

In the United States Court of Federal Claims

GENERAL ORDER NO. 2003 - 42

INTERIM PROCEDURES FOR ELECTRONIC CASE FILING

The following provisions are effective March 17, 2003; they will eventually be superseded by a formal appendix to be adopted as part of the court's rules. For purposes of these provisions, the term "Electronic Filing System" refers to the court's system that receives documents filed in electronic form. The term "Filing User" refers to a member of the court's bar who has a court-issued log-in and password to file documents electronically. References to the RCFC are to the Rules of the United States Court of Federal Claims as revised May 1, 2002.

I. Scope of Electronic Filing.

1. The court shall designate which cases shall be assigned to the Electronic Filing System. These may be found at the court's Internet site – <http://www.uscfc.uscourts.gov>. Independently, the Clerk shall notify counsel that their case has been assigned to the Electronic Filing System. Except as expressly provided and in exceptional circumstances preventing a Filing User from filing electronically, all motions, memoranda of law, and other pleadings and documents required to be filed with the court in connection with a case assigned to the Electronic Filing System shall be electronically filed.

2. The filing of initial papers, including the complaint, and the payment of any initial filing fee, shall be accomplished in the traditional manner in accordance with the RCFC rather than electronically. For cases assigned to the Electronic Filing System, all subsequent documents shall be filed electronically except as provided in this General Order or as ordered by the presiding judge.

3. Unless otherwise ordered by the presiding judge, Filing Users shall submit in electronic form all documents referenced as exhibits or attachments. All documents with exhibits and attachments shall be filed together under one entry number. A Filing User shall submit as exhibits or attachments only those excerpts of the referenced documents that are directly germane to the matter under consideration by the court. *See* paragraph 4 for size limitations. Excerpted material shall be clearly and prominently identified as such. Filing Users who file excerpts of documents as exhibits or attachments under this rule do so without prejudice to their right to timely seek leave to file additional excerpts or the complete document. Responding parties may timely file additional excerpts or the complete document that they believe are directly germane.

4. A single court filing (*e.g.*, a brief or memoranda and an appendix) may be broken into several Adobe PDF files. Unless otherwise ordered by the presiding judge, each such Adobe PDF file shall not exceed 1 megabyte in size. For files that would exceed this limitation, the Filing User shall seek appropriate relief from the presiding judge, who may, for example, authorize the filing in some other electronic format (*e.g.*, a CD-Rom) or in paper form.

5. Where documents, including exhibits or attachments, would exceed 50 pages when printed, the party shall supply a courtesy copy of the document in paper form, unless otherwise ordered. The presiding judge may order the parties to supply courtesy copies in paper form of any document electronically filed.

6. Documents ordered to be placed under seal shall be filed conventionally and not electronically unless specifically authorized by the presiding judge. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the presiding judge authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order shall be attached to the documents under seal and be filed with the clerk together with a notice of filing.

II. Eligibility, Registration, Passwords

7. Attorneys admitted to the bar of this court may register as Filing Users of the court's Electronic Filing System. Registration is on a form prescribed by the clerk and requires the Filing User's name, address, telephone number, facsimile number, Internet e-mail address, and a declaration that the attorney is admitted to the bar of this court.

8. Registration as a Filing User constitutes consent to electronic service of all documents as provided in this General Order in accordance with the RCFC.

9. Once registration is completed, Filing Users shall receive notification of their user log-ins and passwords. Filing Users agree to protect the security of their passwords and immediately notify the clerk if they learn that their passwords have been compromised. Users may be subject to sanctions for failure to comply with this provision.

10. Notwithstanding the foregoing, attorneys and others who are not Filing Users may, for good cause, seek to be exempted from electronically filing pleadings and other papers in a case assigned to the Electronic Filing System by filing an appropriate motion. Once registered, a Filing User may, for good cause, seek to withdraw from participation in the Electronic Filing System by filing an appropriate motion.

III. Consequences of Electronic Filing

11. Electronic transmission of a document to the Electronic Filing System consistent with this General Order, together with the transmission of a "Notice of Electronic Filing" from

the court, constitutes filing of the document under RCFC 5 and entry of the document on the docket kept by the clerk under RCFC 58 and 79.

12. When a document has been filed electronically, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed. Except in the case of documents first filed in paper form and subsequently submitted electronically under paragraph 2 of this General Order, a document filed electronically is deemed filed at the date and time stated on the Notice of Electronic Filing from the court.

13. Unless otherwise ordered by the presiding judge, electronic filing shall be completed before midnight local time in Washington, D.C., in order to be considered timely filed that day.

IV. Signatures

14. The user log-in and password required to submit documents to the Electronic Filing System serve as the Filing User's signature on all electronic documents filed with the court. They also serve as a signature for purposes of RCFC 11 and any other purpose for which a signature is required in connection with proceedings before the court. Each document filed electronically shall, if possible, indicate that it has been electronically filed. Electronically filed documents shall include a signature block in compliance with RCFC 11(a). In addition, the name of the Filing User under whose log-in and password the document is submitted shall be preceded by an "s/" and be typed in the space where the signature would otherwise appear.

15. No Filing User or other person may knowingly permit or cause a Filing User's password to be used by anyone other than an authorized agent of the Filing User.

16. Documents requiring signatures of more than one party shall be electronically filed either by: (1) submitting a scanned document containing all necessary signatures; (2) representing the consent of the other parties on the document; or (3) in any other manner approved by the court. For further guidance, see paragraph 21.

V. Service of Documents by Electronic Means

17. The Electronic Filing System automatically generates a Notice of Electronic Filing at the time a document is filed and automatically sends this Notice to all case participants registered to use the Electronic Filing System. As to case participants who are registered, the Electronic Filing System thus itself satisfies the service requirement of RCFC 5 and the proof of service requirement of RCFC 5.1. Where one or more case participants entitled to service are not registered to use the Electronic Filing System, each person electronically filing a pleading or other document shall serve the Notice of Electronic Filing on such participants by e-mail, hand, facsimile, or by first-class postage prepaid.

VI. Entry of Court Orders; Notice of Court Orders and Judgments/Appeal

18. All orders, opinions, judgments, and proceedings of the court shall be filed in accordance with this General Order, which shall constitute entry on the docket kept by the clerk under RCFC 58 and 79. All orders shall be filed electronically by the court or court personnel and shall have the same force and effect as if the judge had affixed the judge's signature to a paper copy of the order and it had been entered on the docket in the conventional manner.

19. Immediately upon the entry of an order, opinion or judgment in an action assigned to the Electronic Filing System, the Electronic Filing System will automatically transmit to the Filing Users in the case, in electronic form, a Notice of Electronic Filing. This transmission constitutes the notice required by RCFC 77(d). The clerk shall give notice in paper form in accordance with the RCFC to a person or party who has not consented to electronic service.

20. Notices of appeal to the United States Court of Appeals for the Federal Circuit shall be filed, and fees paid, in the traditional manner rather than electronically.

VII. Retention; Technical Failure; Public Access

21. Documents that are electronically filed and require original signatures other than that of the Filing User (*e.g.*, affidavits, joint status reports) shall be maintained in paper form by the Filing User until three years after all time periods for appeal expire. On request of the presiding judge, the Filing User shall provide original documents for review.

22. A Filing User whose filing is made untimely as the result of technical failure of the Electronic Filing System may seek appropriate relief from the presiding judge. Should the Electronic Filing System be inaccessible for any significant period of time, the clerk may deem the clerk's office inaccessible under RCFC 6.

23. Documents filed electronically may be reviewed at the clerk's office. A person may also access the Electronic Filing System at the court's Internet site – <http://www.uscfc.uscourts.gov> – by obtaining a PACER log-in and password.

BY THE COURT

s/Chief Judge Edward J. Damich

EDWARD J. DAMICH

Chief Judge

March 6, 2003