

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In re BAYCOL PRODUCTS LITIGATION

MDL 1431 MGD/JGL

This document relates to All actions

PRE-TRIAL ORDER NO. 18
ORDER AUTHORIZING ELECTRONIC
FILING AND SERVICE OF FILED DOCUMENTS

When a party to this Litigation wishes to file a document with the Court and to serve a document to counsel of record, that party shall effectuate filing and service of the document by the procedure set forth in this Order, subject to the exceptions outlined herein. All references to “document” in this Order shall be interpreted as defined in the Agreement between the parties, as referenced herein. All references to “this Litigation” in this Order shall be interpreted to include the Master File in MDL 1431 as well as all individual case files transferred to this Court by the Judicial Panel on Multi-District Litigation.

1. All filings with this Court made by any lawyer representing a party in this litigation shall be filed and served through Verilaw Technologies, Inc. (“Verilaw”) pursuant to the terms set forth in this Order. Any filing and service by a *pro se* litigant in this litigation may be through Verilaw Technologies, or may be made in the traditional fashion authorized by the Federal Rules of Civil Procedure. However, any filing and service made in the traditional manner by a *pro se* litigant shall also include service of all filings upon Verilaw at the address set forth in this Order.

2. Verilaw shall make available to the Court and to attorneys in this litigation a system for providing electronic filing, service, storage and delivery of documents (“the system”). Upon implementation of the system described herein, any user who wishes to file a document with the

Court, shall send a copy of that document to Verilaw by one of the following methods in accordance with the procedures set forth on the system: (1) electronic transfer, via the Internet through the system, of the document file (either a word-processing file or a scanned image of the document); (2) fax transmission; or (3) hard copy received via overnight mail or U.S. mail. Regardless of transmission method, all document filing and service must be initiated on the website by a registered user. Verilaw will convert all documents into Adobe Portable Document Format and make them available to parties on an Internet web site maintained by Verilaw (“the Website”).

3. Verilaw will post all documents to the Website according to the following timetable:

- (a) electronic documents will be posted to the Website within one (1) hour of receipt of such document from a user;
- (b) faxed documents will be posted to the Website within six (6) business hours of receipt from a user; and
- (c) mailed hard copy documents will be posted to the Website within twenty-four (24) hours of receipt of the overnight mail package.

All users shall title their documents to clearly identify the document and the party on whose behalf such document is being submitted.

4. All documents on the system will be identified by (1) the name of the filing law firm (2) a full title of the document and (3) the case-specific identifier(s) to which the document applies. The system shall contain an index of all documents served in this litigation, which will be searchable and sortable according to methods that provide useful access to the documents.

5. A document that is electronically filed through Verilaw’s system shall not also be filed by traditional paper means. The Court shall print hard copies of versions of electronically filed

documents and process the hard copy versions (for purposes of record retention and Court workflow) in the same manner as paper-filed documents. The official record continues to be the hard copy documents located in the Clerk's Office.

6. Word-processing documents transferred to Verilaw via the Internet will not contain visual representations of the filing attorneys' signatures. On word-processing files that they submit, attorneys shall, in place of a signature and where the signature would normally appear, place "Original Signature on File with Filing Attorney." A Filing Attorney shall make an original signature available to any registered user upon request. The filer of any document requiring multiple signatures (e.g., stipulations, joint status reports) must list thereon all the names of other signatories by means of an "s/____" block for each. By submitting such a document, the filer certifies that each of the other signatories has expressly agreed to the form and substance of the document and that the filer has their actual authority to submit the document electronically. The filer must maintain any records evidencing this concurrence for subsequent production to the Court if so ordered or for inspection upon request by a party.

7. Access to the system will be limited to registered users. Registered users will consist of authorized Court personnel, Special Masters, and counsel of record or their designees within their law firms. Verilaw will provide each registered user with a username and password to access the system. Verilaw personnel will perform all administrative functions for the system, but all additions, deletions or changes to the service list must be submitted to, and approved by, Liaison Counsel. An attorney's use of the identification code and the password serves as the attorney's signature on all electronic documents filed with the Court, as well as the attorney's signature for all other purposes under the Federal Rules of Civil Procedure and the Local Rules of this Court.

8. The electronic filing of an opinion, order, judgment or other document by a judge (or authorized member of the judge's staff) by use of the judge's identification code and password shall be deemed the filing of a signed original document for all purposes.

9. Within one hour of posting the document to the Website, Verilaw shall send an email to all registered users, notifying them of the posting. Verilaw provides an alternative daily digest notification option for those attorneys interested, which aggregates all the emails distributed in one day into a single email. The email or digest shall contain hypertext link(s) to the document location(s) on the system.

10. Unless another Order specifies a time for filing and service, any document electronically filed and served pursuant to this Order shall be deemed to have been served under Federal Rule of Civil Procedure 5(b) with the following modifications:

- (a) Documents sent to Verilaw by e-mail or facsimile: Service is effective on the day the document is sent to Verilaw.
- (b) Documents sent to Verilaw by overnight delivery: Service is effective on the date the document is sent but the extension of time set forth in Federal Rule of Civil Procedure 6(e) will apply as though the document had been served by mail: three days shall be added to any prescribed period running from the date of service.
- (c) Documents sent to Verilaw by mail: Service is effective on the date the document is sent but the extension of time set forth in Federal Rule of Civil Procedure 6(e) will apply as though the document had been served by mail with the following modification: five days (rather than three) shall be added to

any prescribed period running from the date of service.

- (d) The foregoing modifications to the Federal Rules of Civil Procedure shall not operate to change, alter or amend any court ordered schedule.

Any document transmitted to the system shall certify in the Certificate of Service that a true and correct copy was electronically served to counsel of record.

11. Filing documents electronically does not in any way alter any filing deadlines. An electronically submitted document is deemed filed upon completion of the transmission. All electronic transmissions of documents must be completed prior to midnight, Central Time, in order to be considered timely filed that day. Where a specific time of day deadline is set by Court order or stipulation, the electronic filing must be completed by that time.

12. Verilaw's system shall be deemed to be subject to a technical failure on a given day if the system is unable to accept filings continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon (central time) that day, in which case, filings due that day which were not filed due solely to such technical failures shall become due the next business day. Such delayed filings must be accompanied by a declaration or affidavit attesting to the filer's failed attempts to file electronically at least two times after 12:00 noon separated by at least one hour on each day of delay because of such technical failure.

13. Until further notice, no documents that are filed under seal ("sealed documents") or require a filing fee shall be filed or served via the system. Rather, filing and service of the documents shall be made via traditional means.

14. The Court has reviewed the proposed contract between the parties. The Court finds the Contract satisfies the Court's requirements and authorizes lead counsel for each of the parties

to execute the contract. That contract is attached hereto, its terms are incorporated into this Order as part of this Order, and use of the Verilaw system by all lawyers in all cases in this Multi-District Litigation is governed by this contract.

SO ORDERED THIS 9th day of May 2002.

_____/s/_____
Michael J. Davis
United States District Judge