

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

IN RE: TOBACCO LITIGATION CIVIL ACTION NO. 00-C-5000  
(INDIVIDUAL PERSONAL INJURY CASES) JUDGE ARTHUR M. RECHT

THIS DOCUMENT APPLIES TO ALL CASES

ELECTRONIC FILING AND SERVICE CASE MANAGEMENT ORDER

By order of the Mass Litigation Panel ("Panel"), all cases in the Tobacco Personal Injury Litigation are subject to *electronic service ("e-service") only effective, August 31, 2009*. It is anticipated that all cases in the Tobacco Personal Injury Litigation will become subject to electronic filing ("e-filing") by the end of 2009.

A. E-Service Procedures

1. In order to facilitate expeditious, efficient and economical communication by and among counsel, as well as case management, document retrieval and case organization, the parties will utilize the services of LexisNexis and its litigation system, File & Serve, for providing electronic service, notification, storage and delivery of court-filed and discovery-related documents through a secure website. The Court, at its option, may also use File & Serve for these purposes, as well as to communicate with counsel of record.

2. *Until such time as the Mass Litigation Panel enters an order making the Tobacco Personal Injury Litigation subject to e-filing, LexisNexis File & Serve shall apply only to the service of documents and not to their filing.* Original documents must still be filed in the traditional manner (i.e., filing the signed original document with the Court), pursuant to the applicable West Virginia Rules of Civil Procedure and the West Virginia Trial Court Rules.

3. When a party to this litigation wishes to serve a document, that party shall effectuate service of the document by the procedures set forth in this Order (subject to the exceptions outlined herein) and pursuant to West Virginia Trial Court Rule 15.01 *et seq.* All references to

“document” in this Order shall be interpreted to include any exhibits or attachments to the document and shall include both pleadings and discovery-related documents (such as interrogatories, requests for production, deposition notices/transcripts, etc.); and/or, the actual production of discovery documents in response to another party’s request for production.

**B. E-Filing and E-Service Procedures**

Consistent with the requirements of West Virginia Trial Court Rule 15.01 *et seq.*, the Court has determined that certain procedures must be followed to facilitate uniformity of case captions, case numbering and designation, and to maintain case and party information when e-filing and e-serving documents in any cases in the Tobacco Personal Injury Litigation. Pursuant to Trial Court Rule 15.08, the Court hereby **ORDERS** the following procedures to be followed by all counsel when e-filing and e-serving documents in the Tobacco Personal Injury Litigation using LexisNexis® File & Serve.

**1. Registration and training for LexisNexis File & Serve.** Registration and training for e-filing and service is *mandatory*. To register with LexisNexis and to make arrangements for training, contact the **LexisNexis Customer Service Department at 1-888-529-7587** or <http://www.lexisnexis.com/fstraining/>. Counsel are responsible for regularly checking the LexisNexis Resource Center for updates to West Virginia Attorney Special Instructions, Frequently Asked Questions, File & Serve Newsletters and any other resources periodically posted by LexisNexis to assist parties with appropriate procedures and best practices for successful e-filing and e-service.

**2. Responsibility to update case and party information.** Within five business days of a case or party being dismissed, a withdrawal or substitution of counsel, or any other event that changes case information, the moving party shall update the LexisNexis File & Serve

system with the information necessary to effect the change in case or party status using the Case & Party Management feature. The moving party must provide LexisNexis with verification of the change in case or party information, either by providing LexisNexis with the Transaction ID Number of the order or other document that verifies the change, or by uploading a copy of the order or document that verifies the change.

**3. Case Captions.** The cover page of each pleading shall contain the following information in the order listed below:

- a. The name of the court where the pleading is being filed (i.e., In the Circuit Court of Ohio County);
- b. The name of the mass litigation case type and number (i.e., In re: Tobacco Litigation (Individual Personal Injury Cases), Civil Action No. 00-C-5000);
- c. A notation indicating whether the pleading applies to all cases or only a subset of cases (i.e., THIS DOCUMENT APPLIES TO ALL CASES or THIS DOCUMENT APPLIES TO:);
- d. A list of the short case title and case number of each case to which the document applies, including the initiating case number and the three-letter county identifier (i.e., Mary E. Rogers v. ABC Corp., et al. Civil Action No. 07-C-222 OHI). A table of the three-letter county identifiers is attached as **Appendix A**;
- e. If applicable, the caption shall also state whether the filing is related to cases in a particular group (i.e., 2009 June Trial Group);
- f. A title stating the party and subject matter of the document (i.e., Defendant XYZ Corporation's Motion for Summary Judgment).

Specific examples of case captions are attached as **Appendix B**.

**4. Master Case.** The Tobacco Personal Injury Litigation shall contain a master case bearing the caption: "In re: Tobacco Litigation Civil Action No. 00-C-5000." *The Master Case File shall contain only pleadings or documents of general applicability to the entire Tobacco Personal Injury Litigation*, such as trial calendars, case management orders, other orders of

general applicability, notices of deposition if they are not case-specific, master pleadings, master discovery and other similar documents.

When a document is intended to be applicable to all cases within the Tobacco Personal Injury Litigation, the title page of the document shall contain the notation "THIS DOCUMENT APPLIES TO ALL CASES" and the document shall be filed in the master case. When a document is intended to be applicable to specific cases, the title page of the document shall contain the notation "THIS DOCUMENT APPLIES TO . . . ." If cases are filed in one county and civil action numbers are in sequential order, each case caption must be listed separately. If multiple plaintiffs are filed under one civil action number, each individual plaintiff to which a document applies must be listed separately. See Appendix B.

**5. Case Groups.** The presiding judicial officer may designate certain case groups to be utilized within the e-filing and e-service system (i.e., 2009 June Trial Group), and may further require liaison counsel to confer and maintain those case groups.

**6. Document title section in the e-filing system.** When e-filing and/or e-serving a document electronically, the following information shall be provided in the document title section of LexisNexis File & Serve to enable the Court and the parties to search for information in the system:

- a. the party or parties filing the document;
- b. a descriptive title of the document;
- c. the party or parties against whom relief is sought, if any;
- d. the nature of relief sought; and
- e. the initiating case number(s) with the three-letter county identifier (i.e.,

Defendant ABC Corporation's Motion for Summary Judgment, 08-C-123

KAN; Plaintiff Jane Smith's Motion to Compel Discovery from Defendant XYZ Corporation, 08-C-456 BNE).

A standard list of abbreviations, which should be used in titling documents in the document title section of the e-filing and e-service system is attached as **Appendix C**. A sample of document titles and descriptions is attached as **Appendix D**.

**7. Stapling and Linking Documents.** West Virginia Trial Court Rule 15.10(b) requires all e-filed documents relating to a single pleading or document submitted in the same transaction to be “electronically stapled” together using the “main” and “supporting” functionality of the e-filing and e-service system. This enables multiple related documents, such as a motion, memorandum of law in support and proposed order to be kept together and identified in one transaction. Trial Court Rule 15.10(c) requires any e-filed document directly related to a previously e-filed document, such as a response to a previously e-filed motion, to be linked to the previously e-filed document using the “linked document feature” in the e-filing and e-service system. This allows the court to more easily find documents that are related to one another.

**8. Discovery materials.** As required by Rule 5(d)(2) of the Rules of Civil Procedure, “Unless it is required by the court on motion or upon its own initiative, depositions, interrogatories, requests for admissions, requests for production and entry, and answers and responses thereto shall not be filed.” However, a certificate of service of discovery materials shall be filed.

**9. Oversized documents, DVDs and other items that cannot be filed electronically.** Oversized documents, including but not limited to maps or charts, DVDs, manuals and other items that cannot be filed electronically shall be filed conventionally in the

office of the Clerk of the Ohio County Court. Within twenty-four (24) hours of conventionally filing such document(s) or other item(s), the filing party shall electronically file and serve a “docket entry transaction” in LexisNexis File & Serve providing a full description of such document(s) or item(s) filed conventionally with the Clerk. To file and serve the “docket entry transaction” the filing party will go through the file and serve process, but instead of uploading the oversized document or other item(s), the filing party will select “filed conventionally” from the access drop down, and enter a “document title” describing what was filed, then e-file and serve the docket entry transaction.

**10. *Pro hac vice* motions.** Pursuant to the Agreed Order Clarifying Certain *Pro Hac Vice* Admission Issues, entered on November 2, 2001, “an attorney’s *pro hac vice* admission into the In Re: 5000 matter shall constitute “an individual *pro hac vice* admission” for all purposes during Phase I, thereby requiring a single . . . fee under Rule 8.0(b). If necessary, the Court will revisit the *pro hac vice* admission procedure should this matter proceed to Phase II.”

**11. “Entered Order.”** An Entered Order is an order that has already been signed by the Presiding Judge. If the Court directs counsel to file and serve an Entered Order, the document shall be filed and served by counsel using the “**Entered Order**” **document type**, and will not be placed into Judge Review in LexisNexis File & Serve. When counsel files and serves an Entered Order, the document must specifically state that the document is an Entered Order in the document title section of LexisNexis File & Serve.

**12. Personal data identifiers.**

**a. E-Service of Documents Containing Personal Data Identifiers.** If a party wishes to serve counsel of record with pleadings or other documents that contain personal data identifiers or other confidential information, the party shall use the “**serve only – private**”

feature in LexisNexis File & Serve. This will cause the document to be accessible only by the parties selected to be served.

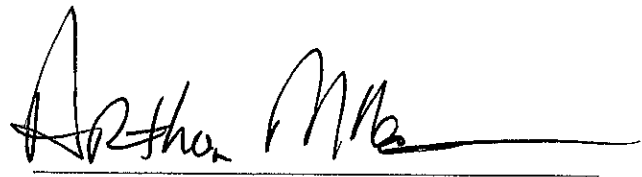
**b. E-filing and Service of Documents Containing Personal Data Identifiers.** To promote electronic access to case files while also protecting personal privacy and other legitimate interests, counsel and the parties shall refrain from including, or shall partially redact where inclusion is necessary, the following personal data identifiers from all pleadings filed with the court, including exhibits attached to pleadings, whether filed electronically or in paper, unless otherwise ordered by the Court. Responsibility for redacting personal data identifiers rests solely with counsel and the parties. The Clerk will not review each pleading for compliance regarding redaction of personal data identifiers.

- 1. Social Security numbers.** If an individual's social security number must be included in a pleading, only the last four (4) digits of that number should be included.
- 2. Dates of birth.** If an individual's date of birth must be included in a pleading, only the year should be used.
- 3. Financial account numbers.** If financial account numbers are relevant, only the last four (4) digits of those numbers should be used.
- 4. Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.
- 5. Medical information.** If medical information is intended to be disclosed in any public filing, the party intending to disclose such information shall give the party whose medical information is the subject of such disclosure ten (10) days notice of such intended disclosure, including identification of the specific medical information the party intends to disclose. If the party whose medical information is intended to be

disclosed believes such information requires the additional protection of filing with the Court under seal, that party shall identify the medical information it believes should be filed under seal to the party who intends to disclose the information as soon as practicable, but no later than ten (10) days after receiving notice of such intended disclosure. If the parties are unable to agree as to the extent of additional protection, if any, to be applied, the party whose medical information is intended to be disclosed shall file a motion to seal with the Court for a determination as to whether, and to what extent, the identified medical information shall be sealed or otherwise further protected. Pursuant to Trial Court Rule 15.12, a motion to seal documents shall be e-filed and e-served. However, any documents that are the subject of a motion to seal shall be filed directly with the Court enclosed in sealed envelopes to be opened as directed by the Court, and a copy of the documents that are the subject of the motion to seal shall be provided to the Presiding Judge for review.

The Clerk is directed to provide a certified copy of this Order to Liaison Counsel for Plaintiffs, Liaison Counsel for Defendants and the Mass Litigation Manager. Liaison Counsel for Plaintiffs and Liaison Counsel for Defendants are **ORDERED** to forward a copy of this Order to their respective co-counsel and any self-represented parties.

ENTER: August 12<sup>th</sup>, 2009

  
Arthur M. Recht  
Chief Judge, Circuit Court of Ohio County

A copy, Teste:

  
Brenda S. Miller  
Circuit Clerk



## APPENDIX A

### West Virginia County Listing File & Serve Abbreviations

| Abbreviation | County     | Judicial District              |
|--------------|------------|--------------------------------|
| BRB          | Barbour    | Nineteenth Judicial Circuit    |
| BER          | Berkeley   | Twenty-Third Judicial Circuit  |
| BNE          | Boone      | Twenty-Fifth Judicial Circuit  |
| BRX          | Braxton    | Fourteenth Judicial Circuit    |
| BRK          | Brooke     | First Judicial Circuit         |
| CBL          | Cabell     | Sixth Judicial Circuit         |
| CAL          | Calhoun    | Fifth Judicial Circuit         |
| CLA          | Clay       | Fourteenth Judicial Circuit    |
| DOD          | Doddridge  | Third Judicial Circuit         |
| FAY          | Fayette    | Twelfth Judicial Circuit       |
| GIL          | Gilmer     | Fourteenth Judicial Circuit    |
| GRT          | Grant      | Twenty-First Judicial Circuit  |
| GRN          | Greenbrier | Eleventh Judicial Circuit      |
| HMP          | Hampshire  | Twenty-Second Judicial Circuit |
| HNK          | Hancock    | First Judicial Circuit         |
| HDY          | Hardy      | Twenty-Second Judicial Circuit |
| HRR          | Harrison   | Fifteenth Judicial Circuit     |
| JKN          | Jackson    | Fifth Judicial Circuit         |
| JFN          | Jefferson  | Twenty-Third Judicial Circuit  |
| KAN          | Kanawha    | Thirteenth Judicial Circuit    |
| LWS          | Lewis      | Twenty-Sixth Judicial Circuit  |
| LCN          | Lincoln    | Twenty-Fifth Judicial Circuit  |
| LGN          | Logan      | Seventh Judicial Circuit       |
| MRN          | Marion     | Sixteenth Judicial Circuit     |
| MSH          | Marshall   | Second Judicial Circuit        |
| MAS          | Mason      | Fifth Judicial Circuit         |
| MCD          | McDowell   | Eighth Judicial Circuit        |
| MER          | Mercer     | Ninth Judicial Circuit         |
| MIN          | Mineral    | Twenty-First Judicial Circuit  |
| MNG          | Mingo      | Thirtieth Judicial Circuit     |
| MON          | Monongalia | Seventeenth Judicial Circuit   |
| MNR          | Monroe     | Thirty-First Judicial Circuit  |
| MGN          | Morgan     | Twenty-Third Judicial Circuit  |
| NIC          | Nicholas   | Twenty-Eighth Judicial Circuit |
| OHI          | Ohio       | First Judicial Circuit         |

Note: Abbreviations used in case number field on LexisNexis File Serve.

## APPENDIX A

### West Virginia County Listing File & Serve Abbreviations

| Abbreviation | County     | Judicial District               |
|--------------|------------|---------------------------------|
| PND          | Pendleton  | Twenty-Second Judicial Circuit  |
| PLE          | Pleasants  | Third Judicial Circuit          |
| PHS          | Pocahontas | Eleventh Judicial Circuit       |
| PRN          | Preston    | Eighteenth Judicial Circuit     |
| PNM          | Putnam     | Twenty-Ninth Judicial Circuit   |
| RAL          | Raleigh    | Tenth Judicial Circuit          |
| RND          | Randolph   | Twentieth Judicial Circuit      |
| RIT          | Ritchie    | Third Judicial Circuit          |
| RNE          | Roane      | Fifth Judicial Circuit          |
| SMR          | Summers    | Thirty-First Judicial Circuit   |
| TLR          | Taylor     | Nineteenth Judicial Circuit     |
| TKR          | Tucker     | Twenty-First Judicial Circuit   |
| TYL          | Tyler      | Second Judicial Circuit         |
| UPR          | Upshur     | Twenty-Sixth Judicial Circuit   |
| WNE          | Wayne      | Twenty-Fourth Judicial Circuit  |
| WBR          | Webster    | Fourteenth Judicial Circuit     |
| WTZ          | Wetzel     | Second Judicial Circuit         |
| WRT          | Wirt       | Fourth Judicial Circuit         |
| WDE          | Wood       | Fourth Judicial Circuit         |
| WMG          | Wyoming    | Twenty-Seventh Judicial Circuit |

Note: Abbreviations used in case number field on LexisNexis File Serve.

**APPENDIX B**

**For a document that applies to all cases:**

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

IN RE: TOBACCO LITIGATION  
(INDIVIDUAL PERSONAL INJURY CASES)

Civil Action No. 00-C-5000

THIS DOCUMENT APPLIES TO ALL CASES

CASE MANAGEMENT ORDER

**For a document that applies to specific cases:**

IN THE CIRCUIT COURT OF OHIO COUNTY, WEST VIRGINIA

IN RE: TOBACCO LITIGATION  
(INDIVIDUAL PERSONAL INJURY CASES)

Civil Action No. 00-C-5000

THIS DOCUMENT APPLIES TO:

|  |                               |
|--|-------------------------------|
| John S. Doe v. ABC Corporation, et al.                   | Civil Action No. 08-C-123 KAN |
| Jane E. Smith v. ABC Corporation, et al.                 | Civil Action No. 08-C-124 KAN |
| Jill Jones v. ABC Corporation, et al.                    | Civil Action No. 08-C-125 KAN |
| Mary E. Rogers v. ABC Corporation, et al.                | Civil Action No. 07-C-222 WNE |
| James E. Jones v. ABC Corporation, et al.                | Civil Action No. 07-C-561 BNE |
| Suzy Harris v. ABC Corporation, et al.                   | Civil Action No. 08-C-124 PNM |
| James Abbott (Jon Adams) v. ABC Corporation, et al.      | Civil Action No. 06-C-255 OHI |
| James Abbott (Gail E. Harris) v. ABC Corporation, et al. | " "                           |
| James Abbott (Tammy J. Craig) v. ABC Corporation, et al. | " "                           |
| James Abbott (George Jones) v. ABC Corporation, et al.   | " "                           |
| Gerald A. Cart v. ABC Corporation, et. al                | Civil Action No. 06-C-555 RAL |

DEFENDANT ABC CORPORATION'S MOTION TO DISMISS

## APPENDIX C

### STANDARD LIST OF ABBREVIATIONS FOR USE IN THE DOCUMENT TITLE FIELD OF THE E-FILING AND SERVICE SYSTEM

|          |                         |
|----------|-------------------------|
| A        | ADMINISTRATIVE          |
| ABST     | ABSTRACT                |
| ADM      | ADMISSION               |
| AFD      | AFFIDAVIT               |
| AMD      | AMENDED                 |
| AGRMT    | AGREEMENT               |
| AMOTH    | AMONG OTHER THINGS      |
| ANS      | ANSWER                  |
| ATTY     | ATTORNEY                |
| CC       | CERTIFIED COPY          |
| CIR      | CIRCUIT                 |
| CIV      | CIVIL                   |
| CLK      | CLERK                   |
| CM       | CERTIFIED MAIL          |
| CMC      | CERTIFIED MAIL CARD     |
| CNTR-CLM | COUNTERCLAIM            |
| C OF R   | COUNSEL OF RECORD       |
| COMP     | COMPEL                  |
| CONF     | CONFERENCE              |
| COS      | CERTIFICATE OF SERVICE  |
| CP       | CREDIBLE PERSON         |
| CPY      | COPY                    |
| CT       | COURT                   |
| CR CL    | CROSSCLAIM              |
| DEFS     | DEFENDANTS              |
| DISCOV   | DISCOVERY               |
| DISCL    | DISCLOSURE              |
| DISM     | DISMISSAL               |
| DOCS     | DOCUMENTS               |
| EXH      | EXHIBIT                 |
| GAL      | GUARDIAN AD LITEM       |
| GRT      | GRANTED/GRANTING        |
| HRG      | HEARING                 |
| ID       | IDENTIFY/IDENTIFICATION |
| INSTR    | INSTRUCTIONS            |
| INTERR   | INTERROGATORIES         |
| ISD      | ISSUED                  |
| JDG      | JUDGE                   |
| JUDG     | JUDGMENT                |
| JRY      | JURY                    |

|         |                         |
|---------|-------------------------|
| JV      | JURY VERDICT            |
| LET     | LETTER                  |
| MEMO    | MEMORANDUM              |
| MOT     | MOTION                  |
| NOT     | NOTICE                  |
| NOT APP | NOTICE OF APPEARANCE    |
| NOT HRG | NOTICE OF HEARING       |
| NOS     | NOTICE OF SERVICE       |
| NPT     | NUNC PRO TUNC           |
| OBJ     | OBJECTION               |
| OPPOS   | OPPOSITION              |
| OBO     | ON BEHALF OF            |
| O       | ORDER                   |
| PET     | PETITION                |
| PLS     | PLAINTIFFS              |
| POD     | PRODUCTION OF DOCUMENTS |
| PROD    | PRODUCTION              |
| PROT O  | PROTECTIVE ORDER        |
| REC     | RECEIVE                 |
| REPS    | REPRESENTATIVE          |
| REQ     | REQUEST                 |
| RESP    | RESPONSE                |
| R/S     | RETURN OF SERVICE       |
| SCHED   | SCHEDULING/SCHEDULED    |
| SO      | SCHEDULING ORDER        |
| S       | SETTLEMENT/SETTLE       |
| S/F     | SIGNED FOR              |
| SH      | SHERIFF                 |
| SOS     | SECRETARY OF STATE      |
| STIP    | STIPULATION             |
| SUBP    | SUBPOENA                |
| SUBP DT | SUBPOENA DUCES TECUM    |
| SJ      | SUMMARY JUDGMENT        |
| SUPP    | SUPPLEMENTAL            |
| TRANS   | TRANSCRIPT              |
| TRANSF  | TRANSFER                |
| TR      | TRIAL                   |
| TD      | TRIAL DATE              |
| VERD    | VERDICT                 |
| VERIF   | VERIFICATION            |
| W/      | WITH                    |
| W/D     | WITHDRAW                |
| W/O     | WITHOUT                 |
| WIT     | WITNESS                 |

**APPENDIX D**  
**EXAMPLES OF DOCUMENT TITLE DESCRIPTIONS**

“Defendants ABC Corporation’s and XYZ Corporation’s Motion for Summary Judgment”

**Document Title Description:**

DEFS ABC Corp.’s and XYZ Corp.’s MOT for SJ

“Plaintiff’s Certificate of Service of Interrogatories and Request for Production of Documents on ABC Corporation”

**Document Title Description:**

PLS COS of INTERR and REQ for POD to ABC Corp.