

**SUPPLEMENT TO APPENDIX B
ELECTRONIC CASE FILING PROCEDURE
IN VACCINE ACT CASES**

I. INTRODUCTION

1. In General. This Supplement sets forth the procedures governing electronic filings in Vaccine Act cases. A Case Management/Electronic Case Files (CM/ECF) User Manual is available on the court's website—<http://www.usfc.uscourts.gov>.

2. Definitions. For purposes of this Supplement, the following definitions apply:

- (a) "ECF System" means the court's system for electronic case filing;
- (b) "ECF case" means any Vaccine Act case designated by the court as an electronic case in the ECF System;
- (c) "Filing User" means a member of the court's bar to whom the court has issued a log-in and password to file documents electronically in the ECF System;
- (d) "filing" means any document that is filed electronically in the ECF System; and
- (e) "court" means the assigned judge or special master.

**II. ELECTRONIC CASE
DESIGNATION AND NOTICE**

3. Scope.

- (a) **Newly Filed Cases.** All newly filed Vaccine Act cases will be designated ECF cases except for cases involving *pro se* litigants.
- (b) **Converted Cases.** The court may convert a pending non-ECF case to an electronic case at any time.

4. Notice to Counsel. The clerk will notify counsel that a Vaccine Act case has been designated an ECF case by filing a "Notice of Designation."

**III. ACCESS TO ECF SYSTEM;
RESPONSIBILITY OF FILING USERS;**

EXEMPTION FROM USE

5. Eligibility. An attorney admitted to the bar of this court may register as a Filing User by completing the form provided by the clerk, a copy of which is available on the court's website. By registering as a Filing User, an attorney consents to electronic service of all filings.

6. Log-in and Password.

- (a) **Notification.** Once registered, a Filing User will be notified of his or her user log-in and password.
- (b) **Security.** A Filing User must protect the security of his or her password and immediately notify the clerk if it appears to have been compromised.
- (c) **Use.** No Filing User or other person may knowingly permit or cause a Filing User's log-in and password to be used by anyone other than an authorized agent of the Filing User. Any Filing User or other person may be subject to sanctions for failure to comply with this provision.

7. Exemption From Filing Electronically. By filing an appropriate motion, an individual not registered as a Filing User may, for good cause, seek to be exempted from filing documents electronically in an ECF case.

IV. FILING REQUIREMENTS

8. Filings.

(a) **Initial Filings.**

- (i) **The Petition.** The filing of a Vaccine Act petition and the payment of the initial filing fee may be accomplished in accordance with Vaccine Rule 2(b)(2).
- (ii) **Required Attachments.** The petition must be accompanied by the medical records and other

documents (including affidavits) pertaining to the petition as set forth in Vaccine Rule 2(c)(2). (See paragraph 11 of this Supplement, discussing the alternative method of filing voluminous medical records via CD-ROM.)

- (b) **Subsequent Filings.** Once a case has been designated an ECF case, all subsequent filings must be made electronically, except as provided in this Supplement or by leave of the court in exceptional circumstances that prevent a Filing User from filing electronically.
- (c) **Exhibits and Attachments.** Unless otherwise ordered by the court, when filing an exhibit or attachment, a Filing User:
 - (i) must file the exhibit or attachment electronically along with the main document under one entry number;
 - (ii) must include the exhibit or attachment in its entirety; and
 - (iii) may seek leave to file a memorandum or brief, generally in advance of the evidentiary hearing, to direct the court's attention to the most relevant portion of the exhibit or attachment.

9. Size Limitations.

- (a) **In General.** A single filing may be divided into multiple Adobe PDF files.
- (b) **Number of Files.** A single filing may not exceed 11 separate Adobe PDF files, i.e., the main document and 10 attachments.
- (c) **Size of Files.**
 - (i) Unless otherwise ordered by the court, each Adobe PDF file must not exceed the size limitations established by the court.
 - (ii) Current size limitations are

posted on the court's website or may be obtained by calling the clerk's office.

- (d) **Exceeding Size Limitations.** For files that exceed size limitations, the Filing User may:
 - (i) use a disc in CD-ROM format; or
 - (ii) seek leave of the court to file in some other electronic format.

10. Dividing Medical Records into Multiple PDF Files.

- (a) **Contents and Pagination of Files.** Each file should contain one exhibit and each exhibit should be independently paginated (hand-written pagination prior to scanning is sufficient).
- (b) **Labeling and Identifying Files.** Each file should:
 - (i) be consecutively numbered or lettered as an exhibit;
 - (ii) be labeled according to its source or subject matter; and
 - (iii) include a brief written description of the records it contains.

For example, the first PDF file might contain prenatal records and be labeled "Petitioner's Exhibit 1—Prenatal Records, Dr. Smith"; the second PDF file might contain birth records and be labeled "Petitioner's Exhibit 2—Birth Records, Smalltown Hospital"; the third and fourth PDF files might contain pediatric records of different physicians and be labeled "Petitioner's Exhibit 3—Pediatric Records, Dr. John" and "Petitioner's Exhibit 4—Pediatric Records, Dr. Jack."

11. CD-ROM Filings.

- (a) **In General.** Filing documents on a CD-ROM is accomplished by:
 - (i) electronically filing a "Notice of Intent to File" containing:
 - (A) an index of the exhibits

included
on the
disc;

- (B) a statement certifying that the contents of the disc have been scanned using anti-virus software with up-to-date anti-virus definitions; and
 - (C) a certificate stating when copies of the disc were mailed or delivered to the clerk's office;
 - (ii) providing the clerk's office with two copies of the disc along with a printed copy of the "Notice of Intent to File"; and
 - (iii) serving one copy of the disc on opposing counsel.
- (b) **Date of Filing.** The CD-ROM is deemed filed on the date it is received in the clerk's office.
- (c) **Striking a Notice of Intent to File.** If the CD-ROM is not received in the clerk's office within 5 days after the "Notice of Intent to File" is electronically docketed, the court may enter an order striking the "Notice of Intent to File" from the docket.
- (d) **Designation of Files.** The name of each file on the disc should:
- (i) begin with the letters "Ex" followed by the exhibit letter or number (e.g., 01, 02, . . . 09, 10);
 - (ii) include a brief description of the content of the exhibit and the six-digit docket number (e.g., 98-0000);
 - (iii) represent spaces with an underscore; and
 - (iv) contain ".pdf" as the file extension.
- For example, the first PDF file on the disc might be labeled "EX01_University_Hospital_98-

0000.pdf."

- (e) **Format.** Before filing a CD-ROM, the Filing User should :
 - (i) "close" or finalize the disc so that additional material cannot be written onto the disc; and
 - (ii) scan the disc using appropriate anti-virus software after its creation and closure.
- (f) **Packaging and Labeling.** The Filing User should package the disc in a paper, plastic, or waxed paper envelope and label the package with:
 - (i) the case caption, including the case number;
 - (ii) the date of filing; and
 - (iii) the range of exhibits the disc contains (e.g., Exhibits 01-20).

V. FILING PROCEDURES

12. Notice of Filing; Service.

- (a) **Notifying the Parties.** At the time a document is filed, the ECF System automatically generates a "Notice of Electronic Filing" and automatically e-mails the notice to all parties.
- (b) **Service.** The transmission of the "Notice of Electronic Filing" satisfies the service requirement of RCFC 5 and the proof of service requirement of RCFC 5.3.

13. Effect of Filing and Transmission of Notice of Filing. A filing by a party under this Supplement, together with the transmission of the "Notice of Electronic Filing," constitutes a filing under RCFC 5 and an entry on the docket kept by the clerk under RCFC 58 and 79.

14. Official Court Record. The official court record is the electronic recording of the document as stored by the court and the filing party is bound by the document as filed.

15. Date of Filing. Except for CD-ROM filings and in the case of a document first filed in paper form and subsequently converted to an ECF filing, a document filed in an ECF case is deemed filed on the date stated in the "Notice of Electronic Filing."

16. Timeliness of Filing. Unless otherwise ordered by the court, a filing under this Supplement must be submitted before midnight local time in Washington, DC, to be considered timely filed on that date.

17. Date Stamp. The filing date of each ECF filing will appear at the top of the first page in an automatically generated banner stating the case number, the document number, and the date filed.

VI. SIGNATURES AND RELATED MATTERS

18. Signature Defined. A Filing User's log-in and password will serve as his or her signature on a filing for all purposes.

19. Signature Requirements.

- (a) **Electronic Signature.** Filings must include a signature block, in compliance with RCFC 11(a), with the name of the Filing User under whose log-in and password the document is submitted along with an "s/[name of Filing User]" typed in the space where the signature would otherwise appear.
- (b) **Written Signature.** A Filing User may also satisfy the signature requirement by scanning a document containing his or her written signature.
- (c) **Noncompliance.** A filing that does not comply with this provision will be deemed in violation of RCFC 11 and may be stricken from the record.

20. Signatures of Multiple Parties. Documents requiring signatures of more than one party may be filed electronically:

- (a) by submitting a scanned document containing all necessary written signatures;
- (b) by representing the consent of the other parties on the document; or
- (c) in any other manner approved by the court.

VII. COURT ORDERS, JUDGMENTS, AND APPEALS

21. Filings by the Court. Any order, opinion, judgment, or other proceeding of the court in an ECF case will be filed in accordance with this Supplement.

22. Effect of Filing. A filing by the court under this Supplement:

- (a) is an entry on the docket kept by the clerk under RCFC 58 and 79; and
- (b) has the same force and effect as a paper copy entered on the docket in the traditional manner.

23. Notice of Filing; Service.

- (a) **Notifying the Parties.** Notice of a filing by the court will be accomplished by delivering to the parties a "Notice of Electronic Filing" in the manner prescribed in paragraph 12(a).
- (b) **Service.** The transmission of the "Notice of Electronic Filing" satisfies the service requirement of RCFC 77(d).

24. Court-Ordered Deadlines. If an order or opinion specifies a due date for the filing of a document, that date will control over any other filing deadline listed on the docket for that document.

VIII. PRIVACY

25. Filings Protected Against Public Disclosure. Except as provided in Vaccine Rule 18, all ECF filings submitted in a Vaccine Act case are placed under seal pursuant to the requirement of 42 U.S.C. § 300aa-12(d)(4)(A) and therefore are accessible only to court personnel and counsel of record.

26. Personal Information. Because all ECF filings submitted by the parties in a Vaccine Act case are placed under seal, Filing Users need not redact personal identifiers and other sensitive information. Filing Users should file all documents, including medical records, in their original form.

IX. RETENTION AND TECHNICAL FAILURE

27. Retaining in Paper Form Documents Requiring More Than One Signature. A document requiring signatures of more than one party (e.g., an affidavit or a joint status report) must be maintained in paper form by the Filing User until three years after all periods for appeal expire. The court may request the Filing User to provide the original document for review.

28. Technical Failure of the ECF System.

- (a) **Relief by Motion.** If a filing is deemed untimely as the result of a technical failure of the ECF System, the Filing User may seek appropriate relief from the court.
- (b) **Deeming the Clerk's Office Inaccessible.** If the ECF System is inaccessible for any significant period of time, the clerk will deem the clerk's office inaccessible under RCFC 6.

Rules Committee Notes

2011 Adoption

The Supplement to the Vaccine Rules replaces former Office of Special Master's General Order No. 13 ("Procedure for Electronic Case Filing in Vaccine Act Cases"), issued on January 2, 2008, and amended on October 16, 2008, and establishes electronic case filing as a mandatory procedure applicable to all newly filed Vaccine Act cases except for those cases involving *pro se* litigants.

2015 Amendment

Paragraph 4 has been amended by deleting the statement that all ECF cases will be listed on the court's website.

Paragraph 8(a) has been amended to allow a petitioner not appearing *pro se* to file a petition and the required attachments electronically.

Former paragraph 25 has been deleted as unnecessary.

2016 Amendment

Paragraph 9(b) has been amended to clarify

that a single filing may not exceed 11 separate Adobe PDF files.

In addition, paragraph 12 has been amended by deleting as no longer necessary former paragraph 12(b) which provided that the clerk "will serve the 'Notice of Electronic Filing' (but not the underlying filing) on case participants who are not Filing Users by e-mail, hand delivery, facsimile, or first-class postage prepaid mail."

Paragraph 17 also has been amended to clarify that the ECF system automatically generates a filing date stamp at the top of the first page of each filing.

Finally, paragraph 23(a) has been amended to delete the reference to former paragraph 12(b).