IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN RE	§
SUPREME COURT RULE 10.1,	§
10.2 and 11(c)	§
	§
ELECTRONIC FILING	§

Before **STEELE**, Chief Justice, **HOLLAND, BERGER, JACOBS**, and **RIDGELY**, Justices (constituting the Court *en Banc*).

ORDER

This 28th day of September, 2005, IT IS HEREBY ORDERED that:

1) Rule 10.1 is promulgated as follows:

Rule 10.1 Electronic filing

(a) The electronic filing of documents in the Supreme Court of the State of Delaware shall be referred to as "eFile" or "eFiling".

(b) Every appeal of a case that is subject to eFiling in the trial court shall be subject to eFiling in the Supreme Court. In addition, when the Supreme Court determines that it is appropriate for any case, or category of cases, to follow the procedures for eFiling, the Court shall designate it as an eFile case or category of cases.

(c) A technology surcharge of 50 cents per document shall be assessed in each eFile case for the purpose of a fund to operate the eFiling system. The Court shall expend the funds solely for the purpose of operating and maintaining the eFiling system. The technology fee is not imposed on filings by Arms of the Supreme Court, by the Department of Justice or by indigent parties or their counsel.

(d) No Delaware lawyer shall authorize anyone to eFile on that lawyer's behalf, other than an employee of his/her law firm or service provider retained to assist in eFiling.

(e) No person shall utilize, or allow another person to utilize, the password of another in connection with any eFiling.

(f) The eFiling of a document by a lawyer, or by another under the authorization of a lawyer, shall constitute a signature of that lawyer under Rule 12.

(g) All eFilings must be signed by a member of the Delaware Bar or party not represented by an attorney in accordance with the eFile administrative procedures.

(h) Every document that is eFiled shall be served upon every other party. Unless otherwise ordered, the electronic service of a document, in accordance with the eFile administrative procedures, shall be considered service under Rule 10. Service by electronic means shall be treated in the same manner as service by mail for the purpose of adding 3 days to the prescribed period to respond, as set forth in Rule 11(c).

2) Rule 10.2 is promulgated as follows:

Rule 10.2 eFile Administrative Procedures

1) ***Registration and fees for eFiling***

(a) *Registration*. Any person intending to use eFile must register with LexisNexis File & Serve at www.lexisnexis.com/fileandserve

(b) *Filing Fees*. There are several parts to the fee structure for eFiling. These will be billed by LexisNexis using the billing arrangements established through the LexisNexis registration process. The parts are:

(i) The routine filing fee (See generally Rule 20).

(ii) A technology fee of 50 cents per document (Rule 10.1).

(iii) LexisNexis File & Serve fees.

(iv) Pro Hac Vice fees (Rule 71).

2) ***Minimum Technical Requirements***

The minimum technical requirements for eFilings are available online at www.lexisnexis.com/fileandserve

3) ***Documents which must be electronically filed; Exceptions***

Each document which must be filed in a case subject to eFiling under the Rules shall be eFiled unless otherwise ordered by the Court. A party to a case who is not represented by an attorney may file and serve all documents on paper or may register with LexisNexis File & Serve to file and/or serve documents electronically. If paper is delivered to the Court for docketing in cases subject to electronic filing, the Clerk will electronically upload such document(s) to LexisNexis File & Serve. For purposes of Rule 10(d) the electronic version of any document filed with the Clerk shall constitute the original. Any participant eFiling any document shall deliver to the Clerk by the next business day the number of copies otherwise required by Rule 10(d). The cover page must indicate "COPY" and include the ID number associated with the electronically filed document(s). Any participant eFiling any document shall not be required to file with the Clerk the unbound paper copy required by Rule 10(d)(v).

4) ***Form of Documents Electronically filed***

(a) *Format.* Each electronically filed document shall be filed in Word, WordPerfect, TIFF or PDF format. To the extent practicable it shall be formatted in accordance with the applicable rules governing formatting of paper documents, and in such other and further format as the Clerk may require from time to time. A document may exceed page limitation rules to a maximum of two (2) additional pages when the additional pages are attributed to the electronic conversion or filing process.

(i) eFile will automatically convert any Word, WordPerfect or TIFF file to .PDF format, but the original format will also be available for downloading.

(ii) The official record of the court is the .PDF version.

(b) *Title of Documents.* The title of each electronically filed document shall include:

(i) Party or parties filing the document,

(ii) Descriptive title of the document,

(iii) Party or parties against whom relief, if any, is sought, and

(iv) Nature of the relief sought (e.g., Defendant ABC Corporation's Motion To Affirm).

(c) *Signature.*

(i) Each electronically filed document shall be deemed to have been signed by the attorney or party not represented by an attorney authorizing such filing, and shall bear a facsimile or typographical signature of such person, e.g., "/s/ Adam Attorney." Each document eFiled by or on behalf of a party shall also include the typed name, address, telephone number of the attorney or unrepresented party filing such document. Attorneys shall include their Delaware bar number.

(ii) Each electronically filed declaration and affidavit shall be deemed to have been signed by the declarant or affiant if an attorney or party not represented by an attorney has authorized such filing. The original affidavit or declaration filed or

served electronically, shall be maintained by the party filing the affidavit during the pendency of the appeal, and shall be made available, upon reasonable notice, for inspection by other counsel, the Clerk or the Court.

(d) *Filing Related Documents.*

(i) All electronically filed documents relating to a single pleading or paper shall be "electronically stapled" using the "main" and "supporting" functionality of the eFiling system. In this way, multiple related documents, although filed separately, are linked logically together and identified as a single transaction.

(ii) All electronically filed documents, papers or pleadings directly relating to a previously-filed document, paper or pleading shall be linked to the previously filed document, paper or pleading, utilizing the "linked document feature" in the eFiling system.

(iii) Failure to properly link document may result in rejection of the filing by the Clerk.

5) ***Sealed Documents***

(a) Documents filed under seal MUST be formatted with a footer stating the following:

THIS DOCUMENT IS CONFIDENTIAL AND FILED UNDER SEAL. REVIEW AND ACCESS TO THIS DOCUMENT IS PROHIBITED EXCEPT BY PRIOR COURT ORDER.

This footer must appear on every page of the document. Additionally, the first page or cover page of the document must be in the following format:

IN THE SUPREME COURT OF THE STATE OF DELAWARE

[name of first appellant],	:	
v.	:	No. [ ]
[name of first appellee].	:	

YOU ARE IN POSSESSION OF A DOCUMENT FILED IN THE SUPREME COURT OF DELAWARE THAT IS CONFIDENTIAL AND FILED UNDER SEAL.

If you are not authorized by Court order to view or retrieve this document read no further than this page. You should contact the following person:

[filing attorney's name]
[firm name of filing attorney]
[address of filing party]
[telephone number of filing party]

No other information should appear on the cover page.

(b) The filing details and document title will appear in the LexisNexis system. The document can be viewed only by the Court, the filer, and those case participants who received service of that particular document. A participant that was not served with the document can see only the document title in the case details, however, that participant is not able to open or view the document.

(c) Public versions of sealed documents shall be filed in accordance with Rule 9.

6) ***Time of eFiling and Service***

(a) Any document filed electronically by 11:59 pm ET shall be considered eFiled with the Clerk once the transmission is successfully completed ("authorized date and time") as recorded on the LexisNexis File & Serve system.

(b) An eFiled document is deemed served only upon selection of participants to be served and submission according to the File & Serve procedures. Participants shall make service of all eFiled documents upon all participants capable of receiving online service through the LexisNexis File & Serve system. Participants unable to receive online service of eFiled documents through the LexisNexis File & Serve system may also be served via U.S. Mail from the LexisNexis File & Serve system. The associated filing receipt will list the participants selected for service and give proof of date, time and method of service. No other certificate or proof of service shall be required for eFiled documents.

(c) Participants that do not exercise the U.S. Mail option in the aforementioned 10.2(6)(b) and/or parties who are not listed on the associated filing receipt listing the participants selected for service shall be served a paper copy of any electronically filed pleading or other document. Service of such paper copy shall be made by the filing party in accordance with Rule 10(b).

(d) Participants using the File & Serve system and who receive online service via the File & Serve system, may set an e-mail notification preference so that he or she will receive an e-mail notification that a document(s) has been served and is available for viewing in his or her File & Serve Online Inbox. The e-mail notification feature does not constitute Service on the File & Serve subscriber and is provided by File & Serve solely as a convenience. Whether or not a participant sets an e-mail notification preference, it is the responsibility of the participant using the File & Serve system to check his or her File & Serve Online Inbox to view eFiled and served documents.

7) ***Public Access to the Docket***

The Clerk shall make a Public Access Terminal available to the general public to allow access to the Court's electronic case record in all eFiled cases. Copies made from the Court's electronic case records shall be printed by the Clerk's Office and copying fees will be charged in accordance with Rule 20.

8) ***Related eFile Information***

eFile instructions and practice guides are available on the LexisNexis File & Serve Web Site www.lexisnexis.com/fileandserve. Once users are logged into LexisNexis File & Serve they may click the "support" link within the application to access further information.

9) ***Privacy Issues***

Easy access to electronic documents raises many privacy issues. eFile users must be sensitive to confidential and personal information not filed under seal. Parties shall refrain from including, or shall redact where inclusion is necessary, the following personal identifiers from all documents filed with the court, including exhibits thereto, unless otherwise ordered by the Court.

(a) **Social Security Numbers**. If an individual's social security number must be included in a document, only the last four digits of that number should be used.

(b) **Names of minor children.** If the involvement of a minor child must be mentioned, only the initials of that child should be used.

(c) **Dates of Birth.** If an individual's date of birth must be included in a document, only the year should be used.

(d) **Financial account numbers.** If financial account numbers are relevant, only the last four digits of these numbers should be used.

In addition, exercise caution when filing documents that contain the following:

(i) Personal identifying number, such as a driver's license number

(ii) Medical Records, treatment and diagnosis

(iii) Employment History

(iv) Individual Financial Information

(v) Proprietary or Trade Secret Information

It is the sole responsibility of counsel and the parties to be sure that all pleadings comply with the rules of this court requiring redaction of personal identifiers. The Clerk will not review each pleading for redaction.

10) ***System or User Filing Errors***

If the electronic filing is not filed with the Clerk or served because of (1) an error in the transmission of the document to LexisNexis which was unknown to the sending participant, or (2) a failure to process the electronic filing when received by LexisNexis, or (3) rejection by the Clerk, or (4) other technical problems experienced by the filer, the Court may upon satisfactory proof enter an order permitting the document to be filed or served nunc pro tunc to the date it was first attempted to be sent electronically.

11) ***Obligation of Registered eFile Users to Maintain Proper Delivery Information***

(a) Participants who register to use the File & Serve system shall notify LexisNexis within 10-days of any change in firm name, delivery address, fax number or e-mail address.

(b) Participants who have set an e-mail notification preference are solely responsible for providing an accurate, up-to-date e-mail address and for ensuring that the e-mail account is set up properly to receive e-mail notifications.

3) Amend Supreme Court Rule 11(c) by striking this subparagraph in its entirety and by inserting in lieu thereof the following:

(c) *Additional time after service by mail or eFiling.* Whenever a participant has the right to or is required to do some act or take some proceeding within a prescribed period after being served and service is made by mail or by eFiling, 3 days shall be added to the prescribed period. The additional 3 day period applies only as to acts taken by participants and does not apply to actions taken by the Court.

4) Documents in any appeal commenced before the effective date of Rule 10.1 shall continue to be filed conventionally unless the case is designated as an eFile case by the Court.

5) The effective date of these amendments is October 24, 2005.

BY THE COURT:

Justice