

1 Rick McKnight (State Bar No. 55183)
Thomas R. Malcom (State Bar No. 39248)
2 David J. DiMeglio (State Bar No. 130124)
JONES DAY
3 555 South Flower Street
Fiftieth Floor
4 Los Angeles, CA 90071-2300
Telephone: (213) 489-3939
5 Facsimile: (213) 243-2539

6 Paul G. Cereghini (State Bar No. 148016)
Robert K. Miller (State Bar No. 214133)
7 BOWMAN & BROOKE LLP
879 West 190th Street, Suite 700
8 Gardena, California 90248-4227
Telephone: (310) 768-3068
9 Facsimile: (310) 719-1019

10 Attorneys for Defendants and Respondents,
YAMAHA MOTOR CORPORATION, U.S.A; and in
11 some of the Included Actions, YAMAHA MOTOR
MANUFACTURING CORPORATION OF
12 AMERICA, AND YAMAHA MOTOR CO., LTD.

13
14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF ORANGE – CIVIL COMPLEX CENTER**

16 **IN RE: YAMAHA RHINO LITIGATION:**
17 This Document Applies To All Included
18 Actions

Judicial Council Coordination
Proceeding No. 4561

Coordination Judge: Hon. Thierry Patrick
Colaw

**NOTICE OF ORDER REGARDING
ELECTRONIC SERVICE**

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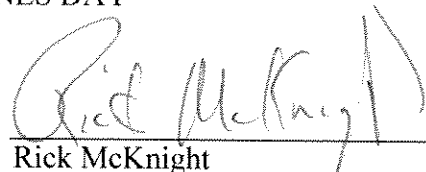
TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on June 24, 2009, the Honorable Thierry Patrick Colaw entered an Order in the above-captioned coordinated proceedings, *In re: Yamaha Rhino Litigation*, JCCP 4561, adopting the Yamaha Defendants' Proposed Order Regarding Electronic Service.

A true and correct copy of the Court's Order is attached as Exhibit A.

Dated: June 26, 2009

JONES DAY

By: 
Rick McKnight

Attorneys for Attorneys for Defendant
YAMAHA MOTOR CORPORATION,
U.S.A; and in some of the Included Actions,
YAMAHA MOTOR MANUFACTURING
CORPORATION OF AMERICA, AND
YAMAHA MOTOR CO., LTD.

EXHIBIT A

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CIVIL COMPLEX LITIGATION CENTER

JUN 24 2009

ALAN CARLSON, Clerk of the Court

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BY P RIEF

1 Rick L. McKnight (State Bar No. 55183)
2 David J. DiMeglio (State Bar No. 130124)
3 Richard S. Ruben (State Bar No. 67364)
4 JONES DAY
5 555 South Flower Street, Fiftieth Floor
6 Los Angeles, CA 90071-2300
7 Telephone: (213) 489-3939
8 Facsimile: (213) 243-2539

9 Paul G. Cereghini (State Bar No. 148016)
10 Robert K. Miller (State Bar No. 214133)
11 Thomas C. Howard (State Bar No. 120582)
12 BOWMAN & BROOKE LLP
13 879 West 190th Street, Suite 700
14 Gardena, CA 90248-4227
15 Telephone: (310) 768-3068
16 Facsimile: (310) 719-1019

17 Attorneys for Defendants
18 YAMAHA MOTOR CORPORATION, U.S.A.; and in
19 some of the Included Actions, YAMAHA MOTOR
20 MANUFACTURING CORPORATION OF AMERICA,
21 and YAMAHA MOTOR CO., LTD.

ELECTRONICALLY
RECEIVED

SUPERIOR COURT OF CALIFORNIA
COUNTY OF ORANGE
CIVIL COMPLEX CENTER

Jun 10 2009

ALAN CARLSON, Clerk of the Court

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ORANGE - CIVIL COMPLEX CENTER**

IN RE: YAMAHA RHINO LITIGATION

This Document Pertains To All Included
Actions

**JUDICIAL COUNCIL
COORDINATION PROCEEDING
NO. 4561**

Honorable Thierry Patrick Colaw,
Coordination Judge

TPC
**[PROPOSED] ORDER REGARDING
ELECTRONIC SERVICE**

LAI-3025297v1

[PROPOSED] ORDER REGARDING ELECTRONIC SERVICE

1 Pursuant to California Code of Civil Procedure sections 128, 187, and 1013, and
2 California Rule of Court 3.751, the Court finds that entry of this Order is necessary for the just
3 and more expeditious and efficient resolution of the above-captioned litigation.

4 When a party to this litigation wishes to serve a document to counsel of record, that party
5 may effectuate service of the document by the procedure set forth in this Order (subject to the
6 exceptions outlined herein).

7 **I. LEXISNEXIS FILE & SERVE**

8 1. In order to facilitate case management, document retrieval and case organization,
9 and to facilitate expeditious, efficient and economic communication by and among counsel, all
10 parties shall utilize the services of LexisNexis and its litigation system File & Serve for providing
11 electronic service, storage and delivery of court-filed and/or discovery-related documents, as well
12 as any correspondence, through a secure website. TR

13 2. An attorney may elect to serve documents electronically through the File & Serve
14 system, but is not required to do so. Alternatively, an attorney may elect to serve documents
15 through any other method allowed under the California Code of Civil Procedure. However, all
16 counsel of record are required to register and participate in the File & Serve system, including
17 maintaining their accounts in good standing, to allow others to effect e-service upon all parties
18 through File & Serve. The Court, at its option, also may use File & Serve for these purposes, as
19 well as to communicate with counsel of record. J

20 **II. SERVICE ONLY**

21 1. File & Serve shall apply only to the service of documents, and not to their filing.
22 Original documents still must be filed in the manner required by the Court's rules (i.e., e-filing
23 through the Court's website).

24 2. Documents served through File & Serve shall be deemed to comply with the Code
25 of Civil Procedure as valid and effective service on all counsel of record to these coordinated
26 actions.

27 **III. FEES**

28 LexisNexis may charge a setup fee not to exceed \$25.00 per firm, and a monthly

1 maintenance fee of no more than \$5.00 per firm. In addition, LexisNexis may charge a fee not to
2 exceed \$20.00 for uploading and serving a single document and all attached exhibits (regardless
3 of page length) to an unlimited number of online case recipients, charged to the attorney serving
4 the document.

5 There shall be no charge to the Court for use of the File & Serve system.

6 **IV. SERVICE LIST & SIGN-UP**

7 1. Within five (5) days of the date of service of Notice of Entry of this Order,
8 Yamaha's designated point person to LexisNexis, identified in paragraph 3 below, shall submit
9 via email to LexisNexis, keith.foote@lexisnexis.com, a complete and current service list of
10 counsel of record for this litigation. Also within five (5) days of the date of service of Notice of
11 Entry of this Order, all counsel of record for this litigation shall register their firm for electronic
12 service in this litigation by completing the registration located at the following website:
13 <http://www.lexisnexis.com/fileandserve>. Service through the LexisNexis File & Serve system
14 shall commence 6 days after service of Notice of Entry of this Order.

15 2. For any Add-On case that is ordered coordinated, Yamaha's point person or his
16 designee shall, within five (5) days of the date of service of the order granting coordination, serve
17 any new counsel of record with a copy of this Order and shall provide LexisNexis with a list of
18 any additional counsel that should be added to the service list. Also within five (5) days of the
19 date of service of any order granting coordination, any new counsel of record shall register their
20 firm for electronic service in this litigation by completing the registration located at the following
21 website: <http://www.lexisnexis.com/fileandserve>. TRC

22 3. David DiMeglio of Jones Day (555 S. Flower Street, 50th Floor, Los Angeles, CA
23 90071, Phone: (213) 489-3939, Fax: (213) 243-2539, E-mail: djdimeglio@jonesday.com), or his
24 designee, shall serve as Yamaha's point person to LexisNexis for all service list changes. All
25 counsel of record shall be responsible for monitoring the service list and shall advise Yamaha's
26 point person of any changes or corrections. The service list will identify counsel of record for
27 each firm, along with parties they represent, who are to receive service of documents in the case
28 utilizing File & Serve. Once a firm is registered on File & Serve, each firm will be able to Jaw

1 designate a person within that firm to control the addition and deletion of registered users on File
2 & Serve for their firm.

3 **V. SERVICE OF DOCUMENTS AND WEBSITE**

4 1. After service of the original summons and complaint, every subsequent document,
5 including court-filed documents and/or discovery-related documents, as well as any
6 correspondence, that does not include exhibits or information required to be filed under seal may
7 be served according to the requirements and procedures of this Order, and no additional means of
8 service shall be required. Service in this manner will be deemed service by Express Mail for
9 purposes of California Code of Civil Procedure section 1013(c) (i.e., any right or duty to do any
10 act or make any response within any period shall be extended by 2 court days, but the extension
11 shall not apply to extend the time for filing notice of intention to move for a new trial, notice of
12 intention to move to vacate judgment pursuant to California Code of Civil Procedure 663a, or
13 notice of appeal).

14 2. LexisNexis will maintain the File & Serve internet website for this litigation.
15 When a transaction is submitted on File & Serve, File & Serve will electronically serve each
16 document on the counsel of record included on the service list provided to LexisNexis in
17 accordance with the procedures herein.

18 3. An attorney using the File & Serve system for service shall upload each document
19 for electronic transfer through File & Serve via the Internet (either as a word-processing file or a
20 scanned image of the document) following the instructions provided by LexisNexis.

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

23 5. All documents posted on File & Serve will be identified on the website by: (a) the
24 name of the serving law firm; (b) the caption(s) of the case(s) to which the document belongs;
25 (c) the title of the document set forth on its caption; and (d) the identity of the party on whose
26 behalf the document is being served.

27 6. File & Serve shall not be used to file documents with the Court. However, the
28 Court may circulate orders or communications to counsel through LexisNexis. The Court shall

1 designate an attorney to be responsible for serving orders through File & Serve.

2 7. For any document that is required to be filed under seal, counsel of record shall
3 serve only a "public copy" of the document, with confidential information redacted, through File
4 & Serve, and shall arrange for a "private copy" containing the confidential information to be
5 served using any method authorized by the California Code of Civil Procedure, only on those
6 parties who have signed a Confidentiality Order.

7 8. Access to File & Serve will be limited to registered users. Registered users will
8 consist of authorized Court personnel, counsel of record and their designated staff members who
9 have registered with LexisNexis to receive elective service through File & Serve. Upon
10 registration, LexisNexis will provide each registered user with a user name and password to
11 access File & Serve and the documents served in the litigation.

12 9. Every pleading, document and instrument served electronically shall bear a
13 facsimile or typographical signature of at least one of the attorneys of record. Typographical
14 signatures shall be treated exactly as personal signatures for purposes of electronically served
15 documents under the California Code of Civil Procedure. The serving attorney of any document
16 requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all the
17 names of other signatories by means of an "/s/ ____" block for each. By submitting such a
18 document, the serving attorney certifies that each of the other signatories has expressly agreed to
19 the form and substance of the document and that the serving attorney has the actual authority to
20 submit the document electronically. The serving attorney must maintain any records evidencing
21 this concurrence for subsequent production to the Court if so ordered or for inspection upon
22 request.

23 10. Any document transmitted to File & Serve shall certify in the Proof of Service that
24 a true and correct copy was electronically served on counsel of record by transmission through
25 LexisNexis File & Serve on the date of service. A Transaction Receipt stating the actual date and
26 time of the service shall be provided by LexisNexis to the attorney serving the document after a
27 transaction is submitted on File & Serve. Any document date/time-stamped after 5:00 p.m.
28 Pacific Time shall be deemed to have been served on the next court day. Counsel are advised to


1 submit documents to File & Serve no later than 4:00 p.m. on the date of service in case any
2 problems arise in the uploading process that may require the assistance of LexisNexis Customer
3 Support. The Transaction Receipt shall be retained by the serving attorney along with the
4 document served and original Proof of Service.

5 11. LexisNexis will make available to counsel of record and the Court a 24-hour 365-
6 day-per-year Customer Support hotline at (888) 529-7587 and
7 website: <http://www.lexisnexis.com/fileandserve/support.asp>. In addition, counsel of record is
8 instructed to review Exhibit A attached to this Order which sets forth the procedure for
9 registration with and service through LexisNexis File & Serve. See Exhibit A, LexisNexis File &
10 Serve Welcome Kit.

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IT IS SO ORDERED.

Dated: June 24th, 2009



Hon. Thierry Patrick Colaw
Superior Court Judge, County of Orange

Your File & Serve Litigation Executive:
Keith Foote
415-333-6432
keith.foote@lexisnexis.com

Exhibit A

LexisNexis® File & Serve Welcome Kit

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