

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

IN RE: SMALL SMILES LITIGATION

**STIPULATION RE
ELECTRONIC SERVICE**

**Index No. 2011-6084
Index No. 2011-2128
Index No. 2011-6223
Hon. John C. Cherundolo**

Whereas, the parties agree that this Stipulation will improve the efficiency of serving the dozens of parties to the above-referenced coordinated proceeding.

Whereas, the parties recognize that the Onondaga County clerk's office is not equipped to handle electronic filing and, as a result, this stipulation only applies to service and not filing of documents.

The parties, therefore, agree to the following:

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 Stipulation (subject to the exceptions outlined herein):

I. LEXISNEXIS FILE & SERVE

1. In order to facilitate case management, document retrieval and case organization, the parties will utilize the services of LexisNexis and its litigation system File & Serve 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 File & Serve for these purposes as well to communicate with counsel of record.

II. SERVICE ONLY

1. File & Serve 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 clerk's office), pursuant to the applicable New York Civil Practice Law and Rules and Local Rules of this Court.

III. SERVICE LIST & SIGN-UP

1. Within five (5) days of the completion of this Stipulation or five (5) days of the initiation of a new case in this litigation, plaintiffs' counsel shall submit via email to LexisNexis, Eservice@fileandserve.lexisnexis.com, a complete and current service list of counsel of record for this litigation. Within five (5) days of the completion of this Stipulation, 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 registration located at the following website: <http://www.lexisnexis.com/fileandserve> and shall notify plaintiffs' counsel that they will need to be added to the service list.

2. Plaintiffs' Counsel shall be liaison counsel to LexisNexis for all service list changes. Plaintiffs' Counsel shall be responsible for monitoring the service list and advise LexisNexis of any changes or corrections. The service list will identify one counsel of record for each firm, along with the parties they represent, who are to receive service of documents in the case utilizing File & Serve. Once a firm is registered on File & Serve, each firm will be provided functionality on File & Serve to designate a firm administrator to control the addition and deletion of registered users on File & Serve for their firm.

IV. SERVICE OF DOCUMENTS AND WEBSITE

A. Establishment and Use of the File & Serve Website Generally

1. 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 Stipulation. All references to “document” in this Stipulation 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 File & Serve to serve correspondence.

2. LexisNexis will maintain the File & Serve internet website (“File & Serve”) for this litigation. When a transaction is submitted on File & Serve, File & Serve will electronically serve each document on the parties included on the service list provided to LexisNexis in accordance with the procedures herein.

3. Each attorney shall serve each document via electronic transfer of the document through File & Serve 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 Stipulation shall be deemed to have been served under Rule 2103(b)(3) of the New York Civil Practice Law and Rules.

4. After an attorney uploads a document onto File & Serve, File & Serve will convert such document into Adobe Portable Document Format (“PDF”)

5. All documents posted on File & Serve 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.

6. Access to File & Serve will be limited to registered users. Registered users will consist of authorized Court personnel, counsel of record and their designated staff members. Upon registration, LexisNexis will provide each registered user with a user name and password to access File & Serve and the documents served in the litigation.

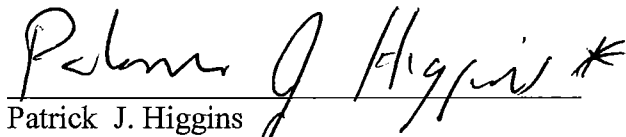
7. Every pleading, document and instrument served electronically shall bear a facsimile or typographical signature of at least one of the attorneys of record, along with the typed name, address, telephone number and Bar number of such attorney. Typographical signatures shall be treated exactly as personal signatures for purposes of electronically served documents under the New York Civil Practice Law and Rules. 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.

8. Any document transmitted to File & Serve shall certify in the Proof of Service that a true and correct copy was electronically served on counsel of record by transmission through LexisNexis File & Serve, the date and time to be used on the Proof of Service will be the date and time reflected on the Transaction Receipt provided after submitting a transaction on File & Serve..

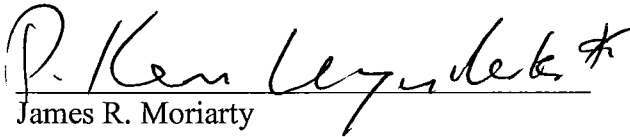
9. LexisNexis will make available to counsel of record and the Court a 24-hour 365 days Customer Support hotline at (888) 529-7587 and website -

<http://www.lexisnexis.com/fileandserve/support.asp>. In addition, each attorney is instructed to review Exhibit A attached to this Stipulation which sets forth the procedure for registration with and service through LexisNexis File & Serve. See Exhibit A, *LexisNexis File & Serve Welcome Kit*.

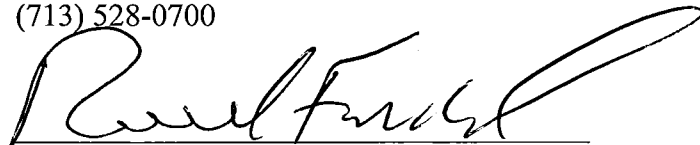
STIPULATED AND AGREED TO BY:



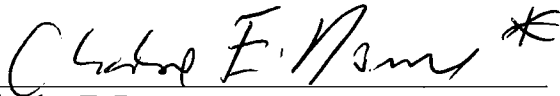
Patrick J. Higgins
Powers & Santola, LLP
Attorneys for Plaintiffs
39 North Pearl Street
Albany, NY 12207
(518) 465-5995



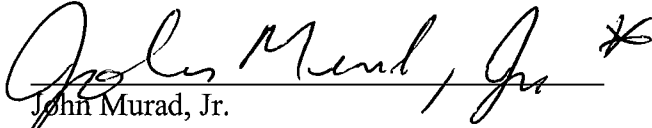
James R. Moriarty
P. Kevin Leyendecker
Hilary S. Greene
Moriarty Leyendecker, P.C.
Attorneys for Plaintiffs
4203 Montrose Blvd., Suite 150
Houston, TX 77006
(713) 528-0700



Stephen M. Hackerman
Richard Frankel
Hackerman Frankel
Attorneys for Plaintiffs
4203 Montrose Blvd., Suite 600
Houston, TX 77006
(713) 528-2500



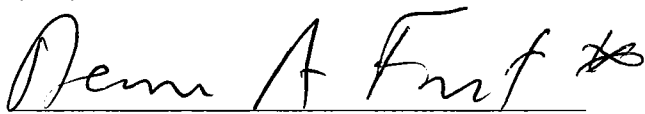
Charles E. Dorr
Law Offices of Charles E. Dorr, P.C.
Attorneys for Plaintiffs
4203 Montrose Blvd., Suite 600
Houston, TX 77006
(713) 443-7030



John Murad, Jr.
Christina M. Verone Juliano
Hancock Estabrook, LLP
Attorneys for Defendants Lissette Bernal, D.D.S.; Janine Randazzo, D.D.S.; Loc Vinh Vuu, D.D.S. and Keivan Zoufan, D.D.S.
1500 AXA Tower
100 Madison Street
Syracuse NY 13202
(315)565-4500



Kevin S. Hulslander
Andrew S. Horsfall
Smith, Sovik, Kendrick & Sugnet, P.C.
Attorneys for Defendants FORBA Holdings, LLC; FORBA NY, LLC; Small Smiles Dentistry of Albany LLC; Albany Access Dentistry PLLC; Small Smiles Dentistry of Rochester, LLC and Small Smiles Dentistry of Syracuse, LLC.
250 South Clinton St.
Syracuse, NY 13202
(315) 474-2911



Dennis A. First
O'Connor, O'Connor, Bresee & First, P.C.
Attorneys for Defendants FORBA LLC n/k/a LICCSAC LLC; FORBA NY LLC n/k/a LICCSAC LLC; DD Marketing, Inc; DeRose Management, LLC; Daniel E. DeRose; Michael A. DeRose; Edward J. DeRose; William A. Mueller; D.D.S. and Michael W. Rounph.
20 Corporate Woods Boulevard
Albany, NY 12211
(518) 444-4172

Thomas M. Witz #

Theresa B. Marangas

Thomas M. Witz

Elizabeth Grogan

Wilson Elser Moskowitz Edelman & Dicker LLP

Attorneys for Defendants Judith Mori, D.D.S.; Keerthi Golla, D.D.S.; Maziar Izadi, D.D.S.; Evan Goldstein, D.D.S.; Edmise Forestal, D.D.S.; Nassef Lancen, D.D.S., Grace Yaghmai, D.D.S.; Koury Bonds, D.D.S.; Yaqoob Khan, D.D.S.; Naveed Aman, D.D.S.; Tarek Elsafty, D.D.S.; Ismatu Kamara, D.D.S., Shilpa Agadi, D.D.S., Sonny Khanna, D.D.S. and Kim Pham, D.D.S.

677 Broadway

Albany, NY 12207

(518) 449-8893

Andrew Knoll #

Andrew Knoll

Scolaro Shulman Cohen Fetter & Burstein, P.C.

Attorneys for Defendant Delia Morales, D.D.S.

507 Plum Street, Suite 300

Syracuse NY 13204

(315) 471-8111

Kathleen M. Reilly #

Kathleen M. Reilly

Damon Morey, LLP

Attorneys for Defendant Kathleen Poleon, D.D.S.

The Avant Building, Suite 1200

200 Delaware Avenue

Buffalo, NY 14202

(716) 856-5500

Gordon D. Tresch #

Gordon D. Tresch

Feldman Kieffer, LLP

Attorneys for Defendant Ellen Nam, D.D.S.

110 Pearl St., Suite 400

Buffalo, New York 14202

(716) 852-5875

Thomas B. Cronmiller *

Thomas B. Cronmiller

Paul A. Sanders

Tara J. Sciortino

Attorneys for Defendant Gary Gusmerotti, D.D.S.

Hiscock & Barclay, LLP

2000 HSBC Plaza

100 Chestnut Street

Rochester, NY 14604

(585) 295-4424

Stephen T. Helmer *

Stephen T. Helmer

MacKenzie Hughes, LLP

Attorneys for Defendants Laura Kroner, D.D.S.; Wadia Hanna, D.D.S.

101 S. Salina Street, Suite 600

Syracuse, NY 13202

(315) 233-8286

John A. McPhillamy *

John A. McPhillamy

Ahmuty, Demers & McManus

Attorneys for Defendant Adolph R. Padula, D.D.S.

200 I.U. Willets Road

Albertson, NY 11507

(516) 294-5433

Dimitri Filostrat, D.D.S.

6709 Gillen Street

Metairie, LA 70003

(850) 276-2275

Pro Se

* by permission

Exhibit A
LexisNexis® File & Serve Welcome Kit

Your File & Serve Litigation Executive:
(Insert name)
(Insert phone)
(Insert email)

Step 1. Registration

If this is your firm's first LexisNexis File & Serve case, *you will need to create a LNF&S account before registering. The firm must designate an administrator who will create the account and add users. The administrator will follow the Instructions for New Subscribers in Section A.*

If your firm has a LexisNexis File & Serve account, *contact your firm's administrator to obtain a user name & password for yourself and anyone else who will need to serve or access documents in the case. The administrator will follow the Instructions for Existing Subscribers in Section B.*

To find out if your firm has a LexisNexis File & Serve account or the name of your administrator, please call Customer Support at 1.888.529.7587.

Section A: Instructions for New Subscribers (Administrator sets up account and registers new users)

1. Visit www.lexisnexis.com/fileandserve/lawfirms/register.asp and click Register.
2. Add organization information.
3. Add user information for administrator (primary contact).
4. Add user information for every attorney and staff member in your firm who will need a user ID and password. Include full name, phone, fax, email and bar number (for attorneys). **All attorneys of record must have a user ID and password.**
5. Review system requirements.
6. Review and accept Terms of Service Agreement by selecting an authorizing attorney.

Section B: Instructions for Existing Subscribers (Administrator adds users to existing account)

1. Sign on to www.lexisnexis.com/fileandserve
2. Select Preferences in the upper right hand corner of the screen. Click Firm Profile.
3. Click the Add Users tab and enter user information for every attorney and staff member who will need a user ID and password. Include full name, phone, fax, email and bar number (for attorneys). **All attorneys of record must have a user ID and password.**

Step 2: Training

We strongly recommend that all of the users in your firm (including attorneys) take advantage of LexisNexis File & Serve free, online training classes.

Classes will cover:

- The basics of using LexisNexis File & Serve to serve documents
- How to retrieve your documents
- Setting up User Preferences

To register for a class, please sign on to the product, click on the Resource Center link in the upper right of the product, then choose your state from the drop down menu for online training

classes under Education & Training. Dates and times of classes will be posted on the Resource Center.

For training questions, call 800-399-6934 or email fileandservetraining@lexisnexis.com