

**FILED**  
San Francisco County Superior Court

OCT 14 2006

GORDON MCKELL CREEK  
BY: Sabara Singh  
Deputy Clerk



Oct 16 2006  
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SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO

IN RE COMPLEX ASBESTOS LITIGATION )

**CASE NO.: 828684**

**AMENDED  
GENERAL ORDER NO. 158**

**ORDER MANDATING  
ELECTRONIC FILING  
AND SERVICE OF  
ASBESTOS PLEADINGS**

**REVISED: EFFECTIVE 11/01/06**

1. APPLICATION OF GENERAL ORDER.

The Court finds that entry of a General Order requiring mandatory electronic filing and service of all pleadings and documents subsequent to the filing and service of the complaint and summons in all In Re Complex Asbestos Litigation actions will benefit the Court, counsel and litigants, and will further the orderly conduct and management of asbestos litigation in this jurisdiction. The Court further finds that electronic filing and service will not cause undue hardship or significant prejudice to any party. Therefore, the Court hereby orders all filing and service subsequent to the filing and service of the complaint and summons to be accomplished electronically as set forth in this Order. Accordingly, pursuant to California Rules of Court, rule 2053, the Court hereby designates

1 all In Re Complex Asbestos Litigation cases (the "Asbestos Litigation") as E-File cases as  
2 described in and governed by this Order. Except as provided here, rules 2050 through  
3 2060 of the California Rules of Court govern the electronic filing and service of  
4 documents in the Asbestos Litigation. Electronic filing and service of Asbestos Litigation  
5 documents require utilization of an electronic filing services provider. Any such provider  
6 must be approved by the Court. The effective date for electronic filing and service shall  
7 be August 14, 2006.

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9 2. DEFINITIONS.

- 10 a. E-Filing Vendor or Vendor or Approved Vendor – A private firm or other business  
11 entity approved and selected by the Court to provide electronic filing and service.  
12 As of the effective date of this Order, the Court has approved LexisNexis.
- 13 b. Close of Business – "Close of Business" is 4:00 p.m. Pacific Time for purposes of  
14 E-Filing only; for all other purposes, it is 5:00 p.m. Pacific Time.
- 15 c. E-File – Electronic version of an original document transmitted to the Clerk of the  
16 San Francisco Superior Court ("Clerk") via the Vendor's system or electronically  
17 filed and/or served. An E-File consists of an E-Document, E-Image, or both.
- 18 d. E-Service – Electronic transmission of an original document to all other designated  
19 recipients via the Vendor's system. Upon the completion of any transmission to  
20 the Vendor's system, a transaction receipt is issued to the sender acknowledging  
21 receipt by the Vendor system. Once the Vendor has served all recipients, proof of  
22 electronic service shall be available to the sender from Vendor.
- 23 e. E-Document – An electronic version of a word processing document, which  
24 generally is composed of text.
- 25 f. E-Image – An electronic version of a document that has been scanned or converted  
26 to a graphical or image format.
- 27 g. User – Any party or non-party to an action who files Asbestos Litigation  
28 documents and utilizes the services of an approved Vendor.

1 3. OPERATION OF ELECTRONIC FILING AND SERVICE PROCEDURE.

2 a. OBTAINING ACCESS TO SYSTEM

3 i) All parties to the Asbestos Litigation pending in this Court, other than self-  
4 represented parties, shall utilize the services of an approved Vendor on and  
5 after the effective date of this Order. Users shall enter into the following  
6 arrangements with Vendor:

7 a. A standard service agreement during the registration process with the  
8 approved Vendor that will govern any and all transactions completed  
9 within and outside the scope of this Order, in addition to additional  
10 features that users may but are not required to use in connection with  
11 the electronic filing and/or serving of documents through the Vendor;  
12 and

13 b. an addendum agreement referenced herein shall apply solely and  
14 exclusively to the parties to the San Francisco Complex Asbestos  
15 Litigation actions and their legal representatives, and shall not be  
16 altered by Vendor without Court approval.

17 ii) The fees charged by the vendor for use of the electronic filing and service  
18 system shall be established by the Vendor. Vendor shall maintain the fee  
19 structure in effect for E-File, E-Service, and/or E-File and E-Service at the  
20 commencement of this Order for a period of two years from the date of this  
21 Order. No fees associated with E-File, E-Service, and/or E-File and E-  
22 Service may be increased thereafter by the Vendor without giving at least  
23 30 days prior notice to all Users.

24 iii) The Chief Executive Officer of the Superior Court may solicit bids from  
25 other potential vendors and submit to the Presiding Judge any  
26 recommendations for a change in the designation of the Vendor or the  
27 terms of the Service Agreement. The Chief Executive Officer shall provide  
28 current and potential vendors all information reasonably necessary to

1                   develop a bid to render the services necessary to implement this Amended  
2                   General Order.

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4     4.     ASSIGNMENT BY THE VENDOR OF USERNAME AND PASSWORD.

5             The Vendor shall assign to the party's designated representative a confidential username  
6             and password which may be used to file, serve, and receive pleadings, orders, and other  
7             documents electronically filed in the assigned case. No attorney or party representative  
8             shall knowingly authorize or permit his/her username or password to be utilized by anyone  
9             other than the authorized attorneys or employees of the attorney's law firm.

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11     5.     ELECTRONIC FILING OF PLEADINGS AND OTHER DOCUMENTS.

12             Except as expressly provided herein, all pleadings, motions, memoranda of law,  
13             declarations, orders, or other documents filed in an Asbestos Litigation by Users shall be  
14             electronically filed. All documents relating to a single pleading or paper shall be  
15             electronically filed together in a single filing transaction. For example, a motion, a  
16             memorandum in support of the motion, a proposed order and related affidavits shall be  
17             filed as separate documents under a single transaction. All documents, papers or  
18             pleadings directly related to a previously filed document, paper or pleading shall be linked  
19             to the previously filed document, paper or pleading by utilizing the "Linked Documents"  
20             feature provided by Vendor. The Clerk shall not accept or file any pleadings or instrument  
21             in paper form.

22  
23             Plaintiff shall file in paper form the complaint and summons. The proof of service shall  
24             be filed electronically. Electronic service of a complaint does not constitute service of  
25             process for any purpose and does not relieve the serving party from compliance with the  
26             applicable provisions of the California Code of Civil Procedure.

1 Each defendant shall file its first pleading in each case with the Vendor in such manner as  
2 the Vendor shall establish to enter its appearance and file its first pleading electronically in  
3 the newly filed cases.  
4

5 Plaintiffs will provide a case-specific service list to Vendor, distinguishing actual parties  
6 from entities designated for courtesy service. Defendants are obligated to serve only  
7 those parties and entities required by the Code of Civil Procedure. This Order does not  
8 prohibit any party from transmitting documents to any entity not on the service list.  
9 Service list changes will remain the responsibility of the individual parties through their  
10 counsel, if any. Vendor will process the changes requested by parties, but Vendor will not  
11 initiate them. Parties may only be removed by the party initiating the action or by order  
12 of the Court.  
13

14 During trial, motions, memoranda, and matters presented to the Court in writing for  
15 decision may be served in open court in hard copy form. To be made part of the court  
16 record, the document and proof of service must be filed electronically no later than the  
17 close of business on the next court day following service by hand in open court, and the  
18 electronic proof of service shall reference the date originally served in open court.  
19

20 6. CONFIRMATION OF RECEIPT OF LODGED AND FILED DOCUMENTS.

21 Vendor is hereby appointed agent of the Clerk as to the electronic filing, receipt, service  
22 and/or retrieval of any document in the E-File system. Vendor shall promptly send Users  
23 confirmation of the receipt of any document that Users have transmitted to Vendor for  
24 filing or lodged with the Clerk. Such confirmation shall indicate the date and time of  
25 receipt stated in Pacific Time. The Clerk shall review the document and transmit to the  
26 Vendor confirmation that the document has been reviewed, accepted, or rejected by the  
27 Clerk. Clerk shall electronically endorse any document accepted for filing in accordance  
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1 with California Rules of Court, rule 2059(e), or shall promptly transmit the Clerk's notice  
2 of rejection or amendment to the User through Vendor.

3  
4 7. EFFECT OF USE OF E-FILE AND TIME FOR FILING.

5 No document transmitted electronically shall be considered as filed unless it is accepted  
6 for filing by the Clerk. Any document received by Vendor before close of business on a  
7 court day shall be considered as filed on the date of transmission if the document is  
8 accepted for filing. Any document received by Vendor after the close of business shall be  
9 deemed filed the next court day if the document is accepted for filing.

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11 8. PAYMENT OF STATUTORY FILING FEES.

12 Vendor is hereby appointed as the agent of the Clerk with respect to collecting statutory  
13 filing fees for any electronically filed document. Each User shall pay all required filing  
14 fees for electronically filed documents to Vendor. Vendor will invoice each User monthly  
15 for the total amount of such filing fees. Vendor shall remit filing fees to the Clerk. At  
16 such time, said fees shall be the sole property of the Clerk of the Superior Court of  
17 California, County of San Francisco. Any and all requests for refunds of filing fees shall  
18 be addressed to the Clerk and may be submitted electronically in the manner prescribed by  
19 the Clerk.

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21 9. FORMAT OF ELECTRONICALLY FILED DOCUMENTS.

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

1 10. SIGNATURES ON E-FILED DOCUMENTS.

2 Every pleading, document, and instrument E-Filed and/or E-Served shall be deemed to  
3 have been signed by any judge, licensed attorney, court official, or person authorized to  
4 execute proofs of service if it bears a typographical signature of such person, e.g., “/s/  
5 Adam Attorney,” along with the typed name, address, telephone number, and State Bar of  
6 California number of a signing attorney. Such typographical signatures shall be treated as  
7 personal signatures for all purposes under the California Code of Civil Procedure. Judges  
8 may, in the alternative, use graphic signatures.

9  
10 All other filed and/or served documents requiring a signature under penalty of perjury  
11 must be imaged to reflect the handwritten signature of the declarant to accomplish valid  
12 filing and service. Upon request, the filing party shall provide in advance of any hearing  
13 on the matter the original of such typographically signed or imaged documents.

14  
15 11. ELECTRONIC TITLE OF PLEADINGS AND OTHER DOCUMENTS FOR  
16 ADMINISTRATIVE AND REFERENCE PURPOSES.

17 The document title entered on the Vendor system shall be the same as the caption on the  
18 pleadings. This title is used to allow users to quickly search the Vendor system and locate  
19 specific pleadings. The title shall be used for administrative and reference purposes only.

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21 12. ELECTRONIC SERVICE OF PLEADINGS, OTHER DOCUMENTS, AND PROOFS OF  
22 SERVICE.

23 Users *shall* e-serve all e-filed documents on all parties. Users *may* e-serve other  
24 documents not e-filed upon other Users. Users shall receive all e-filed and e-served  
25 documents via access to the Vendor's system. Nothing is intended by this Order to modify  
26 the obligations of service as set forth in the California Code of Civil Procedure and/or the  
27 applicable San Francisco General Orders.  
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1 Proof of electronic service shall conform to the California Rules of Court, rule 2060(c).  
2 The Vendor's transaction receipt may operate as the proof of service so long as it complies  
3 with California Rules of Court, rule 2060(c), and California Code of Civil Procedure  
4 section 1013(a). A proof of service page may be attached to the last page of any E-Filed  
5 and E-Served document. Neither a separate caption page nor a separate filing of the proof  
6 of service is required so long as the proof of service page contains a caption referencing  
7 the case name and action number, is attached as the last page of the E-Filed and E-Served  
8 document to which it refers, and references the Vendor's transaction receipt. (Also see  
9 paragraph 18, *infra*.)  
10

11 13. EFFECT OF ELECTRONIC SERVICE.

12 The electronic service of a pleading or other document shall be considered as valid and  
13 effective service on all Users. Those documents which are mandatorily E-Served are  
14 deemed served by the Close of Business on days when the court is open for business shall  
15 be deemed to have been served on that day. Otherwise, they will be deemed served the  
16 next court day. The filing and service provisions of California Code of Civil Procedure  
17 section 1010.6 and California Rules of Court, rule 2060, shall apply.  
18

19 14. NEW PARTIES.

20 Any party that brings a new party into the Asbestos Litigation shall serve a copy of this  
21 Order at the time of initial service on the new party.  
22

23 15. CONVENTIONAL FILING OF DOCUMENTS.

24 Notwithstanding the foregoing, the following types of documents may or shall be filed  
25 conventionally, unless otherwise required by the Court:

- 26 a. Documents Issued by Clerk. Issuance of summons and writs shall be handled  
27 conventionally in paper form.  
28



1 b. Documents Filed Under Seal. A motion to file documents under seal shall be filed  
2 electronically. Pursuant to Order of the Court, sealed documents shall be filed in  
3 paper form.

4 c. Nonelectronic Exhibits or Other Items. Exhibits to declarations or other  
5 documents that are nontext articles, real objects, or other documents not readily  
6 susceptible to electronic filing may be filed in nonelectronic form. A notice of  
7 such filing shall be filed and served electronically. These items shall be lodged in  
8 accordance with the direction of the Clerk.

9 d. Motions with Jurisdictional Time Limits. The following may be filed and served  
10 conventionally in paper form: Motions with jurisdictional time limits, including  
11 but not limited to motions for new trial, motions JNOV, motions to quash service  
12 for personal jurisdiction, any notice of appeal, and petitions for writs. The Court's  
13 service copy of any petition to the Court of Appeal for extraordinary relief shall be  
14 served electronically.

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16 16. ELECTRONIC FILING AND SERVICE OF ORDERS AND OTHER PAPERS BY  
17 COURT.

18 The Court may issue, file, and serve notices, orders, and other documents electronically  
19 subject to the provisions of this Amended General Order.

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21 17. SIGNED ORIGINAL DOCUMENTS.

22 The original of any document that is filed electronically shall not be delivered in hard copy  
23 to the Clerk unless otherwise ordered by the Court. Users shall retain in their files an  
24 original dated hard copy with hand written signature of all electronically filed documents  
25 and all electronically served documents. The hard copies shall be made available for  
26 inspection upon reasonable notice.  
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1 18. COURTESY COPIES TO COURT.

2 Users shall submit one courtesy hard copy of all filed documents requiring Court review,  
3 action, or signature directly to the Judge's department. Courtesy hard copies shall be  
4 delivered to the Court by 1:30 p.m. Pacific Time of the next day following electronic  
5 filing except all papers related to ex parte matters shall be delivered to the Judge's  
6 department the day they are to be heard, along with a courtesy hard copy for opposing  
7 party. Courtesy hard copies of documents for Court review, action, or signature during  
8 trial shall be submitted only to the trial judge assigned. All courtesy copies to the Court  
9 shall have appended thereto the relevant Vendor's transaction receipt.

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11 19. USER TECHNICAL PROBLEMS.

12 In the event that a User is temporarily unable to electronically file due to technical  
13 problems, the User should follow procedures set forth by the Court. The Court shall  
14 establish policies and procedures for Users to follow when requesting an extension of time  
15 due to technical problems. The Clerk, pursuant to established policies and procedures in  
16 effect at that time, may determine whether a User has complied with established policy  
17 and procedure entitling User to an extension of time.

18  
19 The User may alternatively file by faxing documents and attachments to the Vendor.  
20 Vendor shall then convert those documents to electronic form, file them with the Clerk,  
21 and serve designated parties as provided. Users filing via facsimile through the Vendor  
22 shall be charged fees reflecting Vendor's then current published rates for filing and service  
23 in this manner.

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25 20. USER ERROR OR VENDOR TECHNICAL PROBLEMS.

26 If electronic filing or service does not occur because of (1) an error in the transmission of  
27 the document to Vendor or served party which was unknown to the sending party, (2) a  
28 failure to process the electronic document when received by Vendor, (3) a party

1 erroneously excluded from the service list, or (4) other technical problems experienced by  
2 the Vendor, the party or parties affected shall, absent extraordinary circumstances, be  
3 entitled to an extension for any response or the period within which any right, duty, or  
4 other act must be performed, provided the User demonstrates that he or she attempted to  
5 file or complete service on a particular day and time.

6  
7 The Court shall establish policies and procedures for the way in which a User may  
8 demonstrate he or she attempted to file or complete service on a particular day and time.  
9 The Clerk, pursuant to established policies and procedures in effect at that time, may  
10 determine whether a User has complied with established policy and procedure entitling  
11 User to an extension of time.

12  
13 21. NON-PARTIES TO AN ACTION REPRESENTED BY COUNSEL.

- 14 a. Non-parties represented by counsel shall file and serve documents electronically.  
15 Electronic service will be consistent with paragraph 12 of this Order.  
16  
17 b. All subpoenas, notices, or other demands served by a User party upon a non-party  
18 shall be accompanied by a copy of this Order Re Electronic Filing and Service of  
19 Pleadings except for subpoenas issued pursuant to General Orders 129 and 140 by  
20 Designated Defense Counsel. All subpoenas issued by Designated Defense  
21 Counsel shall contain the following language: Motions relating to this subpoena  
22 are filed and served electronically pursuant to Amended General Order 158. For a  
23 copy of Amended General Order 158, please contact LexisNexis at  
24 [www.lexisnexis.com/fileandserve](http://www.lexisnexis.com/fileandserve) or Berry & Berry at 510-250-0200 or at its  
25 website [www.BerryandBerry.com](http://www.BerryandBerry.com). Important legal rights could be prejudiced  
26 should you fail to follow the provisions contained within Amended General Order  
27 158.  
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1 22. PARTIES AND NON-PARTIES NOT REPRESENTED BY COUNSEL.

2 Parties and non-parties not represented by counsel must file and serve documents  
3 conventionally in accordance with the Code of Civil Procedure and local rules.  
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5  
6 Dated: October 16, 2006

7  
8 Ernest A. Holdsmith  
9 Judge of the Superior Court of California,  
10 County of San Francisco

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12 Tomar Mason  
13 Judge of the Superior Court of California,  
14 County of San Francisco

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**Superior Court of California**  
County of San Francisco

IN RE COMPLEX ASBESTOS LITIGATION

Case Number: 828684

**CERTIFICATE OF ELECTRONIC SERVICE**  
(CCP 1013(a) & CRC 2060(c))

I, ERNALYN BURA, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On OCTOBER 16, 2006, I electronically served AMENDED GENRAL ORDER NO. 158 ORDER MANDATING ELECTRONIC FILING AND SERVICE OF ASBESTOS PLEADINGS REVISED: EFFECTIVE 11/1/06 via LexisNexis File & Serve on the recipients designated on the Transaction Receipt located on the LexisNexis File & Serve website.

Dated: OCTOBER 16, 2006

GORDON PARK-LI, Clerk

By:



ERNALYN BURA, Deputy Clerk

**SUPERIOR COURT OF CALIFORNIA  
County of San Francisco**

**IN RE  
COMPLEX ASBESTOS LITIGATION**

Case Number: **828684**

**CERTIFICATE OF MAILING  
(CCP 1013a (4))**

I, Barbara Hing, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On October 16, 2006, I served the attached **AMENDED GENERAL ORDER NO. 158 ORDER MANDATING ELECTRONIC FILING AND SERVICE OF ASBESTOS PLEADINGS Revised: Effective 11/1/06** by placing a copy thereof in a sealed envelope, addressed as follows:

**EVANTHIA SPANOS, ESQ.  
LAURA E. PRZETAK, ESQ.  
Berry & Berry  
2930 Lakeshore Avenue  
Oakland, CA 94610**

**(Designated Defense Counsel)**

and, I then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco, CA. 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practices.

Dated: October 16, 2006

GORDON PARK-LI, Clerk

By: \_\_\_\_\_

*Barbara Hing*

Barbara Hing, Deputy Clerk