

**STATE OF NEW YORK  
SUPREME COURT COUNTY OF ERIE**

**THE COUNTY OF ERIE,**

**Plaintiff,**

**v.**

**ABBOTT LABORATORIES, INC., et al.,**

**Defendants.**

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: **Index No. I2005-2439**  
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: **Hon. Eugene M. Fahey,**  
: **J.S.C.**  
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**CASE MANAGEMENT ORDER NO. 1**

**ELECTRONIC SERVICE OF PLEADINGS  
AND DISCOVERY-RELATED DOCUMENTS**

The Court finds that entry of this order is necessary for the just and more expeditious and efficient resolution of the above-captioned litigation.

The parties to this litigation have agreed that when any party wishes to serve a document to counsel of record, that party shall effectuate service of the document by the procedures set forth in this order (subject to the exceptions outlined herein):

**LEXISNEXIS FILE & SERVE**

1. In order to facilitate case management, document retrieval and case organization, the parties have agreed to 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. LNFS shall be bound by the terms of any protective order (whether interim or otherwise) entered in this matter. The Court, at its

option, may also use LNFS and its system for these purposes as well to communicate with counsel of record.

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 rules applicable to civil actions in the State of New York Supreme Court, Erie County.

SERVICE LIST AND SIGN-UP

3. Within five days of this order, plaintiff's counsel shall submit to the LNFS representative a complete and current service list of counsel of record for this litigation. Within ten days of this order, each attorney of record for this litigation, shall register for electronic service in this litigation by completing the application located at the following website: <http://www.lexisnexis.com/fileandserve> (advanced registration). Each counsel's password shall be treated as if it were for "attorney's eyes only" pursuant to any protective order entered by the Court.

4. With respect to any attorney who notices an appearance or files a pleading listing the attorney as counsel of record after the date of this order, plaintiff shall serve a copy of this order on such attorney within five business days of plaintiff's receipt of the attorney's notice of appearance. Each such attorney shall register for electronic service in this litigation as required in ¶3 of this order within ten days of its receipt of this order.

## SERVICE OF DOCUMENTS AND WEBSITE

### Establishment and use of the LNFS website generally.

5. 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 the system to serve correspondence that is not intended for all parties. The actual production of discovery documents need not be served through LNFS and/or the actual production of discovery documents in response to another party's request for production is not subject to the requirements herein.

6. LNFS shall establish and maintain an internet website (the "website") for this litigation. LNFS will post all documents served by the parties to the website as provided in this order and shall serve each document on the parties included on the service list provided to LNFS in accordance with the procedures herein.

7. Each attorney shall serve each document 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). 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 consistent with the rules applicable to civil actions in the State of New York Supreme Court, Erie County. Service shall be deemed effective on the date the document is transmitted to LNFS. Nothing in this order shall have any effect on the process by which documents are filed in the Court.

8. After LNFS receives a document, LNFS shall convert such document into Adobe portable document format ("PDF") and post it to the website within one hour of receipt.

9. Within one hour of the time a document is posted to the website, LNFS shall send an e-mail to all registered users notifying them that the document has been posted to the website (unless such registered user has declined to receive such e-mail notifications). The e-mail shall contain hypertext link(s) to the document location(s) on the system (or, if so designated by the recipient, the e-mail shall have the served document attached thereto).

10. 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 website 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 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 website. In all other circumstances in which a document to be filed with the Court is rejected for filing after LNFS has posted it on the website, 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 website in conjunction with that document memorializing the fact of rejection.

11. All documents posted on the system 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 (with descriptive information); and (d) the identity of the party on whose behalf the document is being served.

12. 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 24/7 365 days' access to the documents.

13. 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. LNFS will provide each registered user with a user name and password to access the system and the documents served in the 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 plaintiff and defendants.

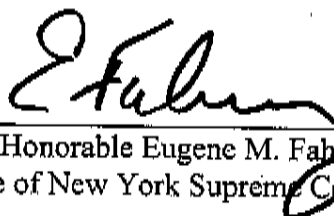
14. Every pleading, document and instrument served electronically shall bear a facsimile or typographical signature of at least one of the attorneys of record, along with the typed name, address, and telephone number of such attorney. Typographical signatures shall be treated exactly as personal signatures for purposes of electronically-served documents under the rules applicable to civil actions in the State of New York Supreme Court, Erie County. Any document requiring multiple signatures (*e.g.*, stipulations, joint status reports) must bear the personal signature of at least one of the attorneys of record for both plaintiff and defendants, and 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, except that if plaintiff is the serving party, plaintiff's counsel certifies that the signing party on behalf of all defendants has expressly agreed to the form and substance of the document. 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.

15. 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 pursuant to this order. 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 rules governing such documents applicable to civil actions in the State of New York Supreme Court, Erie County.

16. LNFS shall have available to counsel of record and the Court a 24-hour, 365-day help desk hotline at 888-529-7587 and website -- <http://www.lexisnexis.com/fileandserve/support.asp>.

IT IS SO ORDERED.



The Honorable Eugene M. Fahey, J.S.C.  
State of New York Supreme Court, Erie County

Dated: May 19, 2006

**GRANTED**

MAY 19 2006

BY Carol M. Williams  
CAROL M. WILLIAMS  
COURT CLERK