs' Liaison Counsel, through Omni Litigation Support Services, and Defendants' Liaison Counsel shall note the date the email was sent on MDL1553.com and in the LexisNexis File & Serve system respectively, so that counsel may calculate their response deadlines.

III. Defendants' Service on the Plaintiffs

- A. Defendants will electronically serve Plaintiffs by serving Plaintiffs' Liaison Counsel via LexisNexis File & Serve. Plaintiffs' Liaison Counsel, through Omni Litigation Support Services, will log onto LexisNexis File & Serve to download Defendants' pleadings/ papers, including discovery papers but not discovery documents, to transfer to the www.MDL1553.com website. There will be no cost to Plaintiffs' Liaison Counsel to log in and download pleadings/papers electronically served to them, including discovery papers but not discovery documents. Plaintiffs' Liaison Counsel, through Omni Litigation Support Services, may setup email notifications of the service and availability of each so as to know when to log onto LexisNexis File & Serve at no cost.
- B. A paper hard copy and .PDF version shall be served on the individual Plaintiffs' Counsel by the originating Defendants' Counsel, if the pleading/paper, including discovery papers but not discovery documents, is individual to the Plaintiffs' Counsel's client or group of clients.
- C. Originating Defendants' Counsel shall serve other Defendants using LexisNexis File & Serve.
- D. Service shall be deemed as though by mail. Thus, any pleading shall be deemed served on the "Authorized Date" as displayed on the LexisNexis File & Serve system and/or the date the PDF is sent via email to the individual Plaintiffs' Counsel, when appropriate, and time for responding is to begin three days thereafter. Plaintiffs' Liaison Counsel, through Omni Litigation Support Services, shall note the served date (LexisNexis File & Serve "Authorized Date") on the MDL1553.com site.

Defendants' Liaison Counsel shall note on LexisNexis File & Serve the date the email was sent to Plaintiffs' Liaison Counsel and/or individual Plaintiffs' Counsel, when appropriate.

SIGNED AND DATED this the 29th day of March, 2004.



JANIS GRAHAM JACK
UNITED STATES DISTRICT JUDGE