

# In the United States Court of Federal Claims

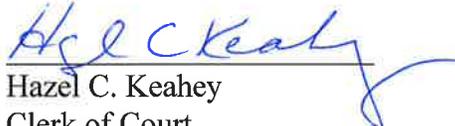
## NOTICE OF PROPOSED AMENDMENTS TO RULES

Pursuant to 28 U.S.C. §§ 2071(b) and 2503(b), the United States Court of Federal Claims hereby provides notice that it proposes to amend its rules and invites public comment on the proposed amendments. The proposed amendments affect (i) RCFC 5.5, 40.1, 52.2, 77, 83.2, and 83.4; (ii) Vaccine Rules 2 and 11; (iii) Supplement to Appendix B (“Electronic Case Filing Procedure in Vaccine Act Cases”); (iv) Appendix E (“Electronic Case Filing Procedure”); and (v) Form 2 (cover sheet and nature-of-suit codes). All proposed changes are shown by strikethrough and yellow highlighting.

Comments must be received by June 22, 2015, and addressed to:

Hazel Keahey  
Clerk of Court  
United States Court of Federal Claims  
717 Madison Place, NW  
Washington, DC 20439

Absent further notice, these amendments will take effect August 3, 2015.

  
Hazel C. Keahey  
Clerk of Court

Issued: May 8, 2015

# Proposed Amendment to RCFC 5.5

## Rule 5.5. Format of Filings and Required Information

(a) **In General.** All papers filed with the clerk; and, where applicable, all documents filed electronically, must conform to the requirements of this rule.

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(d) **Number of Copies.**

(1) **Complaint.**

(A) **Paper Form.** Plaintiff must file an original and 2 copies of the complaint, attaching a completed cover sheet to the original (shown in Form 2 of the Appendix of Forms). ~~(B) Electronic Copy.~~ If the complaint exceeds 20 pages and plaintiff is not appearing *pro se* pursuant to RCFC 83.1, plaintiff must also file submit one copy of the complaint in electronic form using a disc in CD-ROM format.

(B) **Electronic Form.** If plaintiff is not appearing *pro se* pursuant to RCFC 83.1, plaintiff may file the complaint electronically in compliance with Appendix E to these rules.

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(As revised and reissued May 1, 2002; as amended July 1, 2004; as renumbered Nov. 15, 2007; as amended Nov. 3, 2008, July 15, 2011, July 2, 2012, \_\_\_\_\_.)

### Rules Committee Notes

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#### 2015 Amendment

RCFC 5.5(d)(1) has been amended to allow a plaintiff not appearing *pro se* to file a complaint electronically.

# Proposed Amendment to RCFC 40.1

## **Rule 40.1. Assigning and Transferring Cases**

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- (b) Transfer.** To promote docket efficiency, to conform to the requirements of any case management plan, or for the efficient administration of justice, the assigned judge, either on a party's motion or on the court's own initiative, may order the transfer of **all or any part of** a case to another judge upon the agreement of both judges.

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(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, \_\_\_\_\_.)

### **Rules Committee Notes**

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#### **2015 Amendment**

**RCFC 40.1(b) has been amended to clarify that the authority to transfer a case also includes the authority to sever and transfer part of a case.**

# Proposed Amendment to RCFC 52.2

## Rule 52.2. Remanding a Case

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- (e) **Completing Administrative Proceedings.** When the action directed under a remand order is completed, the administrative or executive body or official to whom the order was directed must forward to the clerk for filing **4** copies of the final decision or other action taken. The clerk must serve each party with a copy of the final decision or other action. If the case is resolved at the administrative level, the plaintiff must file a motion to dismiss the case with prejudice.

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(As revised and reissued May 1, 2002; as renumbered June 20, 2006; as amended Nov. 3, 2008, \_\_\_\_\_.)

### Rules Committee Notes

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#### **2015 Amendment**

RCFC 52.2(e) has been amended to reduce the required number of copies to be filed of the final decision or other action taken upon completion of the administrative proceedings ordered pursuant to a remand.

# Proposed Amendment to RCFC 77

## **Rule 77. Conducting Business; Clerk's Authority; Notice of an Order or Judgment**

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### **(c) Clerk's Office Hours; Clerk's Orders.**

- (1) Hours.** The clerk's office—with a clerk or deputy on duty—must be open during business hours every day except Saturdays, Sundays, and legal holidays ~~as defined in RCFC 6(a)(4)~~. But the court may by order require that the office be open for specified hours on Saturday or a particular legal holiday other than one listed in RCFC 6(a)(6).

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(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, \_\_\_\_\_.)

### **Rules Committee Notes**

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#### **2015 Amendment**

Rule 77(c)(1) has been amended in accordance with the corresponding change to FRCP 77(c)(1) that became effective December 1, 2014.

## Proposed Amendment to RCFC 83.2

### **Rule 83.2. Attorney Discipline**

(a) **In General.** The United States Court of Federal Claims, in furtherance of its inherent power and responsibility to supervise the conduct of attorneys who are members of its bar, promulgates the following rule for attorney discipline.

(b) **Definitions.** For purposes of this rule, the following definitions apply:

(1) **Another Court.** Another court is defined as any court of the United States, the District of Columbia, or any U.S. state, territory, possession, or commonwealth.

(2) **Serious Crime.** A serious crime is defined as:

(A) any felony; or

(B) any lesser crime whose necessary elements, as determined by the statutory or common law definition of the crime in the jurisdiction where the conviction occurred, include:

(i) interference with the administration of justice;

(ii) false swearing;

(iii) misrepresentation;

(iv) fraud;

(v) willful failure to file an income tax return;

(vi) deceit;

(vii) bribery;

(viii) extortion;

(ix) misappropriation;

(x) theft; or

(xi) an attempt, conspiracy, or solicitation of another to commit a serious crime.

(c) **Grounds for Discipline.** An attorney admitted to practice before this court, including an attorney admitted for the purpose of a particular proceeding pursuant to RCFC 83.1(a)(2) or (b)(5), may be

disciplined under this rule on any of the following grounds:

(1) the conviction by another court of a serious crime as defined in RCFC 83.2(b)(1) and (2);

(2) an act or omission that results in the attorney's disbarment or suspension by another court;

(3) disbarment on consent or resignation from the bar of another court while an investigation into an allegation of misconduct is pending;

(4) failure to comply with the terms of this rule, including failure to notify the court in accordance with RCFC 83.2(e); or

(5) any conduct before the court that is unbecoming a member of the bar of this court.

(d) **Types of Discipline.**

(1) **In General.** An attorney disciplined for conduct identified in RCFC 83.2(c) may be:

(A) disbarred from the court;

(B) suspended from practice before the court;

(C) publicly or privately reprimanded;

(D) required to provide restitution or pay monetary sanctions; or

(E) subjected to other such disciplinary action as the circumstances may warrant.

(2) **Sanctions Under Other Provisions.** Assessment of damages, costs, expenses, or attorney fees under RCFC 11, 16, 37, or 45, 28 U.S.C. § 1927, or similar statutory provisions are not disciplinary sanctions within the meaning of this rule and are not governed by this rule.

(e) **Attorney's Duty to Notify the Court of a Conviction or Discipline Imposed by Another Court.**

- (1) ***In General.*** An attorney admitted to practice before this court must notify the clerk in writing within 14 days of the attorney's:
    - (A) conviction by another court of a serious crime;
    - (B) disbarment or suspension by another court; or
    - (C) disbarment on consent or resignation from the bar of another court while an investigation into an allegation of misconduct is pending.
  - (2) ***Contents of Notification.*** The notification must include:
    - (A) the name of the court imposing the conviction or discipline;
    - (B) the date of the court's action;
    - (C) the docket number;
    - (D) the offense committed; and
    - (E) the discipline imposed; and
    - (F) the attorney's current address.
- (f) **Standing Panel on Attorney Discipline.**
- (1) ***In General.*** All disciplinary matters will be referred to a Standing Panel on Attorney Discipline.
  - (2) ***Members.***
    - (A) ***Appointment.*** The chief judge will appoint three judges to the standing panel to serve staggered three-year terms, with the initial appointments being for one-, two-, and three-year terms and all subsequent appointments being for three-year terms.
    - (B) ***Eligibility for Reappointment.*** A judge who has served on the standing panel for three years will not be eligible for appointment to another term until three years after the termination of his or her last appointment.
    - (C) ***Chairperson.*** The standing panel will designate one of its members to serve as the chairperson.
  - (3) ***Unavailability of a Standing Panel Member.***
    - (A) ***To Hear a Particular Matter.*** If a member of the standing panel is unable or unavailable to hear a particular matter, the chief judge will appoint another judge to be a member of the panel for that matter.
    - (B) ***To Complete the Member's Term.*** If a member of the standing panel is unable to complete the remainder of his or her term, the chief judge will appoint another judge to serve the remainder of the term.
- (g) **Initiating Disciplinary Proceedings.**
- (1) ***Docketing.*** Consistent with RCFC 83.2(l), the clerk will maintain an attorney disciplinary docket and will assign a number to each matter at the time of referral to the standing panel.
  - (2) ***Referring Matters to the Standing Panel.*** The clerk must refer to the standing panel:
    - (A) any information received from another court concerning a member of this court's bar involving disbarment, suspension, disbarment on consent, or resignation from the bar of another court while an investigation into an allegation of misconduct is pending; and
    - (B) any complaint regarding attorney misconduct received from a judge or special master of the court or a member of the public.
  - (3) ***Review by the Standing Panel.***
    - (A) Upon receiving information from another court or a member of the public pursuant to RCFC 83.2(g)(2), the standing panel will review the allegation and determine whether the matter merits further investigation. The standing panel may dismiss a matter without further proceedings if the panel concludes that the

allegation on its face is insufficient to warrant the imposition of any discipline.

(B) Upon receiving information from a judge or special master of the court pursuant to RCFC 83.2(g)(2), the standing panel will initiate an investigation.

(4) **Notifying the Attorney.** When the standing panel determines an investigation is warranted pursuant to RCFC 83.2(g)(3), the clerk must provide written notice of the complaint.

(5) **Appointing Investigatory Counsel.**

(A) **In General.** The standing panel may appoint the court's staff attorney or other appropriate court personnel to investigate allegations of misconduct.

(B) **Role of Investigatory Counsel.** In conducting a disciplinary investigation, the investigatory counsel may:

- (i) review the complaint and any relevant documents available at the court or provided by the complainant;
- (ii) interview witnesses, including the complainant and the attorney subject to the proceeding;
- (iii) provide to the standing panel, at the panel's request, a report detailing the investigatory counsel's findings; and
- (iv) take any additional steps that are reasonably necessary to effectuate the investigation.

(C) **Outside Counsel.** In addition to, or as an alternative to, the

procedure described in subparagraphs (A) and (B), ~~in the event the court staff attorney or other appropriate court personnel is recused~~ at any stage of a proceeding the standing panel may, in its discretion, appoint outside counsel to investigate and/or prosecute allegations of misconduct under this rule.

(4)(6) **Issuing and Serving a Show Cause Order.** To initiate a disciplinary proceeding, the standing panel must:

(A) issue a show cause order describing the attorney's alleged misconduct and directing the attorney to show cause why a specific discipline should not be imposed or why a discipline to be determined at a later date should not be imposed; and

(B) serve the order on the attorney in accordance with RCFC 83.2(m).

(5)(7) **Presumed Discipline.** Unless the standing panel concludes that a different discipline may be appropriate, the following discipline is presumed to apply and should be identified in the show cause order:

(A) **For Conviction by Another Court of a Serious Crime.** Disbarment is the presumed discipline for the conviction by another court of a serious crime.

(B) **For Disbarment or Suspension by Another Court.** Reciprocal disbarment or suspension is the

presumed discipline for an act or omission that results in an attorney's disbarment or suspension by another court.

(C) ***For Disbarment on Consent or Resignation From the Bar of Another Court.*** Reciprocal disbarment is the presumed discipline for an attorney's disbarment on consent or resignation from the bar of another court while an investigation into an allegation of misconduct is pending.

(D) ***For Conduct Unbecoming a Member of the Bar of this Court.*** There is no presumed discipline for conduct that is unbecoming a member of the bar of this court; the standing panel will determine the appropriate discipline.

**(6)(8)** ***Responding to a Show Cause Order.*** Unless otherwise ordered, an attorney must file any response to a show cause order within 30 days after service of the order. Any request for a hearing must be included in the response.

~~(7) ***Dismissing a Matter Without Further Proceedings.*** The standing panel may dismiss a matter without further proceedings if the panel concludes that the allegation on its face is insufficient to warrant the imposition of any discipline.~~

(h) **Proceedings Before the Standing Panel.**

(1) ***Representation by Counsel.*** An attorney may be represented by counsel in any disciplinary proceeding before the standing panel.

(2) ***Suspending an Attorney.*** The standing panel will immediately suspend an

attorney from practicing before the court upon notice that an attorney:

(A) has been convicted by another court of a serious crime; or

(B) has been disbarred, suspended, disbarred on consent, or resigned from the bar of another court while an investigation into an allegation of misconduct is pending.

(3) ***Record of the Proceeding.***

(A) ***Content.*** The record will consist of the show cause order, the response to the order, all evidentiary materials, and all documents, briefs, and memoranda submitted to or considered by the standing panel or the court.

(B) ***Withholding Information.*** Information will be withheld from an attorney only in extraordinary circumstances, e.g., for national security or criminal investigation purposes.

(C) ***Copying and Responding to Documents.*** If the record includes documents in addition to the show cause order and the response, an attorney must be given the opportunity to inspect and copy the additional documents at his or her expense and, if the attorney contests the charge but has not requested a hearing, must be given the opportunity to file a supplemental response.

(4) ***Issuing a Final Order in an Uncontested Matter.*** If an attorney does not respond to a show cause order issued pursuant to RCFC 83.2(g)(4) or does not object to the imposition of discipline, the standing panel may issue a final order imposing such discipline.

**(5) *Presumptions.***

(A) ***For Conviction by Another Court of a Serious Crime.*** When an attorney has been convicted by

another court of a serious crime, the standing panel:

- (i) will treat the conviction as conclusive evidence of the commission of that crime, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal; and
- (ii) will limit further proceedings to a determination of the final discipline to be imposed.

**(B) *For Disbarment, Suspension, Disbarment on Consent, or Resignation From the Bar of Another Court.*** The standing panel will treat an attorney's disbarment, suspension, disbarment on consent, or resignation from the bar of another court while an investigation into an allegation of misconduct is pending as conclusive evidence that the misconduct in fact occurred and that the discipline was appropriate unless the standing panel concludes that:

- (i) the procedure was so lacking in notice or an opportunity to be heard that it constituted a deprivation of due process;
- (ii) there was such an infirmity of proof establishing the misconduct that this court could not, consistent with its duty, accept as final the conclusion on the matter;
- (iii) the imposition of the same discipline by this court would result in grave injustice; or
- (iv) the misconduct established is deemed to warrant

substantially different discipline.

**(5)(6) *Conducting a Hearing in a Contested Matter.***

- (A) ***In General.*** If an attorney requests a hearing in his or her response to a show cause order or in a supplemental response filed pursuant to RCFC 83.2(h)(3)(C), the standing panel will schedule a hearing and will determine whether the submission of evidence, including the calling of witnesses, is appropriate.
- (B) ***Notice of Hearing.*** An attorney must be given at least 30 days' notice of the time, date, and place of the hearing.

**~~(C) *Presumptions.*~~**

~~(i) ***For Conviction by Another Court of a Serious Crime.***~~

~~When an attorney has been convicted by another court of a serious crime, the standing panel:~~

~~(I) will treat the conviction as conclusive evidence of the commission of that crime, whether the conviction resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise, and regardless of the pendency of any appeal; and~~

~~(II) will limit further proceedings to a determination of the final discipline to be imposed.~~

~~(ii) ***For Disbarment, Suspension, Disbarment on Consent, or Resignation From the Bar of Another***~~

~~Court. The standing panel will treat an attorney's disbarment, suspension, disbarment on consent, or resignation from the bar of another court while an investigation into an allegation of misconduct is pending as conclusive evidence that the misconduct in fact occurred and that the discipline was appropriate unless the standing panel concludes that:~~

~~(I) the procedure was so lacking in notice or an opportunity to be heard that it constituted a deprivation of due process;~~

~~(II) there was such an infirmity of proof establishing the misconduct that this court could not, consistent with its duty, accept as final the conclusion on the matter;~~

~~(III) the imposition of the same discipline by this court would result in grave injustice; or~~

~~(IV) the misconduct established is deemed to warrant substantially different discipline.~~

**(D)(C)** *Subpoena.* The standing panel may compel by subpoena:

- (i) the attendance of witnesses, including the attorney subject to the proceeding; and
- (ii) the production of documents.

**(E)(D)** *Cross-Examining Witnesses.*

The attorney subject to the proceeding must be afforded an opportunity to cross-examine any witnesses called before the standing panel and to introduce evidence in defense or mitigation.

**(F)(E)** *Recording.* A hearing will be digitally recorded unless an attorney arranges to have a reporting service present at his or her own expense.

**(G)(F)** *Post-Hearing Brief.* The standing panel may order the filing of a post-hearing brief, which may include, at the panel's direction, either a statement of facts or proposed findings of fact. Post-hearing briefing is not a matter of right.

**(H)(G)** *Issuing a Final Order.* Following the conclusion of the disciplinary proceeding, the standing panel will issue a final order.

**(6)(7)** *Reporting a Final Order.* The standing panel may:

- (A) direct the attorney or the clerk to send a copy of the final order to all other courts before which the attorney is admitted; and
- (B) direct the clerk to notify the National Disciplinary Data Bank of the discipline imposed.

(i) **Disbarment on Consent While Disciplinary Proceeding Is Pending.**

(1) *In General.* At an attorney's request and upon receipt of the affidavit required under RCFC 83.2(i)(2), the standing panel may cease any investigation or proceeding being conducted under this rule and may enter an order disbarring the attorney on consent.

(2) *Affidavit.* To initiate a disbarment on

consent, an attorney must file an affidavit stating that:

- (A) the attorney is aware that an investigation or proceeding involving allegations of the attorney's misconduct is currently pending, along with a statement setting forth the specifics of those allegations;
- (B) the attorney acknowledges that the material facts so alleged are true;
- (C) the attorney consents to disbarment;
- (D) the attorney is freely and voluntarily rendering consent, is not being subjected to coercion or duress, and is fully aware of the implications of such consent; and
- (E) the attorney consents to disbarment because the attorney knows that if charges were brought on the matters under investigation, the attorney could not present a successful defense.

(j) **Review of the Standing Panel's Final Order.**

(1) ***A Petition for Rehearing.***

- (A) ***In General.*** An attorney may seek review of the standing panel's final order either by:
  - (i) filing a petition for rehearing by the standing panel; or
  - (ii) filing a combined petition for rehearing by the standing panel and suggestion for rehearing by the active judges of the court.
- (B) ***Contents.*** The petition must state with particularity each point of law or fact that the petitioner believes the standing panel has overlooked or misapprehended.
- (C) ***Time for Filing.*** Any petition for rehearing must be filed within 14 days after entry of the standing panel's final order.

- (2) ***By Order of the Court.*** A majority of

the active judges may order that a disciplinary matter be reheard by the active judges of the court.

- (3) ***Limitations on Rehearing by the Active Judges of the Court.*** A rehearing by the active judges of the court is not favored and will generally not be ordered except when necessary to secure or maintain uniformity of the court's decisions or when the proceeding involves a question of exceptional importance.

(k) **Reinstatement.**

(1) ***A Petition for Reinstatement.***

(A) ***Contents.*** A petition for reinstatement must demonstrate by clear and convincing evidence that include:

- (i) clear and convincing evidence that the petitioner has the necessary moral qualifications, competency, and learning in the law required for readmission; and is a person of good moral character and is in good standing with the bar of the highest court of any U.S. state, territory or possession or the District of Columbia;
- (ii) clear and convincing evidence that the petitioner's resumption of the practice of law will not be detrimental to the integrity and standing of the bar, to the administration of justice, or to the public interest; and
- (iii) a certificate of good standing from the disciplining jurisdiction, if the petitioner seeks reinstatement following discipline in a reciprocal matter.

If a hearing is requested, such request must be included in the petition.

- (B) ***Time for Filing.***

(i) ***After Conviction by Another Court of a Serious Crime.*** If disbarment by this court was imposed based on an attorney's conviction by another court of a serious crime, the attorney may file a petition for reinstatement only when the conviction is vacated or reversed.

(ii) ***After Disbarment or Suspension by Another Court.*** If disbarment or suspension by this court was imposed reciprocally based on an attorney's disbarment or suspension by another court, the attorney may file a petition for reinstatement only when the original discipline is lifted or expires.

(iii) ***After Disbarment.*** An attorney who has been disbarred as a result of conduct that is unbecoming a member of the bar of this court may file a petition for reinstatement any time after the expiration of three years from the effective date of the disbarment.

(iv) ***After Suspension.***

(I) ***When Reinstatement Is Not Automatic.*** If the order suspending an attorney for conduct that is unbecoming a member of the bar of this court does not include an automatic right of reinstatement, such attorney may file a petition for reinstatement after the suspension period expires.

(II) ***When Reinstatement Is***

***Automatic.*** If the original suspension order directs that reinstatement be automatic, the standing panel will issue an order reinstating the attorney within 14 days after receiving the attorney's affidavit of compliance with the suspension order.

(v) ***Successive Petitions.*** An attorney may not file a successive petition for reinstatement until the expiration of at least one year from the date of an adverse judgment on an earlier petition.

(C) ***Fees and Costs.*** The standing panel may direct that the petitioner provide an advance cost deposit in an amount set by the panel to cover anticipated costs of the reinstatement proceeding.

(2) ***Conducting a Hearing.*** The standing panel will conduct a hearing on a petition for reinstatement if:

(A) the petitioner requests such a hearing; and

(B) the panel is not satisfied based on the petition alone that reinstatement is appropriate.

(3) ***Issuing a Final Order.*** The standing panel will issue a final order, with or without a hearing, either:

(A) denying the petition for reinstatement; or

(B) granting the petition if the panel determines that the petitioner is fit to resume the practice of law and concludes, upon a showing of good cause, that it would be in the interest of justice to reinstate the petitioner.

(4) ***Conditions of Reinstatement.***

- (A) ***In General.*** Reinstatement may be conditioned on the payment of all or part of the costs of the reinstatement proceeding and on the making of partial or complete restitution to any parties harmed by the conduct that led to the petitioner's suspension or disbarment.
  - (B) ***For Disbarment or Suspension of Five Years or More.*** If the petitioner has been disbarred or suspended for five years or more, reinstatement may, in the discretion of the standing panel, additionally be conditioned on the furnishing of proof of competency and learning in law, including a certification by the bar examiners of a state or other jurisdiction of the petitioner's successful completion of an examination for admission to practice subsequent to the date of disbarment or suspension.
- (l) **Access to Information.**
- (1) ***Confidentiality of an Ongoing Disciplinary Proceeding.*** An ongoing disciplinary proceeding must be kept confidential unless:
    - (A) the attorney subject to the proceeding requests that the proceeding, including any hearing before the standing panel and the record compiled in the matter pursuant to RCFC 83.2(h)(3), be open to the public; or
    - (B) the standing panel determines that it is appropriate to disclose the subject matter and status of a proceeding where:
      - (i) the proceeding is based on the conviction by another court of a serious crime;
      - (ii) the proceeding is based on an allegation that has become generally known to the public; or
      - (iii) there is a need to notify a person or entity to protect the public, the legal profession, or the administration of justice.
  - (2) ***Confidentiality After Issuance of a Final Order.***
    - (A) ***When No Discipline or a Private Reprimand Is Imposed.*** If the final order imposes no discipline or imposes a private reprimand, the record of the proceeding compiled pursuant to RCFC 83.2(h)(3) must be kept confidential unless the attorney subject to the proceeding requests that it be made part of the public record.
    - (B) ***When an Attorney Is Disbarred on Consent.*** An order disbarring an attorney on consent must be made part of the public record, but the affidavit required under RCFC 83.2(i)(2) may not be publicly disclosed or made available for use in any other proceeding except on order of the standing panel.
    - (C) ***All Other Cases.*** If other discipline is imposed, the final order and the record of the proceeding must be made part of the public record at the time the final order is issued. The standing panel may, however, issue a permanent protective order prohibiting the disclosure of any part of the record to protect the interest of a complainant, a witness, a third party or nonparty, or the attorney subject to the proceeding.
- (m) **Service.**
- (1) ***Show Cause Order.*** A show cause order must be served in person or by registered or certified mail addressed to the attorney at the attorney's last known

address. If service by registered or certified mail is ineffective, the standing panel must enter an order as appropriate to effect service.

- (2) **All Other Papers and Notices.** Any other paper or notice is served by mailing the paper or notice to the attorney's last known address.
- (n) **Retention of Authority.** Nothing contained in this rule should be construed to deny an individual judge the authority to maintain control over court proceedings, such as proceedings for contempt, issuance of public reprimands, or the imposition of fines of not more than \$1,000.00.

(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, July 13, 2009, July 15, 2011.)

#### Rules Committee Notes

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#### 2015 Amendment

RCFC 83.2(e)(2) has been amended to require that the attorney's notification to the court of a conviction or discipline include the attorney's current address.

RCFC 83.2(g)(1) has been amended to clarify that the clerk will maintain a docket of a disciplinary proceeding from the time of referral to the standing panel.

RCFC 83.2(g)(3) has been added to distinguish—in the timing of the standing panel's initiation of an investigation—between complaints arising outside the court and complaints arising within the court. New paragraph (g)(4) has also been added to require that the attorney receive written notice of the complaint when the standing panel determines that an investigation is warranted.

RCFC 83.2(g)(5)(C) has been amended to provide that as an alternative to appointing a court staff attorney or other appropriate court personnel, the standing panel may appoint outside counsel to investigate and/or prosecute allegations of misconduct.

Former RCFC 83.2(g)(7) has been deleted as its substance has been incorporated into new

paragraph 83.2(g)(3).

RCFC 83.2(h)(3)(A) has been amended to clarify that the record in a disciplinary proceeding does not include internal court communications. Additionally, former RCFC 83.2(h)(5)(C) ("Presumptions") has been incorporated into new paragraph (h)(5) in recognition of the fact that the outlined presumptions apply more broadly than only in the context of hearings in contested matters.

RCFC 83.2(k)(1)(A) has been amended to specify that in reciprocal cases, a petition for reinstatement must include a certificate of good standing from the disciplining jurisdiction.

## Proposed Amendment to RCFC 83.4

### Rule 83.4. Advisory Council

- (a) **In General.** The United States Court of Federal Claims Advisory Council will advise the court on matters referred to it by the court or deemed relevant by the council's members pertaining to the administration of the court and the court's relationship to the bar and to the public.
- (b) **Membership.** The council will consist of no fewer than 20 members ~~of the bar of the court~~, appointed by the chief judge to three-year terms, and must include representatives of all of the court's practice areas. The chief judge will designate one of these members as the chairperson and will additionally appoint one or more of the judges of the court as a liaison between the court and the council.
- (c) **Organization.** The council will meet at such times and places as agreed to by its members. (The chief judge will provide facilities at the court to accommodate such meetings if necessary.) All members of the council, including the chief judge and the court's liaison judge[s], may attend meetings and participate in discussions, but only council members may vote on matters before the council. Council members may designate officers and committees and take any other steps appropriate to conduct the council's business.
- (d) **Recommendations.** The council may transmit its recommendations to the court informally or formally by letter to the chief judge. The court may consider any recommendation of the council and take such action as the court deems appropriate.

(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, \_\_\_\_\_.)

### Rules Committee Notes

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#### 2015 Amendment

RCFC 83.4(b) has been amended to delete the requirement limiting membership of the court's Advisory Council to members of the court's bar.

# Proposed Amendment to Vaccine Rule 2

## Rule 2. Commencing an Action

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### (b) Method of Filing; Filing Fee.

- (1) **Paper Form.** Petitioner must forward an original and 2 copies of the petition, attaching a completed cover sheet to the original (shown in Form 2 of the Appendix of Forms), along with the required filing fee, by mail or other delivery, to:

Clerk  
United States Court of Federal  
Claims  
717 Madison Place, NW  
Washington, DC 20439.

A copy of the applicable schedule of fees may be found on the court's website at [www.uscfc.uscourts.gov](http://www.uscfc.uscourts.gov) or may be obtained by contacting the clerk's office. ~~(2) Electronic Copy.~~ If the petition exceeds 20 pages and petitioner is not appearing *pro se* pursuant to Vaccine Rule 14, petitioner must also file submit one copy of the petition in electronic form using a disc in CD-ROM format.

- (2) **Electronic Form.** If petitioner is not appearing *pro se* pursuant to Vaccine Rule 14, petitioner may file the petition electronically in compliance with the Supplement to the Vaccine Rules.

\* \* \*

- (d) **Format.** All documents accompanying the a petition filed in paper form must comply with RCFC 5.5(c) and be assembled into one or more bound volume(s) or three-ring notebook(s). Each bound volume or notebook must contain the caption of the case and a table of contents, and all pages of each bound volume or notebook must be numbered consecutively.

(As revised and reissued May 1, 2002; as amended Sept. 15, 2003, Aug. 2, 2005, July 13, 2009, July 15, 2011, \_\_\_\_\_.)

### Rules Committee Notes

\* \* \*

#### 2015 Amendment

**Rule 2.** Subdivision (b) has been amended to allow a petitioner not appearing *pro se* to file a petition electronically.

In addition, subdivision (d) has been amended to clarify that all documents accompanying a petition filed in paper form must also comply with the requirements of RCFC 5.5(c).

# Proposed Technical Amendment to Vaccine Rule 11

## TITLE III. JUDGMENT AND FURTHER PROCEEDINGS

### Rule 11. Judgment

- (a) **In General.** ~~In the absence of~~ If a motion for review under Vaccine Rule 23, ~~the clerk will enter judgment~~ is not filed within 30 days after either the filing of the special master's decision under Vaccine Rule 10 or the entry of an order of dismissal under Vaccine Rule 21(b), ~~the clerk will enter judgment immediately.~~ The clerk may enter judgment prior to the expiration of the 30-day period if each party files a notice stating that the party will not seek such review.
- (b) **Stipulation for Judgment.** Any stipulation for a money judgment must be signed by authorized representatives of the Secretary of Health and Human Services and the Attorney General.

(As revised and reissued May 1, 2002; as amended June 20, 2006, July 13, 2009, \_\_\_\_\_.)

### Rules Committee Notes

\* \* \*

#### 2015 Amendment

**Rule 11.** Subdivision (a) has been amended to more closely conform to the wording of 42 U.S.C. § 300aa-12(e)(3).

# Proposed Amendment to Supplement to Vaccine Rules

## II. ELECTRONIC CASE DESIGNATION AND NOTICE

\* \* \*

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.” ~~All ECF cases will be listed on the court’s website.~~

\* \* \*

## IV. FILING REQUIREMENTS

\* \* \*

### 8. Filings.

#### (a) Initial Filings.

- (i) **The Petition.** The filing of a Vaccine Act petition, ~~limited to the requirements of Vaccine Rule 2(c)(1),~~ and the payment of the initial filing fee ~~must~~ ~~may~~ be accomplished ~~in the traditional manner~~ in accordance with Vaccine Rule 2(b)(2) ~~rather than electronically.~~ ~~No medical records or other documents may be filed with the petition.~~
- (ii) **Required Attachments.** ~~Once a case has been designated an ECF case, the petitioner must electronically file as promptly as possible~~ 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.)

\* \* \*

~~25. **Notice of Appeal.** A notice of appeal to the United States Court of Appeals for the Federal Circuit (i.e., a petition for review under 42 U.S.C. § 300aa-12(f)) must be accomplished in the traditional manner in accordance with the Vaccine Rules rather than electronically.~~

\* \* \*

### Rules Committee Notes

\* \* \*

#### 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.

Paragraph 25 has been deleted as unnecessary.

# Proposed Amendment to Appendix E ("Electronic Case Filing Procedure")

\* \* \*

## II. ELECTRONIC CASE DESIGNATION AND NOTICE

### 3. Scope.

- (a) **Newly Filed Cases.** All newly filed 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 case has been designated an ECF case by filing a "Notice of Designation." ~~All ECF cases will be listed on the court's website.~~

\* \* \*

## IV. FILING REQUIREMENTS

### 8. Filings.

- (a) **Initial Filings.** The filing of initial papers, including the complaint, and the payment of the initial filing fee must be accomplished in ~~the traditional manner in~~ accordance with ~~the court's rules rather than electronically~~ RCFC 5.5.

\* \* \*

### Rules Committee Notes

\* \* \*

#### 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 has been amended to allow a plaintiff not appearing *pro se* to file a complaint electronically.

FORM 2  
COVER SHEET

In The United States Court of Federal Claims

Cover Sheet

Plaintiff(s) or Petitioner(s)

\_\_\_\_\_

If this is a multi-plaintiff case, pursuant to RCFC 20(a), please attach an alphabetized, numbered list of all plaintiffs.

Name of the attorney of record (See RCFC 83.1(c)): \_\_\_\_\_

Firm Name: \_\_\_\_\_

Contact information for pro se plaintiff/petitioner or attorney of record:

Post Office Box: \_\_\_\_\_

Street Address: \_\_\_\_\_

City-State-ZIP: \_\_\_\_\_

Telephone: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Is the attorney of record admitted to the Court of Federal Claims Bar?  Yes  No

Does the attorney of record have a Court of Federal Claims ECF account?  Yes  No

If not admitted to the court or enrolled in the court's ECF system, please call (202) 357-6402 for admission papers and/or enrollment instructions.

Nature of Suit Code:

Select only one (three digit) nature-of-suit code from the attached sheet.

If number 213 is used, please identify partnership or partnership group. If numbers 118, 134, 226, 312, 356, or 528 are used, please explain.

Agency Identification Code:

See attached sheet for three-digit codes.

Amount Claimed: \$ \_\_\_\_\_

Use estimate if specific amount is not pleaded.

Disclosure Statement:

Is a RCFC 7.1 Disclosure Statement required?  Yes  No

If yes, please note that two copies are necessary.

Bid Protest:

Indicate approximate dollar amount of procurement at issue: \$ \_\_\_\_\_

Is plaintiff a small business?  Yes  No

Vaccine Case:

Date of Vaccination: \_\_\_\_\_

Related Cases:

Is this case directly related to any pending or previous case?  Yes  No

If yes, you are required to file a separate notice of directly related case(s). See RCFC 40.2.

**Nature-of-Suit Codes for General Jurisdiction Cases**

100 Contract - Construction - (CDA)	206 Tax - Excise	350 Military Pay - Relocation Expenses
102 Contract - Fail to Award - (CDA)	208 Tax - Gift	352 Military Pay - Retirement
104 Contract - Lease - (CDA)	210 Tax - Income, Corporate	354 Military Pay - SBP
106 Contract - Maintenance - (CDA)	212 Tax - Income, Individual	356 Military Pay - Other
108 Contract - Renovation - (CDA)	213 Tax - Income, Individual (Partnership)	
110 Contract - Repair - (CDA)	214 Tax - Informer's Fees	500 Carrier - transportation
112 Contract - Sale - (CDA)	216 Tax - Preparer's Penalty	502 Copyright
114 Contract - Service - (CDA)	218 Tax - Railroad	504 Native American
116 Contract - Supply - (CDA)	Retirement/Unemployment Tax Act	506 Oil Spill Clean Up
118 Contract - Other - (CDA)	220 Tax - TEFRA Partnership - 28:1508	508 Patent
	222 Tax - Windfall Profit	510 Taking - Personalty
	Overpayment - Interest	<del>511 Taking - FIRREA</del>
120 Contract - Bailment	224 Tax - 100% Penalty - 26:6672 -	512 Taking - Realty
122 Contract - Bid Preparation Costs	Withholding	513 Taking - Rails to Trails
124 Contract - Medicare Act	226 Tax - Other	514 Taking - Other
126 Contract - Realty Sale		515 Unjust Conviction and Imprisonment
128 Contract - Subsidy	300 Civilian Pay - Back Pay	516 Miscellaneous - Damages
130 Contract - Surety	302 Civilian Pay - COLA	518 Miscellaneous - Lease
132 Contract - Timber Sale	303 Civilian Pay - Disability Annuity	520 Miscellaneous - Mineral Leasing Act
134 Contract - Other	304 Civilian Pay - FLSA	522 Miscellaneous - Oyster Growers
	306 Civilian Pay - Overtime Compensation	Damages
136 Contract - Other - Wunderlich	308 Civilian Pay - Relocation Expenses	524 Miscellaneous - Safety Off. Ben. Act
	310 Civilian Pay - Suggestion Award	526 Miscellaneous - Royalty/Penalty Gas
138 Contract - <del>Injunctions</del> Protests (Pre Award)	312 Civilian Pay - Other	Production
140 Contract - <del>Injunction</del> Protests (Post Award)		528 Miscellaneous - Other
	340 Military Pay - Back Pay	<del>529 FRIS</del>
	342 Military Pay - CHAMPUS	<del>532 CLA Review - Japanese Internment</del>
200 Tax - Allowance of Interest	344 Military Pay - Correct records	<del>534 Indian Claims Commission</del>
202 Tax - Declaratory Judgment - 28:1507	346 Military Pay - Correct/Reinstate	535 Informer's Reward
204 Tax - Estate	348 Military Pay - Reinstatement	536 Spent Nuclear Fuel

**Nature-of-Suit Codes for Vaccine Cases**

449 Injury - Hepatitis A	485 Injury - Hemophilus Influenzae	477 Death - Pertussis
453 Injury - Pneumococcal Conjugate	486 Injury - Varicella	478 Death - Polio - inactive
456 Injury - DPT & Polio	490 Injury - Rotavirus	479 Death - Polio - other
457 Injury - D/T	492 Injury - Thimerosal	480 Death - Rubella
458 Injury - DTP/DPT	494 Injury - Trivalent Influenzae	481 Death - Tetanus & Diphtheria
459 Injury - Measles	496 Injury - Meningococcal	482 Death - Tetanus & Tox.
460 Injury - M/M/R	498 Injury - Human Papillomavirus	483 Death - Other
461 Injury - Measles/Rubella		487 Death - Hepatitis B
462 Injury - Mumps	452 Death - Hepatitis A	488 Death - Hemophilus Influenzae
463 Injury - Pertussis	454 Death - Pneumococcal Conjugate	489 Death - Varicella
464 Injury - Polio - inactive	470 Death - DPT & Polio	491 Death - Rotavirus
465 Injury - Polio - other	471 Death - D/T	493 Death - Thimerosal
466 Injury - Rubella	472 Death - DTP/DPT	495 Death - Trivalent Influenzae
467 Injury - Tetanus & Diphtheria	473 Death - Measles	497 Death - Meningococcal
468 Injury - Tetanus & Tox.	474 Death - M/M/R	499 Death - Human Papillomavirus
469 Injury - Other	475 Death - Measles/Rubella	
484 Injury - Hepatitis B	476 Death - Mumps	