

IN RE: PERSONAL INJURY
ASBESTOS CASES

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IN THE

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CIRCUIT COURT

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FOR

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BALTIMORE CITY

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ALL CASES

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**CASE MANAGEMENT ORDER FOR THE ELECTRONIC FILING
OF PLEADINGS, PAPERS AND DOCUMENTS
IN ASBESTOS PERSONAL INJURY CASES**

1. Application of Case Management Order

a. The Court hereby orders that all cases in the Baltimore City Personal Injury Asbestos Litigation (hereinafter, “Asbestos Litigation”) shall be governed by this Case Management Order (hereinafter, “Order”). All cases in the Asbestos Litigation are assigned to the electronic filing and service project known as and hereinafter referred to as “eFiling” as established by an Agreement between CourtLink, Corporation (hereinafter, “CourtLink” or “the Vendor”) or any successor system, and the Circuit Court for Baltimore City. Pursuant to an Order of the Court of Appeals of Maryland, all parties to any Asbestos Litigation pending in this court may elect to be a Participant to this project. If such an election is made, that party is ordered to comply with this Order. If a party elects not to be a Participant (hereinafter, “Non-Participant”), that party must bring a 3½ inch diskette containing the documents to be filed in any pending case to the Clerk’s office to be uploaded to the eFiling system. Service copies from the Non-Participant to other parties in the case shall be made in the conventional manner in accordance with the Maryland Rules. Participants in this project shall electronically serve copies of their documents to the Non-Participant in the eFiling system.

b. If a new party is brought into the Asbestos Litigation after the signing of this Order, then counsel representing the claiming party shall serve a copy of this Order on the newly-added party and advise such party of its right to participate in this project. The Court shall provide a newly-added party with a reasonable amount of time to become a participant in eFiling, but in no event shall this election to participate exceed sixty (60) days from the date of service of a copy of this Order on that party. During the

period prior to electing to subscribe to CourtLink, that party must bring a 3½ inch diskette containing the documents to be filed to the Clerk's office to be uploaded to the eFiling system. Service copies from the newly-added party to other parties in the case shall be made in the conventional manner in accordance with the Maryland Rules.

c. The commencement date for the implementation of eFiling shall be June 14, 2001. Parties should complete the Vendor's subscriber process no later than June 6th, 2001, in order to file and receive service electronically on the commencement date. The Vendor can be contacted at: 1-888-529-7587, or through online subscription at www.lexisnexiscourtlink.com.

2. Definitions

In this Order, the following terms shall be defined as follows:

a. Asbestos Litigation Those cases in which an individual has claimed personal injury and damages as a result of being exposed to asbestos-containing products. Not included are property damage disputes or claims, insurance coverage disputes related to asbestos, or workers' compensation appeals related to asbestos.

b. Electronic Filing Electronic transmission of an original pleading, paper, order or document to or from the Circuit Court for Baltimore City via Vendor's eFiling system.

c. Participant A party that elects to participate in eFiling.

d. Non-Participant A party that elects not to participate in eFiling.

e. Typographical signature The signature on an electronic filing which is not in the personal hand of the signing party or a facsimile of a hand signature. Rather, the signing party may type his or her name in the place on the document which would otherwise be hand-signed if filed conventionally. The typographical signature shall be accompanied by the symbol "/s/" and treated as a personal signature for all purposes under the Maryland Rules.

3. Operation of Electronic Filing and Service Procedure

a. Obtaining Access to System Counsel for all Participants shall promptly take steps necessary to enable them to electronically file, serve, receive, review, and retrieve copies of all pleadings, papers,

orders, and other documents filed in the Asbestos Litigation electronically by registering with and entering into a subscription agreement with the Vendor.

i. At completion of the subscription process, the Vendor shall assign a confidential user name and password to the Participant's designated representatives, which may thereafter be used by such representatives to obtain access to eFiling. This user name and password will permit the Participant's representatives to file, serve, receive, review, and retrieve electronically filed pleadings, papers, and other documents filed in an assigned case.

ii. No attorney shall knowingly authorize or permit his or her user name and password to be utilized by anyone else. Attorneys may authorize other attorneys or employees of the attorney's law firm to receive their own user name and password to file on their behalf. Co-counsel of a Participant who are in different firms will be required to subscribe separately with Vendor. No person shall knowingly use another's user name and password or cause or permit another person to them without the express permission from the holder of the user name and password.

b. Electronic Filing Except as provided in Paragraph 3i of this Order, all pleadings, papers, or other documents required to be filed with the Court in connection with the Asbestos Litigation shall be electronically filed and served by all Participants on both Participants and Non-Participants. Discovery requests and responses shall also be electronically filed and served on Participants and Non-Participants electronically. Attachments to discovery requests and responses which were created electronically shall be electronically filed and served on Participants and Non-Participants.

Conventional attachments to discovery may be electronically filed if they can be converted to digital formats. A filing Participant may also file such attachments conventionally, in which case they shall be served on all other parties to the specific case as provided by the Maryland Rules. However, if the attachments are filed conventionally, the filing Participant shall accompany them with a cover sheet which describes the documents that were electronically filed. Further, the filing Participant shall place a marker in the eFiling system designating that attachments were filed conventionally, thereby, maintaining a complete record of all filings within the eFiling system.

The Vendor shall serve Participants electronically and Non-Participants via facsimile. (See Attachment A for facsimile costs)

- c. Orders, Opinions, and Communications of Court All judicial rulings, opinions, orders, and other communications of court shall be electronically filed. Such documents shall be signed with a typographical signature.
- d. Notice of Electronic Filing The electronic service of a pleading, paper or other document will provide an automatic online notification to all Participants served with the document.
- e. Filing Related Documents All documents relating to a single pleading or paper may be filed electronically as a single document. For example, a motion, a memorandum in support of the motion, and related affidavits may be filed under a single transaction.
- f. Electronic Service of Pleadings and Other Documents All Participants shall conduct service upon other Participants electronically through the eFiling system. Participants or their designated counsel, shall receive all documents electronically filed and served upon them via access to the Vendor's system at their office. The electronic service of a pleading or other document in the eFiling system is considered valid and effective service on all Participants and shall have the same legal effect as conventional service of an original paper or document. The filing Participant is not required to conventionally serve a paper copy of the electronically-filed document on the other parties in the case.
- g. Certificates of Service Not Required Certificates of Service are no longer required to be filed with the Clerk of the Court, except for pleadings, papers or documents served by Non-Participants. The Proof of Service in the eFiling system will serve as a substitute for such certificates.
- h. Return of Service Plaintiffs and Third-Party Plaintiffs shall electronically file returns of service in the eFiling system.
- i. Conventional Filing of Documents Notwithstanding the provisions of Paragraph 3b of this Order, the following types of pleadings shall be filed both conventionally and electronically:
 - i. Initial Complaint and summons;
 - ii. Third Party Complaint and summons.

Any party may waive the receipt of a conventional complaint or third party complaint.

Notwithstanding the provisions of Paragraph 3b of this Order, the following types of papers or

documents shall be filed conventionally:

- iii. Although a motion to file documents under a seal shall be filed and served electronically, the documents to be filed under seal shall be filed conventionally, in paper form;
- iv. Exhibits and/or attachments to pleadings or papers that are real objects or which otherwise may not be comprehensibly viewed in an electronic format may be filed and served conventionally, in paper form;
- v. Any exhibits designated for conventional filing shall be provided to the Court within five (5) days of the corresponding eFiling along with a cover page which describes the related electronically filed documents. The Clerk of Court shall place such exhibits in the Court file or such other Court repository.
- j. Service of Conventionally-Filed Pleadings, Papers or Documents Any conventionally-filed pleading, paper or document shall be served on all other parties to the case in accordance with Rule 1-321 and Title 2, Chapter 100 of the Maryland Rules.
- k. Representations by Using a Typographical Signature Every eFiled pleading, paper, and document 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 e-mail address (if available) of that attorney. Typographical signatures shall be treated as personal handwritten signatures for all purposes as contemplated by the Maryland Rules.
- l. Maintaining Copies of Electronically-Filed Pleadings, Papers or Documents Unless otherwise ordered by the Court, only an electronic copy of all pleadings, papers or documents filed electronically shall be maintained by counsel for the Participant filing such documents and shall be made available, upon reasonable notice, for inspection by other counsel. However, an original pleading, paper or document which must be signed by a Participant or other individual shall be maintained by counsel for the Participant and shall be made available, upon reasonable notice, for inspection by other counsel.
- m. Time for Filing and Effect of Use of eFiling Any paper or document filed electronically shall be considered as served and filed with the Clerk of the Court when it is completely submitted and receives an authorized date and time. Any paper or document filed electronically before midnight shall be deemed filed for purposes of filing deadlines. Regardless of the location of counsel, Vendor and this Court will apply Eastern Standard Time to all pleadings, papers and other documents. Thus, for example, if the

deadline for filing a paper is March 15, if that paper is filed electronically at 11:59 p.m. EST on March 15, it will be deemed timely filed. The Vendor is hereby appointed the limited agent of the Court Clerk as to the electronic filing, receipt, service, and/or retrieval of any pleading, paper or document with the Vendor. All documents filed conventionally shall comply with the Maryland Rules for filing.

n. Problems in transmission of an electronic filing Participants are encouraged by the court to be reasonable with each other should a technical problem arise which will cause a deadline to be missed for a filing Participant. In such an event, Participants may, by consent and without the necessity of an order of court, agree to an extension of a filing deadline. If an agreement cannot be reached, however, and an electronic filing cannot be filed because of (1) inaccessibility to Vendor, (2) downtime of a Participant's Internet Service Provider, (3) an error in the transmission of the pleading, paper or document to Vendor which was unknown to the filing Participant, or (4) a failure to process the electronic filing when received by Vendor, the court may enter such order as is necessary to permit the late filing of the pleading, paper or document.

o. Time for Responding to an eFiled Pleading, Paper or Document Unless otherwise provided by an order of court, a party has eighteen (18) days to respond to an eFiled pleading or paper by another party.

p. Public Access to the Electronically Filed Pleadings, Papers and Documents The Court Clerk's office shall make available to members of the general public, without charge and during normal business hours, at least one computer terminal capable of searching and reviewing pleadings, papers and documents filed of public record in Asbestos Litigation cases. The Clerk shall make copies of any publicly filed electronic pleadings, papers and documents at the rate established by the State Court Administrator pursuant to Section 7-202, Courts and Judicial Proceedings, Annotated Code of Maryland.

4. Form of Pleadings, Papers and Documents Electronically Filed

a. Format of Electronically Filed Pleadings, Papers and Documents All electronically filed pleadings, papers and documents shall, to the extent practicable, be formatted in accordance with the applicable rules governing the formatting of paper pleadings and papers, and in such other and further format as the Court may require from time to time. Pleadings, papers or other documents when eFiled are digitally converted to a portable document format (PDF) by the Vendor. In the conversion process, a document may be lengthened which may cause such document to exceed a page limit rule which may exist in a given case. As such, the document will be accepted as conforming to the page limit rules as long as the

Participant's own electronic copy of the pleading, paper or document, when viewed, conforms to the page limit restriction.

b. Title of Pleadings, Papers and Other Documents The title of each electronically filed pleading, paper or other document ("paper"), shall include a brief but informative description of the paper. The caption of the paper shall also contain the following information:

- i. the party or parties filing the paper;
- ii. the nature of the paper;
- iii. the party or parties against whom relief, if any, is sought; and,
- iv. the nature of the relief sought (e.g., "John Doe's Motion to Compel Discovery and for Sanctions against Jim Smith").

The signature page of any paper filed shall contain the name of the attorney and, if applicable, the name, address, phone number and e-mail address (if available) of the law firm representing the party, and the name of the party on whose behalf the paper is filed.

c. Multiple Case Filing When individual cases have been grouped for trial, known as "trial clusters", a Participant shall eFile a pleading, paper or document in the group case number and will be assessed one CourtLink filing fee for each filing per group.

5. Appeals of Asbestos Litigation Cases The parties to an appeal shall work with and provide to the Clerk of the Circuit Court any materials required by Rule 8-413 that were originally filed in an electronic format pursuant to this Order. The parties are urged to work together, and with the Court of Special Appeals pursuant to Rule 8-206 (b), to minimize the creation of hard copy documents originally filed electronically. This determination may include, in each appeal as is appropriate and accepted by Order of the Court of Appeals or the Court of Special Appeals, the following: the use of an electronic transcript; the use of the deferred record extract procedure; limitations of issues and/or the content of the record, pursuant to Rule 8-206 (b); a statement in lieu of the record pursuant to Rule 8-413 (b); and/or, employment of the electronic filings in lieu of some or all hard copy of each filing in the case.

6. Technical Requirements of Participants

a. Vendor shall maintain a list of System Requirements and specifications on its website, www.lexisnexiscourtlink.com.

b. All electronically filed pleadings, papers and documents may be filed in Adobe Acrobat Portable

Document Format (PDF) directly, WordPerfect and Microsoft Word formats or other word processing systems that can be converted by the current versions of WordPerfect or Word as of the date of this Order. To ensure all Participants will be able to print the retrieved documents from CourtLink correctly, CourtLink converts the electronic document to the Adobe Acrobat Reader's portable document format (PDF). Digital images of documents may be filed in tagged image format (TIF.)

7. Availability of Electronically Filed Pleadings, Papers and Documents ("Documents") Documents filed electronically will be available immediately for retrieval on CourtLink.

8. Fees

- a. The fees for the use of CourtLink are set forth in the Schedule of Fees attached as Appendix A, as may be amended from time to time. No fees will be increased by the Vendor without giving at least sixty (60) days' prior notice to all Participants and approval by the Court.
- b. Any instrument requiring payment of a filing fee to the Clerk of the Court in order to achieve valid filing status shall be filed electronically in the same manner as any other eFile document.
- c. The Vendor, as limited agent for the Clerk of the Circuit Court, will collect filing fees from Participants through direct billing of the Participant.
- d. The Vendor will electronically transmit all filing fees to a financial account designated by the Court's bank and will electronically provide the Civil Finance Office with whatever information it requires for each deposit.

Ellen M. Heller
Administrative Judge

Date

