

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

F I L E D
STEPHEN THUNBERG
Clerk of the Superior Court

APR 23 2001

By: R. HENDERSON, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO

JOSEPH CARNOHAN, et al,

Plaintiff,

vs.

THE FIELDSTONE COMPANY,

Defendant.

Case No.: 725861

**ELECTRONIC FILING
AND SERVICE ORDER**

I. GENERAL

A. APPLICATION OF ORDER.

The Court hereby designates the above action, Case No. 725861

as an Electronic Filing (EFile) case, as described and governed by this Order.

725861 is assigned to the electronic filing and service system as created by a Service Agreement executed on August 13, 1999, between CourtLink, fna JusticeLink, and the Superior Court of California, County of San Diego, (hereinafter referred to as "SDSC" or "Court"), or any successor system. All parties to the above case shall be deemed to consent to the entry of this Order

Electronic Filing & Service Order

1 and agree to be bound by its provisions by entering into an EFile Subscriber
2 Agreement with CourtLink or the then-current vendor ("the Vendor"). Statutory
3 filing fees will be paid directly to the court as set forth below. The
4 commencement date for electronic filing and service shall be **July 1, 2001**.

5 **B. DEFINITIONS.**

6 The following terms in this Order shall be defined as follows:

7 1. EFile – Electronic transmission of an original document to the Court
8 via the Vendor's system. An EFile consists of either an EDocument, an
9 EImage, or both.

10 2. EService – Electronic transmission of an original document to all
11 other designated recipients via the Vendor's system. Upon completion of
12 any transmission to the Vendor's system, a certified receipt is issued to
13 the sender acknowledging receipt by the Vendor system. Once the
14 Vendor has served all recipients, proof of electronic service is returned to
15 the sender.

16 3. EDocument – An electronic file of a word-processing document
17 which contains almost exclusively text.

18 4. EImage – An electronic file of a document that has been scanned
19 or converted to a graphical or image format.

20 **C. ASSIGNMENT BY THE VENDOR OF PERSONAL IDENTIFICATION**
21 **NUMBERS.**

22 Upon receipt by the Vendor of a properly executed EFile Subscriber Agreement,
23 the Vendor shall assign to the party's designated representative(s) a confidential
24 Personal Identification Number (PIN) which must be used to electronically file,
25 serve, receive, review, and retrieve pleadings, orders, and other documents filed
in the assigned case. No PIN holder shall knowingly authorize or permit his/her

1 PIN to be utilized by anyone other than authorized attorneys or employees of the
2 attorneys' law firm, or designated co-counsel, unless it has been established in
3 writing, and furnished to Courtlink, that designated counsel may file documents
4 on behalf of the assigning counsel.

5
6 **II. ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS.**

7 As of **July 1, 2001**, the commencement date of this Order, except as expressly
8 provided herein, or as expressly authorized by the Court, all pleadings, motions,
9 memoranda of law, declarations, orders, or other documents filed in the
10 above-entitled case shall be filed electronically through the system.

11 **A. SUBSEQUENT PLEADINGS.**

12 The clerk shall not accept or file any pleadings or instruments in paper form.

13 Parties must EFile a document either:

- 14 (1) Through the Vendor's system from the filing attorney's office;
- 15 (2) In person, by electronically filing through the Public Access
16 Terminal located at the clerk's office. Parties filing in this manner
17 shall be responsible for furnishing the pleading or instrument on
18 an IBM formatted 3 1/2" computer disk, CD ROM, or any other
19 disk compatible with the clerk's office-system to be uploaded in
20 person; or,
- 21 (3) By faxing all documents and attachments to Vendor. Vendor shall
22 then convert said documents and attachments to electronic form,
23 file them with the Court, and serve designated parties as provided
24 herein. Parties choosing to file via facsimile through Vendor shall
25 be charged fees reflecting Vendor's then-current published rates
for filing and service in this manner.

1
2 B. MAINTENANCE OF ORIGINAL DOCUMENTS.

3 Unless otherwise ordered by the Court, an original of all documents filed
4 electronically, including original signatures, shall be maintained by the party filing
5 the document and shall be made available, upon reasonable notice, for
6 inspection by other counsel or the Court.

7 C. TIME FOR FILING AND EFFECT OF USE OF EFILE.

8 Any pleading filed electronically shall be considered as filed with the Clerk of the
9 Superior Court when it is first transmitted to the Vendor and the transmission is
10 completed ("authorized date and time" received by filing party) except that any
11 document filed after 4:30 p.m. (Pacific Time) on a day the court is open for
12 business shall be deemed to have been filed on the next court day. Vendor is
13 hereby appointed the agent of the Clerk of the Superior Court as to the electronic
14 filing, receipt, service, and/or retrieval of any pleading or document in EFile.
15 Upon receipt and filing of a document the Vendor shall issue a confirmation that
16 the document has been received and filed. The confirmation shall serve as proof
17 the document has been filed.

18 D. SYSTEM OR USER FILING ERRORS.

19 If it is shown that the electronic filing is not filed with the court because of (1) an
20 error in the transmission of the document to the Vendor which was unknown to
21 the sending party, or (2) a failure to process the electronic filing when received by
22 the Vendor, the court may enter an order permitting the document to be filed
23 nunc pro tunc.

24 **III. FORM/FORMAT OF ELECTRONICALLY FILED DOCUMENTS.**

25 A. FORMAT.

 All electronically filed documents shall, to the extent practicable, be formatted in

1 accordance with the applicable rules governing formatting of paper pleadings,
2 and in such other or further format as the Court may require from time to time.
3 Pleadings, briefs or other instruments may exceed page limitation rules to a
4 maximum of two (2) additional pages when the additional pages are attributable
5 to the electronic conversion or filing process. The date and time of the hearing or
6 trial in connection with which the document is submitted shall be designated on
7 the cover page of each document.

8 **B. REPRESENTATIONS BY USING A TYPOGRAPHICAL SIGNATURE.**

9 Every pleading, document, and instrument filed in the EFile system shall be
10 deemed to have been signed by the attorney or declarant and shall bear a
11 facsimile or typographical signature of such person, along with the typed name,
12 address, telephone number, and State Bar of California number of a signing
13 attorney. Typographical signatures shall be treated as personal signatures for all
14 purposes under the California Code of Civil Procedure. However, the originating
15 party must still comply with Paragraph II.B of this order.

16 **C. ELECTRONIC TITLE OF PLEADINGS AND OTHER DOCUMENTS.**

17 The electronic title of each electronically filed pleading or other document shall
18 include:

- 19 (1) the case number,
- 20 (2) the party or parties filing the paper,
- 21 (3) the nature of the paper,
- 22 (4) the party or parties against whom relief, if any, is sought, and
- 23 (5) the nature of the relief sought (i.e., John Doe's Motion to Compel
24 Discovery from Jim Smith").

25 The electronic title shall be used for administrative purposes only. The caption
and signature page of any document filed shall comply with the California Rules
of Court.

1
2 **IV. ELECTRONIC SERVICE OF PLEADINGS AND OTHER DOCUMENTS.**

3 All parties shall make service upon other parties electronically through the EFile
4 system. Parties, or their designated counsel, shall receive all documents EFiled
5 and EServed upon them via access to the Vendor's system. The exception to
6 this general order is a Motion for Determination of Good Faith Settlement. Said
7 motions shall be served pursuant to Code of Civil Procedure section 877.6(a)(2)
8 unless otherwise ordered by the Court.

9 **A. EFFECT OF ELECTRONIC SERVICE.**

10 The electronic service of a pleading or other document shall be considered as
11 valid and effective service on all participants and shall have the same legal effect
12 as an original paper document.

13 **B. SERVICE ON PARTIES; DESIGNATED ATTORNEY.**

14 An abbreviated service list will be used for all CourtLink filings and services.
15 Each firm shall designate to the Court the single attorney whose name will
16 appear on the abbreviated list. The designated "service" attorney will be
17 responsible for timely distribution of all EServed filings to co-counsel within their
18 own firms.

19 **C. SERVICE ON PARTIES; TIME TO RESPOND OR ACT.**

20 EService shall be deemed complete at the time a document has been received
21 by Vendor's system as reflected by the authorized date and time appearing on
22 the electronic transmittal. Notwithstanding any prior order of this Court, any
23 period of notice or any right or duty to do any act or make any response within
24 any period or on a date certain after the service of the document, which time
25 period or date is prescribed by statute or rule of court, shall be extended after
service by electronic transmission by two (2) court days in lieu of the 5 days for
mailing as set forth in Code of Civil Procedure Section 1013. This extension

1 shall not apply to extend the time for filing notice of intention to move for new
2 trial, or to move to vacate judgment pursuant to California Code of Civil
3 Procedure, section 663a, or notice of appeal.

4 C. SYSTEM OR USER SERVICE ERRORS.

5 If electronic service on a party does not occur because of (1) an error in the
6 transmission of the document to a party which error was unknown to the serving
7 party or Vendor, (2) a failure to process the electronic filing for service when
8 received by the Vendor, OR (3) the party was erroneously excluded from the
9 service list, the party to be served, in the absence of extraordinary
10 circumstances, shall be entitled to an order extending the date for any response
11 or the period within which any right, duty or other act must be performed.

12 V. **CONVENTIONAL FILING OF DOCUMENTS.**

13 Notwithstanding the foregoing, the following types of documents may be filed
14 conventionally and need not be filed electronically, unless expressly required by
15 the Court.

16 A. DOCUMENTS FILED UNDER SEAL.

17 A motion to file documents under seal shall be filed and served electronically.
18 However, the documents to be filed under seal shall be filed in paper form.

19 B. EXHIBITS AND REAL OBJECTS.

20 Exhibits to declarations that are real objects, i.e., construction materials, core
21 samples, etc. or other documents, i.e, plans, manuals, etc., which otherwise may
22 not be comprehensibly viewed in an electronic format may be filed and served
23 conventionally, in paper form.

1 C. LODGMENTS.

2 Documents attached to a Notice of Lodgment may be lodged and served
3 conventionally in paper form. However, the actual document entitled "Notice of
4 Lodgment" shall be filed electronically.

5
6 **VI. COLLECTION OF FEES.**

7 A. COURT FEES.

8 Any instrument requiring payment of a filing fee to the Clerk of the Superior Court
9 in order to achieve valid filing status shall be filed electronically in the same
10 manner as any other EFile document. If a filing fee is required, immediately upon
11 filing, the filing party shall send to the Clerk of the Superior Court, a photocopy of
12 the face sheet of the filing indicating thereon the JusticeLink filing ID#, plus a
13 check for filing fee(s) in the proper amount in accordance with the current San
14 Diego Superior Court Schedule of Fees. Statutory filing fees must be tendered to
15 the Clerk immediately following an electronic filing and must in any event be
16 postmarked no later than the next business day following the electronic filing.
17 However, if a filing fee is due on any ex parte application, it must be received by
18 the clerk no later than 24 hours following an electronic filing.

19 B. VENDOR FEES.

20 Fees charged by Vendor to parties or attorneys for access to and electronic
21 transmission of documents are solely the property of Vendor and are in addition
22 to any charges associated with statutory filing fees of the Superior Court.

23 **VII. SERVICE OF ELECTRONIC FILING ORDER ON NEW PARTIES.**

24 Any litigant filing a complaint or adding a party to this case by filing of an
25 amended complaint, cross-complaint, complaint in intervention,

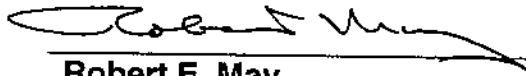
1 interpleader or other initiating document shall be obligated to serve this
2 Electronic Filing Order at the same time the pleading is served.

3
4 **VIII. ELECTRONIC FILING AND SERVICE OF ORDERS AND OTHER PAPERS.**

5 The Court may issue, file, and serve notices, orders, and other documents
6 electronically, subject to the provisions of this Order.

7
8 DATED:

9 4-23-01

10 

11 **Robert E. May**
12 **Judge of the Superior Court**