

APR 03 2008

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ATTORNEYS FOR THE STATE OF IDAHO

**IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA**

STATE OF IDAHO,) Case No. CVOC 07-10321
)
Plaintiff,) CASE MANAGEMENT
) ORDER NO. 1 RE:
) ELECTRONIC SERVICE OF
vs.) PLEADINGS AND
) DISCOVERY-RELATED
BEN VENUE LABORATORIES, INC.;) DOCUMENTS
BOEHRINGER INGELHEIM)



PHARMACEUTICALS, INC.; ROXANE, INC.,)
n/k/a BOEHRINGER INGELHEIM ROXANE,)
INC.,)
)
Defendants.)
)
)

Based upon the Stipulation Regarding Electronic Service of Pleadings filed by the parties, the terms of which are set forth below, and good cause appearing therefore,

IT IS HEREBY ORDERED that the parties use electronic service as set forth herein:

I. LEXIS/NEXIS FILE AND SERVE

A. The parties agree to use 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. LNFS shall be bound by the terms of any protective order entered in the case.

II. SERVICE ONLY

B. The system shall apply only to the service of documents between the parties, and not to the filing of documents with the Court. In other words, pleadings and other court documents must still be filed with the Court in the traditional manner.

III. SERVICE LIST AND SIGNUP

C. Within five days of entry of the Court’s Order approving this Stipulation, Robert S. Libman, co-counsel for plaintiff; shall submit to Christopher D. Shaw, Esq. at christopherdean.shaw@lexisnexis.com a list of those attorneys who have entered an appearance on behalf of the Plaintiff State of Idaho, and Elizabeth S. Hess, defendants’ counsel, shall submit a list of those attorneys who have entered an appearance on behalf of any defendant, identifying the party that the attorney represents. Within ten days of entry of the Court’s Order, each

attorney who has entered an appearance in the case shall register for electronic service by completing the application located at the following website:

<<http://www.lexisnexis.com/fileandserve>> (advance registration). Each attorney's password shall be treated as if it were for "attorney's eyes only."

D. Mr. Libman shall be responsible for making sure that any attorney who enters an appearance on behalf of the plaintiff is served with a copy of this Stipulation and the Court's Order within five days of the attorney entering an appearance. Ms. Hess shall be responsible for making sure that any attorney who enters an appearance on behalf of any defendant gets a copy of this Stipulation and the Court's Order within five days of the attorney entering an appearance. Each such attorney shall register for electronic service in this litigation as requested in Paragraph C within ten days of their receipt of the Court's Order.

IV. SERVICE OF DOCUMENTS AND WEB SITE

E. Establishment and use of the LNFS website generally

1. All documents shall be served as provided in this Stipulation. The term "document" includes any exhibits or attachments to the document and includes 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 or the actual production of discovery documents.

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

3. Each attorney shall serve each document by electronic transfer to LNFS through the Internet (either as a word processing file or Adobe PDF). Bulky or voluminous attachments, such as exhibits, need not be served via electronic transfer if doing so would be impractical or unduly burdensome. In such circumstances, the attachments shall be served conventionally. However, in order to maintain an electronic record of served documents, a party serving conventionally shall also serve by LNFS a one-page document identifying the document that is being served conventionally. Documents electronically served pursuant to this Stipulation shall be deemed served effective on the date the document is transmitted to LNFS but shall be subject to Idaho Rule of Civil Procedure 6(e)(1) as if they had been served by mail.

4. After LNFS receives a document, LNFS shall convert the document into Adobe PDF format and post the document to the website within one hour of receipt.

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

6. In the event a document filed with the Court is rejected by the Court after it has been posted on the website by LNFS, the party that caused the document to be posted shall promptly notify LNFS in writing that the document was rejected for filing. LNFS shall promptly notify all parties on whom that document was served of the fact of the rejection, and shall cause a permanent notation to be placed on the website stating the fact of the rejection.

7. All documents posted on the system shall be identified by:
- a. The name of the serving law firm;
 - b. a caption of the case to which the document belongs;
 - c. the title of the document set forth on its caption; and

d. the identify of the party on whose behalf the document is being served.

8. The system shall contain an index of all served documents that is searchable, sortable, and allows 24-hour, 365-day access.

9. Access to the system will be limited to registered users. Registered users will consist of authorized counsel of record and their designated staff members (and court personnel, if the court chooses to use the system). LNFS will provide each registered user with a username and password to access the system and the documents served in the case. LNFS personnel will perform all administrative functions for the system.

10. Every pleading, document, and instrument served electronically shall bear a handwritten or typographical signature of at least one of the attorneys of record. Typographical signatures shall be treated exactly as personal signatures for purposes of electronically served documents under the rules applicable to civil actions in this court. The serving party of any document requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all of the names of other signatures by meaning of a “/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.

11. Any document transmitted through the system shall certify in the Proof of Service that a true and correct copy was electronically served by transmission to LNFS pursuant to this Stipulation. Documents filed under seal shall not be served through the system, but should be served conventionally.

12. LNFS shall have available a 24-hour, 365-day helpdesk hotline at 888-529-7587 and customer support website at <[http://www.lexisnexis.com/fileandserve /support.asp](http://www.lexisnexis.com/fileandserve/support.asp)>.

IT IS SO ORDERED.

Dated this 2 day of April, 2008.

By: RONALD J. WILPER
Ronald J. Wilper
District Judge

CLERK'S CERTIFICATE OF SERVICE

I hereby certify that on the 3 day of April, 2008, I caused to be served a true and correct copy of the foregoing by the method indicated below, and addressed to the following:

Helen Witt	_____	HAND DELIVER
Elizabeth S. Hess	<u>XX</u>	U.S. Mail
Kirkland & Ellis LLP	_____	Overnight Mail
200 E Randolph Dr	_____	Telecopy (Fax)
Chicago, IL 60601	_____	Certified Mail
Attorney for Defendants	_____	Electronic Mail
Steven B. Anderson	_____	HAND DELIVER
Tracy J. Crane	<u>XX</u>	U.S. Mail
Holland & Hart, LLP	_____	Overnight Mail
P.O. Box 2527	_____	Telecopy (Fax)
Boise, ID 83701-2527	_____	Certified Mail
Attorney for Defendants	_____	Electronic Mail
Jane Hochberg	_____	HAND DELIVER
Idaho Office of Attorney General	<u>XX</u>	U.S. Mail
Consumer Protection Division	_____	Overnight Mail
P.O. Box 83720	_____	Telecopy (Fax)
Boise, ID 83720-0010	_____	Certified Mail
Attorney for Plaintiff	_____	Electronic Mail

J. DAVID NAVARRO
Clerk of the Court

INGA JOHNSON **SEAL**
Deputy Clerk