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FILED
Superior Court of California
County of Los Angeles

OCT 25 2011

John A. Clarke, Executive Officer/ Clerk
By Alfredo Morales, Deputy
ALFREDO MORALES

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

IN RE LAOSD ASBESTOS LITIGATION

JCCP CASE NO. 4674

**ORDER AUTHORIZING ELECTRONIC
SERVICE**

**Dept: 324
Judge: Hon. Emilie H. Elias**

1 **1. APPLICATION OF ORDER**

2 Judicial Council Coordinated Proceedings Case No. 4674 (hereinafter referred to as
3 "ASBESTOS LITIGATION" or "JCCP 4674") is deemed complex litigation within the meaning of
4 the California Standards of Judicial Administration for Complex Litigation Section 19 and California
5 Rules of Court, Rule 3.400, *et. seq.* As such, ASBESTOS LITIGATION requires specialized
6 management to avoid placing unnecessary burdens on the Court and the litigants and to keep costs
7 reasonable.

8 At the Omnibus Status Conference held on October 6, 2011 the Court advised all parties
9 present that it intended to order e-service. On the same date, the parties were invited to join a
10 committee to select the provider and to discuss the terms of the e-service process. The Court met with
11 said committee, which consisted of representatives from both plaintiff and defense sides, on
12 October 18, 2011 to hear presentations from potential providers and to discuss the nature of this
13 Order. The Court further provided the draft of this Order to said committee for their input. Said
14 committee has selected the provider and has given their input into this Order.

15 The Court finds that entry of an order requiring mandatory electronic service of all pleadings
16 and documents subsequent to the filing of the Complaint and Summons in ASBESTOS
17 LITIGATION actions will benefit the Court, counsel and litigants, and will further the orderly
18 conduct and management of ASBESTOS LITIGATION in this jurisdiction. The Court further finds
19 that electronic service will not cause undue hardship or significant prejudice to any party. Therefore,
20 pursuant to California Rules of Court, Rule 2.253, the Court hereby orders service subsequent to the
21 filing and service of the Complaint and Summons to be accomplished electronically as set forth in
22 this Order by all parties in ASBESTOS LITIGATION. California Rules of Court, Rules 2.250
23 through 2.261 shall govern the electronic service of documents in the ASBESTOS LITIGATION.
24 Electronic service of ASBESTOS LITIGATION documents requires utilization of an electronic
25 service provider. Any such provider must be approved by the Court. The effective date for
26 electronic service in ASBESTOS LITIGATION shall be November 14, 2011.

1 **2. DEFINITIONS**

- 2 **A. E-Service VENDOR or VENDOR or Approved VENDOR** – A private firm or
3 other business entity approved and selected by the Court to provide electronic
4 service. As of the effective date of this Order, the Court has approved LexisNexis
5 (<http://www.lexisnexis.com/fileandserve>).
- 6 **B. E-Service** – Electronic transmission of an original document to all other designated
7 recipients via the VENDOR's system. Upon the completion of any transmission to
8 the VENDOR's system, a transaction receipt is issued to the sender acknowledging
9 receipt by the VENDOR system. Once the VENDOR has served all recipients, proof
10 of electronic service shall be available to the sender from VENDOR.
- 11 **C. ASBESTOS LITIGATION** – All cases that have been, or become, coordinated into
12 JCCP 4674.
- 13 **D. E-Document** – An electronic version of a word processing document which
14 generally is composed of text.
- 15 **E. E-Image** – An electronic version of a document that has been scanned or converted
16 to a graphical or image format.
- 17 **F. USER(S)** – Any party or non-party to an action who files ASBESTOS LITIGATION
18 documents and utilizes the services of the approved VENDOR.
- 19 **G. CASE** -- The individual case filed by a plaintiff which is now, or later becomes, a
20 part of the ASBESTOS LITIGATION.

21 **3. OPERATION OF ELECTRONIC SERVICE PROCEDURE**

22 **A.** All parties to the ASBESTOS LITIGATION pending in this Court, other than self-
23 represented parties, shall utilize the services of an approved VENDOR on and after the effective date
24 of this Order. USERS shall enter into the following arrangements with VENDOR:

- 25 1. A standard service agreement during the registration process with the
26 approved VENDOR that will govern any and all transactions completed
27 within and outside the scope of this Order, in addition to additional features
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1 that USERS may but are not required to use in connection with the electronic
2 serving of documents through the VENDOR;

3 2. An addendum agreement referenced herein shall apply solely and exclusively
4 to the parties to the ASBESTOS LITIGATION and their legal
5 representatives, and shall not be altered by VENDOR without Court
6 approval.

7 B. The fees charged by the VENDOR for use of the electronic service system shall be
8 established by the VENDOR pursuant to the agreed upon terms. Other than that
9 specifically contemplated by the terms of the agreement, VENDOR shall maintain
10 the fee structure in effect for E-Service at the commencement of this Order. No fees
11 associated with electronic service may be increased by the VENDOR without Court
12 approval after having given at least 60 days prior notice to all USERS.

13 C. The Court may solicit bids from other potential VENDORS and submit to the parties
14 in ASBESTOS LITIGATION any recommendations for a change in the designation
15 of the VENDOR or the terms of the Service Agreement. Should a party in
16 ASBESTOS LITIGATION seek to alter the current VENDOR, it must seek leave of
17 Court to do so.

18 4. **ASSIGNMENT BY THE VENDOR OF WEBSITE AND USERNAME AND**
19 **PASSWORD**

20 VENDOR shall establish and maintain an internet website for the ASBESTOS LITIGATION.
21 VENDOR will post all documents served by the parties to the website as provided in this Order and
22 shall serve each document on the parties included on the service list provided to VENDOR in
23 accordance with the procedures herein.

24 A general page will be created for JCCP 4674. All orders that apply to all CASES in
25 ASBESTOS LITIGATION or notices from the Court shall be designated by the Court to be posted
26 and served on all parties under JCCP 4674. All other documents shall be posted and served on all
27 parties in the CASE to which the document pertains under the individual CASE number.
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1 VENDOR shall assign to the party's designated representative a confidential USER name
2 and password which may be used to electronically serve and receive pleadings, orders, and other
3 documents that are filed and/or served in ASBESTOS LITIGATION. No attorney or party
4 representative shall knowingly authorize or permit his/her USER name or password to be utilized by
5 anyone other than the authorized attorneys or employees of the attorney's law firm.

6 **5. ELECTRONIC SERVICE OF PLEADINGS AND OTHER DOCUMENTS**

7 All documents filed with the Court shall be electronically served on all parties. Except as
8 expressly provided herein, all pleadings, motions, memoranda of law, declarations, orders, discovery,
9 *ex parte* notices, deposition notices and objections, or other documents served in ASBESTOS
10 LITIGATION by USERS shall be electronically served.

11 Notice(s) of *ex partes*, whether by letter or pleading, shall be uploaded as a separate
12 transaction. All notices of depositions and objections to depositions must be uploaded as a separate
13 transaction. Except as set forth above, documents pertaining to the same CASE may be served as one
14 transaction if they pertain to the same category of documents and the same party, i.e. notice of motion,
15 points and authorities, declarations, etc. for one motion may be served together as a single
16 transaction.

17 USERS may electronically serve other documents not specifically contemplated above. Other
18 correspondence between counsel need not be served electronically.

19 In the event a document is served by any method authorized under the Code of Civil Procedure
20 other than electronic service, a copy of the document(s) also shall be electronically served in
21 compliance with the terms of this Order by 5:00 p.m. on the next business day.

22 Nothing is intended by this Order to modify the obligations of service as set forth in the
23 California Code of Civil Procedure and/or other applicable rules.

24 **A. Complaint and First Appearances**

25 Plaintiff shall file in paper form the complaint and summons and proof of
26 service of same; these documents shall also be posted electronically. Electronic
27 service of a summons and complaint does not constitute service of process for any
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1 purpose and does not relieve the serving party from compliance with the applicable
2 provisions of the California Code of Civil Procedure.

3 Each defendant shall serve its first pleading in each CASE with the VENDOR
4 in such manner as the VENDOR shall establish to enter its appearance and serve its
5 first pleading electronically in the newly-filed CASEs.

6 **B. Service Lists**

7 Within five (5) days of this Order, every counsel for plaintiffs in ASBESTOS
8 LITIGATION shall submit to the VENDOR a complete and current service list of
9 counsel of record for each matter in which they represent a plaintiff(s) in ASBESTOS
10 LITIGATION. Each attorney of record for a party in the ASBESTOS LITIGATION
11 shall register for electronic service by completing the appropriate VENDOR
12 application within ten (10) days of this Order.

13 Within ten (10) days of the effective transfer of any CASE from a referring
14 Court into the ASBESTOS LITIGATION, counsel for plaintiff shall submit to the
15 VENDOR a complete and current service list of all parties and their attorneys of
16 record. Each attorney of record shall register for electronic service by completing the
17 appropriate VENDOR application within ten (10) days of service of notice of transfer
18 of a CASE from a referring Court into the ASBESTOS LITIGATION.

19 Within fifteen (15) days of the entry of appearance of a new party in the
20 ASBESTOS LITIGATION, each attorney of record for that party shall register for
21 electronic service by completing the appropriate VENDOR application

22 A party seeking to be removed from a service list on any CASE shall file with
23 the Court and serve on all parties a "Request To Be Removed From The Service List."
24 Any party objecting to the removal of the requesting party must file with the Court and
25 serve on all parties an objection within five (5) court days. If no objection is received,
26 the requesting party shall be removed from the service list by the party initiating the
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1 action against the requesting party. Parties may only be removed from a service list by
2 the party initiating the action or by order of the Court.

3 Service list changes will remain the responsibility of the individual parties
4 through their counsel, if any. The VENDOR shall process the changes requested by
5 parties, but the VENDOR will not initiate them.

6 **6. EFFECT OF USE OF E-SERVICE AND TIME FOR SERVICE**

7 No document transmitted electronically shall be considered as served unless it is accepted by
8 the VENDOR. Electronic service shall be complete at the time of transmission. However, any
9 documents transmitted after 5:00 P.M., Pacific Time, will be deemed to have been served on the
10 following date.

11 Any period of notice or any right or duty to do any act or make any response within any period
12 or on a date certain after the service of the document, which time period or date is prescribed by
13 statute or California Rules of Court, shall be extended after service by electronic transmission by two
14 court days, but the extension shall not extend the time for filing notice of intention to move for new
15 trial, notice of intention to move to vacate judgment pursuant to Code of Civil Procedure § 663a, or
16 notice of appeal (California Rules of Court, Rule 2.251(f)(2)).

17 In the event that a document is rejected for filing by the Court after VENDOR has posted it on
18 the website, the party that caused the document to be posted shall promptly notify VENDOR in
19 writing that the document was rejected by the Court for filing. VENDOR shall cause a permanent
20 notation to be placed on the website in conjunction with that document memorializing the fact of
21 rejection. All parties reserve their rights to object to untimely or otherwise improperly filed and/or
22 served documents.

23 **7. FORMAT OF ELECTRONICALLY SERVED DOCUMENTS**

24 **A. Pleadings, Discovery, and General Documents**

25 All electronically served documents, to the extent practicable, shall be
26 formatted in accordance with the applicable rules governing formatting of paper
27 pleadings, and in such other or further format as the Court may require. The date and
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1 time of the hearing or trial in connection with which the document is submitted shall
2 be designated on the cover page of each document. The caption and signature page of
3 any document served shall contain the name of the attorney and, if applicable, the
4 name of the law firm representing the party and the name of the party on whose behalf
5 the document is served.

6 All documents relating to a single motion, pleading or paper shall be
7 electronically served together in a single service transaction. All documents
8 electronically served shall be identified by: (a) the name of the serving law firm; (b)
9 the caption(s) of the CASE(s), including specific CASE number; (c) a brief title of the
10 document, including the name of the party to whom it is directed; and (d) the identity
11 of the party on whose behalf the document is being served.

12 The document title entered on the VENDOR system shall be substantially the
13 same as the caption on the document. This title is used to allow USERS to quickly
14 search the VENDOR system and locate specific documents. The title shall be used
15 for administrative and reference purposes only, but is not determinative for any other
16 purpose.

17 Documents that are required to be redacted per California Rules of Court,
18 Rule 1.20 shall be served in their unredacted form, but shall be filed with the Court
19 redacted in accordance with the California Rules of Court. Documents lodged
20 provisionally under seal, pursuant to California Rules of Court, Rules 2.550, *et seq.*,
21 shall be electronically served in a locked format and shall be so served on the parties
22 in said CASE. The redacted versions shall also be served, in unlocked version, on all
23 parties in said CASE.

24 **B. Non-Electronic Exhibits or Other Items**

25 Exhibits to declarations or other documents that are nontext articles, real
26 objects, or other documents not readily susceptible to electronic service may be
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1 served in non-electronic form. A notice of such alternative service shall be served
2 electronically.

3 **C. Proof of Service**

4 Proof of electronic service shall conform to the applicable provisions of the
5 Code of Civil Procedure and the California Rules of Court. The VENDOR's
6 transaction receipt may operate as the proof of service so long as it complies
7 substantially with such provisions. A proof of service page may be attached to the
8 last page of any electronically served document. Neither a separate caption page nor
9 a separate filing of the proof of service is required so long as the proof of service
10 page contains a caption referencing the CASE name and action number, is attached
11 as the last page of the electronically served document to which it refers, and
12 references the VENDOR's transaction receipt.

13 **8. SIGNATURES ON E-SERVED DOCUMENTS**

14 Every pleading, document, and instrument electronically served shall be deemed to have
15 been signed by any judge, licensed attorney, court official or person authorized to execute proofs of
16 service if it bears the graphic signature or the typographical signature of such person, e.g. "/s/ Adam
17 Attorney," along with the typed name, address, telephone number, and State Bar of California
18 number of a signing attorney. Such graphic or typographical signatures shall be treated as personal
19 signatures for all purposes under the California Code of Civil Procedure.

20 Other than the attorney of record for a party in a CASE, all other filed and/or served
21 documents requiring a signature under penalty of perjury must be imaged to reflect the handwritten
22 signature of the declarant to accomplish valid service. Upon request, the filing and/or serving party
23 shall provide the original of such typographically signed or imaged documents.

24 USERS shall retain in their files or in the file of the Court an original dated hard copy with
25 hand written signature as required of all electronically served documents. The hard copies shall be
26 made available for inspection upon reasonable notice.

1 **9. NEW PARTIES**

2 A copy of this Order or reference to the court file where such Order is located shall be
3 provided to all parties at the time of initial service of the Complaint or at any other such first time a
4 new party is brought into an existing action in ASBESTOS LITIGATION.

5 **10. USER AND VENDOR TECHNICAL PROBLEMS**

6 In the event that a USER is temporarily unable to electronically serve due to technical
7 problems, the USER should promptly seek relief from the Court. The Court shall establish policies
8 and procedures for USERS to follow when requesting an extension of time due to technical
9 problems.

10 If electronic service does not occur because: (1) of an error in the transmission of the
11 document to the VENDOR or served party which was unknown to the sending party, (2) of a failure
12 to process the electronic document when received by the VENDOR, (3) a party was erroneously
13 excluded from the service list, or (4) of other technical problems experienced by the VENDOR, the
14 party or parties affected may be entitled to an extension for any response or the period within which
15 any right, duty, or other act must be performed, provided the USER demonstrates that s/he attempted
16 to otherwise timely complete service on a particular day and time.

17 VENDOR shall provide, in the least, telephonic technical service assistance to the Court and
18 parties in ASBESTOS LITIGATION 24-hours per day, 365-days per year, and shall work diligently
19 to avoid and promptly resolve any technical difficulties.

20 **11. PARTIES NOT REPRESENTED BY COUNSEL AND NON-PARTIES**

21 Parties not represented by counsel and non-parties are not required to electronically serve
22 documents and may serve documents in accordance with the California Code of Civil Procedure and
23 other applicable rules.

24 **12. ELECTRONIC SERVICE OF ORDERS AND OTHER DOCUMENTS BY**
25 **THE COURT**

26 The Court may electronically serve orders and other documents electronically on parties in
27 the ASBESTOS LITIGATION.
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1 **13. OBJECTION TO E-SERVICE ORDER AND NOTICE OF ORDER**

- 2 **A.** All parties currently in the ASBESTOS LITIGATION shall have ten (10) days from
3 service of this Order to file objection with the Court. Any party appearing after
4 November 14, 2011, shall have ten (10) days from their initial appearance to lodge any
5 objections to this Order and to seek exemption. A copy of this Order or reference
6 thereto shall be served upon any newly appearing party with the initiating pleadings.
7 Exemptions may be granted in the discretion of the Court if it appears that a party
8 would suffer undue hardship or significant prejudice.
- 9 **B.** Counsel for Plaintiff is further ordered to serve a copy of this Order on parties in each
10 CASE within five (5) days of the entry of this Order.

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12 **IT IS SO ORDERED.**

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14 Dated: October 25, 2011



EMILIE H. ELIAS
JUDGE OF THE LOS ANGELES SUPERIOR COURT