

ORIGINAL FILED

NOV 07 2008

**LOS ANGELES
SUPERIOR COURT**

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES**

**DOWNEY STUDIOS RELATED
CASES**)

Bernson, et al., v City of Downey, et al.
(Case No. VC046716)

) **Lead Case No. VC046716**

Downey Studios, LLC, et al., v.
DreamWorks Productions, LLC, et al.
(Case No. BC393255

) Assigned for All Purposes to:
) **The Honorable Carl J. West**

) **Dept. 311**

) **ORDER AUTHORIZING ELECTRONIC
SERVICE**

The Court has deemed this matter to be complex litigation within the meaning of the California Standards of Judicial Administration for Complex Litigation Section 19 and California Rules of Court, Rules 3.400, et seq. As such, this is a case that requires specialized management to avoid placing unnecessary burdens on the Court or the litigants, and to keep costs reasonable.

Pursuant to Code of Civil Procedure §§187, and California Rule of Court, Rules 2.253(a) and 3.751, and without objection by Plaintiff or Defendant, the Court finds that entry of this Order is necessary for the just and more expeditious and efficient resolution and management of the above-captioned litigation.

When a party to this litigation wishes to serve a document to counsel of record, that party shall effectuate service of the document by the procedure set forth in this Order (subject to the exceptions outlined herein):

I. LEXIS NEXIS 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, may also use LNFS and its System for these purposes as well to communicate with counsel of record.

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 California Rules of Civil Procedure and Local Rules of such Court.

III. SERVICE LIST & SIGN-UP

3. Within five (5) days of this Order, plaintiff's counsel shall submit to the LNFS representative Keith Foote, at keith.foote@lexisnexis.com a complete and current service list of counsel of record for this litigation. Within 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 application located at the following website:

<http://www.lexisnexis.com/fileandserve> (advanced registration).

IV. SERVICE OF DOCUMENTS AND WEBSITE

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

5. 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.

6. 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 under the California Rules of Civil Procedure.

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

8. Within one (1) hour of the time a document is posted to the Website, LNFS shall send an email to all registered users notifying them that the document has been posted to the Website (unless such registered user has declined to receive such email notifications). 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 served document attached thereto).

9. Electronic service shall be complete at the time of transmission, provided any period of notice or any right or duty to do any act or make any response within any period or on a date certain after the service of the document, which time period or date is prescribed by statute or rule of court, shall be extended after service by electronic transmission by two court days, but the extension shall not extend the time for filing notice of intention to move for new trial, notice of intention to move to vacate judgment pursuant to Section 663a, or notice of appeal

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 (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 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 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; 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 the Plaintiffs 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, telephone number and State Bar of California number of such attorney. Typographical signatures shall be treated exactly as personal signatures for purposes of electronically served documents under the California Rules of Civil Procedure. 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.

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.

16. 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 California Rules of Civil Procedure.

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

V. Service of This Order/Exemptions

18. Exemptions from the requirements of this Order may be granted in the discretion of the Court if it appears that a party would suffer undue hardship or significant prejudice. Any party appearing after entry of this Order shall have fifteen days from their initial appearance to lodge any objections to this Order and to seek exemption. A copy of this Order shall be served upon any newly appearing party with the initiating pleadings.

19. Plaintiffs John Izumi and Frank P. Serrao shall be exempt from the e-service requirements of this order. Said Plaintiffs shall comply with the service requirements of the Code of Civil Procedure. Upon receipt of any document served by Plaintiff John Izumi or Plaintiff Frank P. Serrao, counsel for City of Downey shall, within 12 hours of receipt of any such document, serve the document on LNFS as provided in this Order for Electronic Service.

20. Counsel for Defendant City of Downey is ordered to prepare, serve and file within 5 days, a Service List identifying all parties and their counsel which shall include the name of lead and backup attorneys, addresses, including email addresses, and telephone numbers for all counsel. Counsel for Plaintiff is further Ordered to serve a

copy of this ORDER AUTHORIZING ELECTRONIC SERVICE on all counsel concurrent with service of the Service List.

VI. Message Board

21. Lexis-Nexis shall activate the message board function for the above entitled case. All attorneys on the service list will automatically have access to the Message Board and start to receive e-mail notifications of new message board postings. The Message Board shall be used to facilitate the efficient and prompt communication of case management and scheduling issues by and among the Court and counsel. All attorneys will be charged \$6.00 per firm per month for this service.

IT IS SO ORDERED.

Dated: November 7, 2008

CARL J. WEST

Carl J. West, Judge of the Superior Court