

In the United States Court of Federal Claims

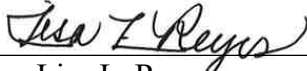
NOTICE OF PROPOSED AMENDMENTS TO RULES

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 4, 5, 5.3, 5.5, 6.1, 7.1, new 7.3, 9, 37, 40.2, 52.2, and 58.1; (ii) Vaccine Rules 2, 13, 17, 19, and 20; (iii) Appendix E (“Electronic Filing Procedures”); (iv) Supplement to Appendix B (“Electronic Filing Procedures in Vaccine Act Cases”); (v) new Second Supplement to Appendix B (“Attorney’s Fees and Costs”); and (vi) new Forms 15A and 15B (E-Notification Consent Forms). All proposed changes are shown by strikethrough and either red text or yellow highlighting and are explained in the accompanying Rules Committee notes.

Comments must be received by June 22, 2023, and addressed to:

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

Absent further notice, these amendments will take effect July 31, 2023.



Lisa L. Reyes
Clerk of Court

Issued: May 8, 2023

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Proposed Amendment to RCFC 4

Rule 4. Serving a Complaint on the United States

- (a) **Manner of Service.** To serve a complaint on the United States, the clerk must deliver one copy of the complaint to the Attorney General or to an agent designated by authority of the Attorney General by hand delivery or by sending it to an electronic address designated by the Attorney General for this purpose.
- (b) **Proof of Service.** When serving a complaint, the clerk must enter the fact of service on the docket, and this entry will be prima facie proof of service.
- (c) **Date of Service.** The date of service is made is the date the clerk enters the complaint in the court's electronic-filing system of filing with the clerk.

(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, July 15, 2011, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 4(c) has been amended to clarify that the date the United States is served is the date the clerk enters the complaint in the court's electronic-filing system.

Proposed Amendments to RCFC 5

Rule 5. Serving and Filing Pleadings and Other Papers

* * *

(d) Filing.

(1) *Required Filings; Certificate of Service.*

(A) *Papers after the Complaint.* Any paper after the complaint that is required to be served must be filed no later than a reasonable time after service. But disclosures under RCFC 26(a)(1) or (2) and the following discovery requests and responses must not be filed until they are used in the proceeding or the court orders filing: depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, and requests for admission.

(B) *Certificate of Service.* No certificate of service is required when a paper is served by filing it with the court's electronic-filing system. When a paper that is required to be served is served by other means:

(i) if the paper is filed, a certificate of service must be filed with it or within a reasonable time after service; and

(ii) if the paper is not filed, a certificate of service need not be filed unless filing is required by court order.

(2) *Nonelectronic Filing.* A paper not filed electronically is filed by delivering it:

(A) to the clerk; or

(B) to a judge who agrees to accept it for filing, and who must then note the filing date on the paper and promptly send it to the clerk.

(3) *Electronic Filing and Signing.*

(A) *By a Represented Person—Generally Required; Exceptions.* A person represented by an attorney must file electronically in the court's electronic-filing system, unless nonelectronic filing is allowed by the court for good cause or is otherwise allowed under Appendix E to these rules.

(B) *By an Unrepresented Person—When Allowed or Required.* A person not represented by an attorney:

(i) may file electronically by e-mail consistent with Appendix E to these rules;

(ii) may file electronically in the court's electronic-filing system only if allowed by court order; and

(iii) may be required to file electronically in the court's electronic-filing system only by court order.

(C) *Signing.* A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.

(D) *Same as a Written Paper.* A paper filed electronically is a written paper for purposes of these rules.

(4) *Acceptance by the Clerk.* The clerk must not refuse to file a paper solely because it is not in the form prescribed by these rules.

(As revised and reissued May 1, 2002; as amended Nov. 15, 2007, Nov. 3, 2008, July 1, 2019, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 5(d)(3) has been amended to clarify that a person represented by an attorney must file electronically in the court's electronic-filing system, and a person not represented by an attorney may file electronically via e-mail consistent with Appendix E to these rules but may only file electronically in the court's electronic-filing system if allowed or required by court order.

Proposed Amendments to RCFC 5.3

Rule 5.3. Proof of Service

- (a) **In General.** When a certificate of service is required pursuant to RCFC 5(d)(1)(B), service is made by the party, attorney of record, or any other person acting under the attorney of record's direction by executing a certificate of service containing the following information:
- (1) the day and manner of service;
 - (2) the person or entity served; and
 - (3) the method of service employed, e.g., in person, by mail, or by electronic or other means.
- (b) ~~Attaching the~~ **Certificate of Service.** The certificate of service must be attached to the end of any original filing or filed within a reasonable time after service—document, including an appendix, and to any copies of that document.
- (c) **Amending the Certificate of Service.** The certificate of service may be amended—~~or supplied to the court~~—at any time unless doing so would result in material prejudice to the substantial rights of any party.

(As revised and reissued May 1, 2002; as renumbered Nov. 15, 2007; as amended Nov. 3, 2008, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 5.3 has been amended to conform to RCFC 5(d)(1)(B), which was added to RCFC 5 in 2019 in accordance with the corresponding changes to FRCP 5 that became effective December 1, 2018.

Rule 5.5. Format of Filings and Required Information

signature.

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(d) Number of Copies; Signature; Cover Sheet.

(1) Complaint.

(A) Paper Form. Plaintiff must file an original and 2 copies of one copy of the complaint, attaching that includes:

- (i) an original signature; and
- (ii) a completed cover sheet to the original (shown in Form 2 of the Appendix of Forms) (see Appendix of Forms, Form 2).

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

(2) Subsequent Filings. Except for in an electronic case filings under Appendix E, for every filing, a party must file an original and 2 copies of any filing one copy that includes an original signature.

(3) Filings in a Congressional Reference Case. In a congressional reference case, a party must file an original and 4 copies of any filing.

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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, Aug. 3, 2015, July 1, 2019, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 5.5(d) has been amended to eliminate the 2-copy requirement for any paper filing and the 4-copy requirement for any filing in a congressional reference case, as well as to clarify that a paper complaint must contain an original

Proposed Amendment to RCFC 6.1

Rule 6.1. Motion for an Enlargement of Time

~~(a) Contents.~~—A motion for an enlargement of time must set forth:

- (a) the specific number of additional days requested;
- (b) the date to which the enlargement is to run;
- (c) the total number of days granted in any previously filed motions for enlargement; and
- (d) the reason for the enlargement.

~~(b) Communication With Opposing Counsel.~~

~~The moving party must make a reasonable effort to discuss the motion with opposing counsel and must indicate in the motion whether an opposition will be filed, or, if opposing counsel cannot be consulted, an explanation of the efforts that were made to do so.~~

(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 6.1(b), requiring the moving party to communicate with opposing counsel before filing a motion for enlargement, has been deleted in light of the adoption of new RCFC 7.3, titled “Duty to Confer on Nondispositive Motions.”

Proposed Amendments to Rule 7.1

Rule 7.1. Disclosure Statement

(a) Who Must File; Contents. A nongovernmental corporate party or a nongovernmental corporation that seeks to intervene must file ~~2 copies of a disclosure~~ statement that:

- (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
- (2) states that there is no such corporation.

(b) Time to File; Supplemental Filing. A party, intervenor, or proposed intervenor must:

- (1) file the disclosure statement with its first appearance, pleading, petition, motion, response, or other request addressed to the court; and
- (2) promptly file a supplemental statement if any required information changes.

(Added Sept. 15, 2003, as amended Nov. 3, 2008, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 7.1 has been amended in accordance with the corresponding changes to FRCP 7.1 regarding disclosure statements for proposed intervenors and intervenors that became effective December 1, 2022.

Proposed New Rule 7.3

Rule 7.3. Duty to Confer on Nondispositive Motions

(a) In General. Before filing any motion not described in RCFC 7.2(b), counsel for the moving party must make a reasonable and good faith effort to discuss the anticipated motion with opposing counsel to determine whether there is any opposition to the relief sought and, if there is, to narrow the areas of disagreement. The duty to confer also applies to nonincarcerated parties appearing *pro se*.

(b) Contents. The motion must:

- (1)** include a certification that the movant has in good faith conferred or attempted to confer with opposing counsel; and
- (2)** state whether the motion is opposed or, if opposing counsel cannot be consulted, include an explanation of the efforts that were made to do so.

(Added July 31, 2023.)

Rules Committee Note 2023 Adoption

RCFC 7.3 has been added to require that in every case initiated by a nonincarcerated plaintiff, a party seeking to file a nondispositive motion must first meet and confer with the opposing party.

Proposed Amendment to Rule 9(m)

Rule 9. Pleading Special Matters

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(m) Tax Refund Claim. In pleading a claim for a tax refund, a party must:

- (1)** file the pleading under seal and concurrently file along with a redacted version of the pleading that conforms to RCFC 5.2 and also redacts the identification number of any taxpayer; and
- (2)** include:
 - (A)** a copy of the claim for refund, and
 - (B)** a statement identifying:
 - (i)** the tax year(s) for which a refund is sought;
 - (ii)** the amount, date, and place of each payment to be refunded;
 - (iii)** the date and place the return was filed, if any;
 - (iv)** the name, address, and identification number of the taxpayer(s) appearing on the return;
 - (v)** the date and place the claim for refund was filed; and
 - (vi)** the identification number of each plaintiff, if different from the identification number of the taxpayer.

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(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, July 2, 2012, July 2, 2018, July 31, 2023.)

Rules Committee Notes 2002 Revision

Rules Committee Notes

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2023 Amendment

RCFC 9(m)(1) has been amended to clarify that a redacted version of the sealed pleading must be filed publicly at the same time the sealed pleading is filed, and that all taxpayers, both individuals and non-individuals, are covered by the rule.

Proposed Amendment to RCFC 37

Rule 37. Failure to Make Disclosures or to Cooperate in Discovery; Sanctions

(a) Motion for an Order Compelling Disclosure or Discovery.

- (1) *In General.* On notice to other parties and all affected persons, a party may move for an order compelling disclosure or discovery. Consistent with RCFC 7.3, the motion must include a certification that the movant has in good faith conferred or attempted to confer with the person or party failing to make disclosure or discovery in an effort to obtain it without court action.

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(As revised and reissued May 1, 2002; as amended Nov. 15, 2007, Nov. 3, 2008, Aug. 1, 2016, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 37(a) has been amended to cross reference newly adopted RCFC 7.3.

Proposed Amendments to RCFC 40.2

Rule 40.2. Related Cases

(a) Directly Related Cases.

(1) **In General.** If a party is aware of the existence of any directly related case(s), the party must file a Notice of Directly Related Case(s).

(2) **Definition.** For the purpose of this rule, cases are directly related when:

(A) they involve the same parties and are based on the same or similar claims; or

(B) they involve the same contract, property, or patent.

(3) **Notice.**

(A) **Contents.** The Notice of Directly Related Case(s):

(i) must identify the title and docket number of all directly related cases;

(ii) must explain why the cases qualify for treatment as directly related cases under RCFC 40.2(a)(2);

(iii) must state whether assigning the cases to a single judge can be expected to conserve judicial resources and promote the efficient administration of justice; and

(iv) if filed after the case has been assigned, may be accompanied by a motion to transfer pursuant to RCFC 40.1 or for consolidation pursuant to RCFC 42.1.

(B) **Filing.** A party must file the Notice of Directly Related Case(s):

(i) along with the complaint in a newly filed case; or

(ii) in the earliest-filed related case if the existence of directly related cases becomes apparent only after initial assignment. Counsel must also file copies of the notice in all of the directly related cases and may appear in those cases solely for purposes of filing the notice.

If a paper filing is made in paper form or by e-mail consistent with

Appendix E to these rules, the clerk must file copies of the notice in all of the directly related cases.

(C) **Service.** A party must serve the Notice of Directly Related Case(s) on all parties in the related cases.

(4) **Treatment of Directly Related Cases.**

(A) When a Notice of Directly Related Case(s) is filed with a complaint, the clerk will assign the case to the judge to whom the earliest-filed case is assigned. If the judge determines that the case is not in fact directly related to the earliest-filed case, the judge will return the case to the clerk for random reassignment.

(B) When a Notice of Directly Related Case(s) is filed after a case has been assigned and is accompanied by a motion to transfer or for consolidation, the judge in the earliest-filed case, after consultation with the judge(s) in the later-filed case(s), will grant or deny the motion to transfer or for consolidation.

(b) **Indirectly Related Cases.**

(1) **In General.** If a party is aware of the existence of any indirectly related case(s), the party may file a Notice of Indirectly Related Case(s).

(2) **Definition.** For the purpose of this rule, cases are indirectly related when:

(A) they present common issues of fact; and

(B) their consolidation for purposes of coordinated discovery can be expected significantly to promote the efficient administration of justice.

(3) **Notice.**

(A) **Contents.** The Notice of Indirectly Related Case(s):

(i) must identify the title and docket number of all indirectly related cases; and

(ii) must explain why the cases qualify for treatment as indirectly related cases under RCFC 40.2(b)(2).

(B) **Filing.** A party must file the Notice of Indirectly Related Case(s) in the

earliest-filed related case. Counsel must also file copies of the notice in all of the indirectly related cases and may appear in those cases solely for purposes of filing the notice or responding to the notice under RCFC 40.2(b)(3)(D). If ~~a paper~~ the filing is made in paper form or by e-mail consistent with Appendix E to these rules, the clerk must file copies of the notice in all of the indirectly related cases.

(C) Service. A party must serve the Notice of Indirectly Related Case(s) on all parties in the related cases.

(D) Responding. Any response to the notice must be filed in the earliest-filed case within 21 days after service of the notice and must be served on all parties in the related cases. Counsel must also file copies of the response in all of the related cases. If ~~a paper~~ the filing is made in paper form or by e-mail consistent with Appendix E to these rules, the clerk must file copies of the response in all of the related cases.

(4) Treatment of Indirectly Related Cases. When a Notice of Indirectly Related Case(s) is filed, the judge in the earliest-filed case will call a meeting of all of the assigned judges to determine what action, if any, is appropriate. All parties in the related cases will be notified of the determination reached.

(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, Aug. 2, 2021, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 40.2(a)(3)(B), (b)(3)(B), and (b)(3)(D) have been amended to clarify that if the notice is filed in paper form or via e-mail consistent with Appendix E to these rules, the clerk is required to file the notice in all of the directly or indirectly related cases.

Proposed Amendment to RCFC 52.2

Rule 52.2. Remanding a Case

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(d) 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 ~~2 copies~~ a copy 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, Aug. 3, 2015, Aug. 1, 2017, July 2, 2018, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 52.2(d) has been amended to eliminate the 2-copy requirement for the filing of the agency's final decision or other action taken.

Proposed Amendment to RCFC 58.1

Rule 58.1. Notice of Appeal

To appeal a decision of this court, a party must:

- (a) ~~except in an electronic case under Appendix E, file an original and 2 copies of the~~ notice of appeal with the clerk within the time and in the manner prescribed for appeals in Rule 3 of the Federal Rules of Appellate Procedure; and
- (b) pay the fee prescribed in 28 U.S.C. §§ 1913 and 1917.

(As revised and reissued May 1, 2002; as amended Nov. 3, 2008, July 2, 2012, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

RCFC 58.1 has been amended to eliminate the 2-copy requirement for the filing of a notice of appeal.

Proposed Amendments to Vaccine Rule 2

Rule 2. Commencing an Action

(a) **In General.** A proceeding for compensation under the Vaccine Act is commenced by filing a petition with the United States Court of Federal Claims. Only one petition may be filed with respect to each administration of a vaccine.

(b) **Method of Filing; Filing Fee; Copies; Signature; Cover Sheet**

(1) **Paper Form.** Petitioner must forward ~~an original and 2 copies~~ one copy of the petition, ~~attaching including an original signature and a completed cover sheet to the original (shown in Form 2 of the~~ Appendix of Forms), ~~along with the required filing fee, Form 2),~~ 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 or may be obtained by contacting the clerk's office.

(2) **Electronic Form.** If petitioner is not appearing pro se pursuant to Vaccine Rule 14, petitioner may file the petition, along with a completed cover sheet, electronically in the court's electronic-filing system in compliance with the Supplement to the Vaccine Rules.

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(e) **Service.**

(1) The petition must include a certificate of service in accordance with RCFC 5.3 stating that one copy of the petition and accompanying documents has been served on the Secretary of Health and Human Services, ~~by first class or certified mail, to. The petition may be served either:~~

(A) by first class or certified mail, to:

Secretary, Health and Human
- Services

Director, Division of Injury
- Compensation Programs
Health Resources and
- Services Administration
National Vaccine Injury
- Compensation Program (VICP)
5600 Fishers Lane, 08N146B
Rockville, MD 20857-; or

(B) electronically (see <https://www.hrsa.gov/vaccine-compensation/index.html>).

(2) The clerk must serve one copy of the petition and accompanying documents on the Attorney General.

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(As revised and reissued May 1, 2002; as amended Sept. 15, 2003, Aug. 2, 2005, July 13, 2009, July 15, 2011, Aug. 3, 2015, Aug. 1, 2016, Aug. 1, 2017, July 1, 2019, Aug. 2, 2021, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

Rule 2. Paragraph (b)(1) has been amended to eliminate the 2-copy requirement for the filing of a petition in paper form, and paragraph (b)(2) has been amended to clarify that petitions filed electronically must include a cover sheet.

Subdivision (e) has been amended to permit electronic service of petitions on the Secretary for Health and Human Services.

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Proposed Amendments to Vaccine Rule 13

Rule 13. Attorney's Fees and Costs

(a) **In General.** Any request for attorney's fees and costs pursuant to 42 U.S.C. § 300aa-15(e) must be filed no later than 180 days after the entry of judgment or the filing of an order concluding proceedings under Vaccine Rule 10(d)(3) or 29, unless otherwise ordered. A timely motion for enlargement of time may be sought pursuant to Vaccine Rule 19. A motion for enlargement of time to file a request for attorney's fees and costs is timely if filed within 180 days following the entry of judgment or the filing of an order concluding proceedings.

(1) Contents of the Request. Petitioner must include any and all materials necessary to substantiate the request, including, but not limited to, the contents specified in the Second Supplement to Appendix B. Failure to include complete documentation in support of the request may result in the denial, or reduction in amount, of an attorney's fees and costs award.

(2) Untimely Request. Absent compelling circumstances, an untimely request for attorney's fees and costs may result in the denial, or reduction in amount, of an attorney's fees and costs award.

(3) Response and Reply. Respondent may file a response and petitioner may file a reply pursuant to Vaccine Rule 20. The failure of respondent to identify with particularity any objection to a request for attorney's fees and costs may be taken into consideration by the special master in the decision.

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(As revised and reissued May 1, 2002; as amended Aug. 2, 2005, July 13, 2009, July 31, 2023.)

Rules Committee Notes

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Rule 13. Subdivision (a) has been amended to explicitly permit the filing of a timely motion for enlargement of time to file a request for attorney's fees and costs.

New paragraph (a)(1) has been added to require that the contents of the request include complete documentation, and to put petitioner on notice that failure to provide complete documentation may result in the denial of an attorney's fees and costs motion or a reduction in the amount awarded.

New paragraph (a)(2) has been added to put petitioner on notice that an untimely attorney's fees and costs request may be denied in full or result in a reduction in the amount awarded.

New paragraph (a)(3) has been added to explicitly permit the filing of a response and reply to a request for attorney's fees and costs, and to put respondent on notice that a failure to identify any objection with particularity may be considered by the special master in the decision.

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Proposed Amendments to Vaccine Rule 17

Rule 17. Serving and Filing Papers After the Petition

(a) Serving a Document.

- (1) **In General.** A copy of every document filed with the clerk must be served on opposing counsel or the opposing unrepresented party.
- (2) **Certificate of Service.** A certificate of service in accordance with RCFC 5.3 must be appended to the original document ~~and any copies thereof~~ filed within a reasonable time after service.

(b) Filing a Document.

- (1) **In General.** All pleadings and other papers required under the Vaccine Rules or by order of the special master or the court must be brought to the attention of the special master or the court through formal filings with the clerk rather than through correspondence.
- (2) **Nonelectronic Filing.** A paper not filed electronically is filed by delivering it to the clerk at the address provided in Vaccine Rule 2.
- (3) **Electronic Filing and Signing.**

(A) **By a Represented Person—Generally Required; Exceptions.** A person represented by an attorney must file electronically in the court's electronic-filing system, unless non-electronic filing is allowed by the court for good cause or is otherwise allowed under the Supplement to the Vaccine Rules.

(B) **By an Unrepresented Person—~~When Allowed or Required.~~** A person not represented by an attorney may file electronically by e-mail consistent with the Supplement to the Vaccine Rules.

- ~~(i) may file electronically only if allowed by court order; and~~
- ~~(ii) may be required to file electronically only by a court order.~~

(C) **Signing.** A filing made through a person's electronic-filing account and authorized by that person, together with that person's name on a signature block, constitutes the person's signature.

(D) **Same as a Written Paper.** A paper filed electronically is a written paper for purposes of these rules.

(4) Filing Defined.

(A) **Paper Form.** A document in paper form is filed when it is received and marked filed by the clerk, not when mailed.

(B) **Electronic Form.** A document in electronic form is filed on the date stated in the "Notice of Electronic Filing."

(c) **Date.** Each filing must bear on the signature page the date on which it is signed.

(d) **Number of Copies.** Except ~~in an~~ for electronic case filings under the Supplement to ~~these rules~~ the Vaccine Rules, for every filing, a party must file one copy that includes an original and 2 copies of each paper filed with the clerk, although for a filing of 50 pages or more, an original and 1 copy will suffice. signature.

(As revised and reissued May 1, 2002; as amended July 13, 2009, July 15, 2011, July 1, 2019, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

Rule 17. Paragraph (a)(2) has been amended to permit the filing of a certificate of service within a reasonable time after service, as described in RCFC 5.3(b).

Paragraph (b)(3) has been amended to clarify that a person represented by an attorney must file electronically in the court's electronic-filing system, and a person not represented by an attorney may file electronically via e-mail

consistent with the Supplement to the Vaccine Rules.

Subdivision (d) has been amended to eliminate the 2-copy requirement for filings that follow a petition.

Proposed Amendment to Vaccine Rule 19

Rule 19. Computing and Extending Time

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(b) Extending Time.

(1) *In General.* The special master or the court may grant a motion for an enlargement of time for good cause shown except when such an extension is prohibited by these rules.

(2) *Contents of a Motion for Enlargement.*

A motion for an enlargement of time must set forth:

- (A) the specific number of additional days requested;
- (B) the date to which the enlargement is to run;
- (C) the total number of days granted in any previously filed motions for enlargement; and
- (D) the reason for the enlargement.

~~(3) *Communication With Opposing Counsel.* Prior to filing a motion for enlargement, the moving party must make a reasonable effort to discuss the motion with opposing counsel and must indicate in the motion whether an opposition will be filed, or, if opposing counsel cannot be consulted, an explanation of the efforts that were made to do so.~~

(c) Additional Time After Service By Mail.

When a party may or must act within a specified time after service and service is made by mail, 3 days are added to the prescribed period, unless the special master or the court orders otherwise.

(As revised and reissued May 1, 2002; as amended Jan. 11, 2010, July 31, 2023.)

Rules Committee Notes

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Rule 19. Paragraph (b)(3), requiring counsel for the moving party to communicate with opposing counsel before filing a motion for enlargement, has been deleted in light of the addition of subdivision (d) to Vaccine Rule 20.

Proposed Amendment to Vaccine Rule 20

Rule 20. Motions and Other Papers; Time for Filing; Oral Argument

* * *

(d) Duty to Confer on Nondispositive Motions.

(1) In General. Before filing any nondispositive motion, counsel for the moving party must make a reasonable and good faith effort to discuss the anticipated motion with opposing counsel to determine whether there is any opposition to the relief sought and, if there is, to narrow the areas of disagreement. The duty to confer also applies to nonincarcerated parties appearing *pro se*.

(2) Contents. The motion must:

- (A) include a certification that the movant has in good faith conferred or attempted to confer with opposing counsel; and
- (B) state whether the motion is opposed or, if opposing counsel cannot be consulted, include an explanation of the efforts that were made to do so.

(As revised and reissued May 1, 2002; as amended July 13, 2009, July 31, 2023.)

Rules Committee Notes

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2023 Amendment

Rule 20. Subdivision (d) has been added to require that in every case initiated by a nonincarcerated petitioner, a party seeking to file a nondispositive motion must first meet and confer with the opposing party.

APPENDIX E
ELECTRONIC ~~CASE FILING PROCEDURE~~
PROCEDURES

I. INTRODUCTION

1. **In General.** This Appendix sets forth the procedures governing electronic filings ~~in the United States Court of Federal Claims. A Case Management/Electronic Case Files (CM/ECF) User Manual is available on the court's website—www.usecf.uscourts.gov.~~ For procedures governing electronic filings in Vaccine Act cases, see Appendix B to these rules (“Vaccine Rules of the United States Court of Federal Claims”), Supplement (“Electronic ~~Case—Filing Procedure~~Procedures in Vaccine Act Cases”).

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

- (a) “ECF System” means the court’s online system for electronic case filing;
- (b) “ECF case” means anya case designated by the ~~court~~clerk as an electronic case in which all filings in the case are made via the ECF System;
- ~~(c)~~ “Non-ECF case” means a case designated by the clerk as a pro se case in which the pro se litigant has not been granted access to file documents electronically in the ECF System;
- (d) “Filing User” means an individual to whom the court has granted access to file documents electronically ~~via~~ the ECF System;
- ~~(d)~~ “filing” means any document that is filed electronically ~~via~~ the ECF System or via e-mail by a pro se litigant; and
- ~~(e)~~ “court” means the assigned judge or, wherewhen appropriate, the assigned special master.

II. ~~ELECTRONIC CASE~~
DESIGNATION AND NOTICE

3. **Scope.**

(a) **Newly Filed Cases.**

- (i) **In General.** All newly filed cases will be designated ECF cases except ~~for~~ cases involving pro se litigants.

(ii) **Pro Se Cases.** All newly filed pro se cases will be designated non-ECF cases.

(b) **Converted Cases.** The court may grant a pro se litigant access to file documents electronically via the ECF System, and thereby convert a pending non-ECF case ~~to~~into an electronicECF case ~~at any time.~~

4. **Notice ~~to Counsel.~~** The clerk will notify counsel and pro se litigants that a case has been designated an ECF case or a non-ECF case by filing a “Notice of Designation.”

III. ACCESS TO FILE DOCUMENTS VIA
THE ECF SYSTEM; RESPONSIBILITY OF
FILING USERS; EXEMPTION FROM USE

5. **Access.**

(a) **Applications.** Applications for access to file documents electronically ~~via~~ the ECF System are submitted through PACER (Public Access to Court Electronic Records) at www.pacer.gov, and will be granted to:

- (i) an attorney who is admitted to the bar of this court; and
- (ii) ~~an individual who is not represented by an attorney~~ pro se litigant only if allowed or so required by court order.

(b) **Notification.** The ~~court~~clerk will notify a Filing User when access to file via the ECF System has been granted.

6. **Use of ~~Electronic Filing~~ECF Account.** No Filing User or other person may knowingly permit or cause a Filing User’s login 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 ~~in an ECF Case.~~** By filing an appropriate motion, ~~an individual~~ a Filing User or an attorney not yet

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registered as a Filing User may, for good cause, seek to be exempted from filing documents electronically in an ECF case, and to convert the case into a non-ECF case.

IV. FILING REQUIREMENTS IN NON-ECF CASES

8. Case Initiating Documents. Complaints and petitions, along with the required filing fee or an application to proceed *in forma pauperis*, must be submitted in paper form in compliance with RCFC 5.5 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.usfc.uscourts.gov or may be obtained from the clerk's office.

9. Filings in Pending Non-ECF Cases.

(a) ECF Filings. The court, the clerk, and counsel of record for the United States must file via the ECF System in Non-ECF cases.

(b) Filings by Pro Se Litigants.

(i) In General. *Pro se* litigants may submit case filings in paper form or via e-mail to ProSe_case_filings@cfc.uscourts.gov. All filings must conform to the format requirements of RCFC 5.5.

(ii) Format of Filings via E-Mail.

(A) All documents submitted via e-mail must be attached to the e-mail in Portable Document Format ("PDF"). The e-mail subject line must include the case name and docket number for which the submission is intended.

(B) Each e-mail submission must be limited to a document that is clearly identified as a filing pursuant to a court rule or in response to a court order.

(C) Only the contents of the attached PDF file will be considered part of the submission and processed

by the clerk. Any content in the body of the e-mail will not be reviewed by the clerk or considered for inclusion in the case record.

(D) If a document, including exhibits and attachments, exceeds 50 pages when printed, the *pro se* litigant must supply a courtesy copy of the document in paper form in accordance with RCFC 5.5(c), unless otherwise ordered by the court.

(iii) Signatures on Filings via E-Mail.

(A) To satisfy the signature requirements of RCFC 11, e-mailed submissions must include either a written or an electronic signature (s/[name of *pro se* litigant]).

(B) *Pro se* litigants may not file documents via e-mail on behalf of any other person.

(iv) Revocation of E-Mail Filing Privileges. E-mail filing privileges may be revoked by the court at any time.

V. FILING REQUIREMENTS IN ECF CASES

10. Filings.

(a) Initial Filings. Initial papers, including the complaint, may be filed in paper or electronic form or via the ECF System in accordance with the format requirements of RCFC 5.5.

(b) Subsequent Filings. Once a case has been designated an ECF case, all subsequent filings must be made electronically via the ECF System, except as provided in this Appendix or by leave of the court in exceptional circumstances that prevent a Filing User from filing electronically via the ECF System.

(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 via the ECF System

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along with the main document under one entry number;

- (ii) must include only those excerpts of the referenced exhibit or attachment that are directly germane to the matter under consideration by the court;
- (iii) must clearly and prominently identify the excerpted material; and
- (iv) may seek leave to file additional excerpts or the complete document.

911. Technical Requirements

(a) Format.

(i) In General.

~~Electronically Documents~~ filed ~~documents via the ECF System~~ must be:

- (A) converted ~~to Portable Document Format (into PDF);~~; and
- (B) text searchable.

The ECF ~~system~~ System will not accept PDF ~~documents~~ files containing tracking tags, embedded system commands, password protections, access restrictions, or other security features, special tags, or dynamic features.

(ii) Scanned Documents.

- (A) ~~Electronically Documents~~ filed ~~documents should via the ECF System must~~ not be scanned prior to filing unless the original documents are unavailable in electronic form.
- (B) A Filing User is responsible for ensuring the accuracy and readability of a scanned document.

(b) Size Limitations

- (i) **In General.** A single filing may be divided into multiple PDF files.
- (ii) **Number of Files.** Counsel must endeavor to limit the total number of PDF files that constitute a single filing, particularly when filing appendices and administrative records.
- (iii) **Size of Files.**
 - (A) Unless otherwise ordered by the court, each PDF file must not

exceed the size limitation established by the court.

- (B) The current size limitation is posted on the court's website or may be obtained by calling the clerk's office.

~~(iv) Exceeding the Size Limitation. For files that exceed the size limitation, the Filing User must seek appropriate relief from the court, which may, for example, authorize a filing in some other electronic format (e.g., a portable storage disc or drive) or in paper form.~~

- (c) **Events.** Events are used in the ECF System for filing documents and creating docket entries on the docket sheet. A Filing User:

- (i) must select an event or events for each filed document based on the purpose of the document or relief requested; and
- (ii) should use the most specific event available rather than a more generic event.

- (d) **Linking Filings.** ~~An electronically filed~~ A document filed via the ECF System—such as a response or reply—that pertains to a motion or other filing must be linked properly in the ECF System to the filing to which it pertains.

1012. Courtesy Copies in Paper Form.

Unless otherwise ordered by the court, if a document, including exhibits and attachments, exceeds 50 pages when printed, the Filing User must supply chambers with a courtesy copy of the document in paper form in accordance with RCFC 5.5(c). The court may order the parties to supply courtesy copies in paper form of any ~~ECF~~ filing in the ECF System.

~~113. Filing Under Seal. In all cases except cases filed under the National Vaccine Injury Compensation Program~~ Unless otherwise provided in these rules or by court order, a party:

- (a) must seek leave of the court to file ~~documents electronically~~ a document under seal via the ECF System; and
- (b) may ~~not attach concurrently file~~ the documents to be filed document under seal as a separate entry. The document will remain under seal unless and until

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~~the court denies the motion for leave but rather may file the documents electronically only after the motion is granted.~~

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VI. FILING PROCEDURES

14. Notice of Filing; Service.

(a) ECF Cases.

(i) 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.

(bii) 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. (b) Non-ECF Cases.

(i) Notification of Filings. A *pro se* litigant may consent to receive notice of all filings via e-mail by filing an E-Notification Consent Form in each active case before the court (see Appendix of Forms, Form 15A).

(ii) Service.

(A) Service by *Pro Se* Litigants. A *pro se* litigant filing in paper form or via e-mail need not separately serve his or her filings on opposing counsel. Opposing counsel will be served when a filing is entered by the clerk in the ECF System.

(B) Service by E-Mail on *Pro Se* Litigants.

If a *pro se* litigant has filed an E-Notification Consent Form:

(I) the *pro se* litigant consents to having his or her e-mail address entered into the ECF System to receive notice of electronic filings;

(II) 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;

(III) the *pro se* litigant must be registered with PACER at www.pacer.gov to view electronic filings; and

(IV) the *pro se* litigant waives service by first class mail.

(C) Service by First Class Mail on

Pro Se Litigants. If a *pro se* litigant has not consented to electronic service by filing an E-Notification Consent Form:

(I) the clerk will serve the litigant with all court-issued filings by first class mail; and

(II) opposing counsel must serve the litigant with all of opposing counsel’s filings in a manner listed in RCFC 5(b) and attach to each filing, or file within a reasonable time after service, a certificate of service pursuant to RCFC 5(d)(1)(B).

15. Effect of Filing and Transmission of Notice of Filing.

(a) ECF Cases. A filing by a party under this Appendix via the ECF System, 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. (b) Non-ECF Cases. A document submitted by a *pro se* litigant via e-mail or in paper form constitutes a filing under RCFC 5 once entered by the clerk in the ECF System.

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

15.17. Date of Filing. Except in the case of a document first filed in paper form and subsequently converted to an ECF filing, a

(a) ECF Cases. A document filed in an ECF case is deemed filed on the date and time

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stated in the "Notice of Electronic Filing."

(b) Non-ECF Cases. A document submitted by a pro se litigant via e-mail or in paper form is deemed filed on the date and time received by the clerk or, if not in compliance with the court's rules, on the date and time filed by leave of the judge or special master.

18.16. Timeliness of Filing. Unless otherwise ordered by the court, ~~an electronic~~ filing under this Appendix must be submitted before midnight local time in Washington, DC, to be considered timely filed on that date.

1719. Date Stamp. The filing date of each filing in the ECF System 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.

VII. VI. SIGNATURES AND RELATED MATTERS IN ECF CASES

1820. Signature Defined. A Filing User's login and password will serve as his or her signature on a filing for all purposes, including those under RCFC 11.

1921. 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 login 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.

2022. Signatures of Multiple Parties. Documents requiring signatures of more than one party may be filed electronically via the ECF System:

(a) by submitting a scanned document containing all necessary written signatures; or

(b) by submitting a document containing an electronic signature for each party ("s/[name of party]") and the filing attorney's representation that the other parties have reviewed the document and consent to its filing.

VIII. VII. COURT ORDERS, JUDGMENTS, AND APPEALS

2123. 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 Appendix.

2224. Effect of Filing. A filing by the court under this Appendix:

- (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.

2325. 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)~~ 14 of this Appendix.

(b) Service. ~~The transmission of a filing by the "Notice of Electronic Filing" satisfies the service requirement of RCFC 77(d); this Appendix.~~ Service of a filing by the court will be accomplished in a manner prescribed in paragraph 14 of Electronic Filing.

2426. 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.

2527. Notice of Appeal. A notice of appeal to the United States Court of Appeals for the Federal Circuit ~~must be filed in the traditional manner in accordance with the court's rules or;~~

(a) may be filed electronically ~~in any~~ via the ECF ~~case~~ System by a Filing User; but

(b) should be filed in paper form, along with the required filing fee, by a *pro se* litigant

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who has not been granted access to file via the ECF System.

~~IX. VIII.~~—PRIVACY

2628. Personal Information.

- (a) **In General.** Filing Users Counsel and pro se litigants are advised that any personal information in a filing that is not otherwise protected will be available over the Internet through PACER.
- (b) **Including Personal Information in a Filing.** In compliance with the E-Government Act of 2002, Filing Users Counsel and pro se litigants should not include personal information in any filing unless such inclusion is necessary and relevant to the filing.
- (c) **Excluding or Redacting Personal Information in a Filing.** The following personal identifiers should be excluded, or redacted when inclusion is necessary, from all filings, unless otherwise ordered by the court:
- (i) Social Security or taxpayer-identification numbers—if an individual’s Social Security number or a taxpayer’s identification number must be included in a filing, only the last four digits of the number should be used;
 - (ii) names of minor children—if the name of a minor child must be mentioned in a filing, only the initials of the child should be used;
 - (iii) dates of birth—if an individual’s date of birth must be included in a filing, only the year should be used; and
 - (iv) financial account numbers—if a financial account number is relevant to a filing, only the last four digits of the number should be used.
- (d) **Using Caution When Including Other Sensitive Information.** Filing users Counsel and pro se litigants should exercise caution when filing documents containing:
- (i) a personal identifying number, such as a driver’s license number;
 - (ii) medical records;
 - (iii) employment history;

- (iv) individual financial information; or
- (v) proprietary or trade secret information.

2729. Deciding When to Include, Redact, or Exclude Personal Information. Counsel are strongly urged to discuss with all clients the use of personal information so that an informed decision about including, redacting, or excluding such information may be made.

2830. Responsibility to Protect Personal Information. It is the sole responsibility of counsel and the parties to protect any personal information included in a filing; the clerk’s office will not review filings to ensure that personal information has been adequately protected.

~~IX. RETENTION, X. PUBLIC ACCESS; TECHNICAL FAILURE, PUBLIC ACCESS, AND; HYPERLINKS~~

~~**31. Reviewing Filings.** The public may review filings in the clerk’s office. A person may also access filings in the ECF System by obtaining a PACER login and password (see www.pacer.gov).~~

~~**29. 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.~~

~~**3032. Technical Failure of the ECF System.**~~
(a) Relief by Motion. If a filing via the ECF System 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.

~~**31. Reviewing Filings.** The public may review filings in the clerk’s office. A person may also access filings in the ECF System by obtaining a PACER login and password (see www.pacer.gov).~~

~~**3233. Hyperlinks.**~~

- (a) **Type.** Filings via the ECF System may contain the following types of hyperlinks:
- (i) hyperlinks to other portions of the same document;
 - (ii) hyperlinks to documents already filed in the court’s ECF System; and
 - (iii) hyperlinks to a location on the Internet that contains a source document for a citation.
- (b) **Cited Authority.** Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document.
- (c) **Limitation.** Neither a hyperlink, nor any site to which it refers, ~~shall~~will be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document. If a party wishes to make any hyperlinked material part of the record, the party must include the material as an attachment to the filing.
- (d) **Disclaimer.** The court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked. The court accepts no responsibility for the availability or functionality of any hyperlink.

Rules Committee Notes

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2023 Amendment

Appendix E has been amended to require the court, the clerk, and counsel of record for the United States to file via the ECF System in non-ECF cases, and to provide *pro se* litigants with alternative means of submitting filings and receiving notice of filings electronically.

In addition, Paragraph 13 (“Filing Under Seal”) has been amended to allow exceptions to this rule beyond Vaccine Act cases.

Paragraph 28 has also been amended to clarify that taxpayer-identification numbers should be excluded, or redacted when inclusion is necessary, in all publicly available filings unless otherwise ordered.

SUPPLEMENT TO APPENDIX B
ELECTRONIC ~~CASE-FILING PROCEDURE~~PROCEDURES
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 www.usefc.uscourts.gov.~~

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

- (a) "ECF System" means the court's online system for electronic case filing;
- (b) "ECF case" means ~~any~~ Vaccine Act case designated by the ~~court clerk~~ as an electronic case in which all filings in the case are made via the ECF System;
- ~~(c)~~ "Non-ECF case" means a Vaccine Act case designated by the clerk as a pro se case in which the pro se litigant cannot be granted access to file documents electronically via the ECF System;
- ~~(d)~~ "Filing User" means an individual to whom the court has granted access to file documents electronically in via the ECF System;
- ~~(e)~~ "filing" means any document that is filed electronically in via the ECF System or via e-mail by a pro se litigant; and
- ~~(f)~~ "court" means the assigned judge or the assigned special master.

II. ELECTRONIC-CASE DESIGNATION AND NOTICE

3. **Scope.**

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

4. **Notice to Counsel.** The clerk will notify counsel and pro se litigants that a Vaccine Act case has been designated an ECF case or a non-ECF case by filing a "Notice of Designation."

III. ACCESS TO FILE DOCUMENTS VIA THE ECF SYSTEM; RESPONSIBILITY OF FILING USERS; EXEMPTION FROM USE

5. **Access.**

- (a) **Applications.** Applications for access to file documents electronically in via the ECF ~~Systems~~System are submitted through PACER

(Public Access to Court Electronic Records) at www.pacer.gov, and will be granted to: an attorney who is admitted to the bar of this court. Because of the restricted nature of Vaccine Act cases, pro se litigants cannot be granted access to file documents electronically via the ECF System.

- ~~(i) an attorney who is admitted to the bar of this court; and~~
- ~~(ii) an individual who is not represented by an attorney only if allowed or so required by court order.~~

- (b) **Notification.** The ~~court clerk~~ will notify a Filing User when access to file via the ECF System has been granted.

6. **Use of ~~Electronic Filing~~ECF Account.** No Filing User or other person may knowingly permit or cause a Filing User's login 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- in an ECF Case.** By filing an appropriate motion, ~~an individual~~a Filing User or an attorney not yet registered as a Filing User may, for good cause, seek to be exempted from filing documents electronically ~~in an~~into an ECF case and to convert the case into a non-ECF case.

IV. FILING REQUIREMENTS IN NON-ECF CASES

~~8.~~**8. Case Initiating Documents.**

- (a) **In General.** Vaccine Act petitions, along

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with the required filing fee or an application to proceed *in forma pauperis*, and any attachments required under Vaccine Rule 2(c)(2), must be submitted in paper form in compliance with RCFC 5.5 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.usfc.uscourts.gov or may be obtained from the clerk's office.

(b) Service. Vaccine Act petitions must include a certificate of service indicating that one copy of the petition and accompanying documents has been served on the Secretary of Health and Human Services pursuant to Vaccine Rule 2(e)(1). For electronic service, visit the court's website at www.usfc.uscourts.gov.

9. Filings in Pending Non-ECF Cases.

(a) ECF Filings. The court, the clerk, and counsel of record for the United States must file via the ECF System in Non-ECF cases.

(b) Filings by Pro Se Litigants.

(i) In General. Pro se litigants may submit case filings in paper form or via e-mail to ProSe_case_filings@efc.uscourts.gov. All filings must conform to the format requirements of RCFC 5.5.

(ii) Format of Filings via E-Mail.

(A) All documents submitted via e-mail must be attached to the e-mail in Portable Document Format ("PDF"). The e-mail subject line must include the case name and docket number for which the submission is intended.

(B) Each e-mail submission must be limited to a document that is clearly identified as a filing pursuant to a court rule or in response to a court order.

(C) Only the contents of the attached PDF file will be considered part of the submission and processed by the clerk. Any content in the body

of the e-mail will not be reviewed by the clerk or considered for inclusion in the case record.

(D) If a document, including exhibits and attachments, exceeds 50 pages when printed, the pro se litigant must supply a courtesy copy of the document in paper form in accordance with RCFC 5.5(c), unless otherwise ordered by the court.

(iii) Signatures on Filings via E-Mail.

(A) To satisfy the signature requirements of RCFC 11, e-mailed submissions must include either a written or an electronic signature (s/[name of pro se litigant]).

(B) Pro se litigants may not file documents via e-mail on behalf of any other person.

(iv) Revocation of E-Mail Filing Privileges. E-mail filing privileges may be revoked by the court at any time.

V. FILING REQUIREMENTS IN ECF CASES

10. 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 13 of this Supplement, discussing the alternative method of filing voluminous medical records via a portable storage disc or drive.)

(b) Subsequent Filings. Once a case has been designated an ECF case, all subsequent filings must be made electronically via the ECF System, except as provided in this Supplement or by leave of the court in exceptional circumstances that prevent a

Filing User from filing electronically via the ECF System.

- (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 via the ECF System 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.

911. Technical Requirements.

(a) **Format.**

- (i) **In General.** Electronically Documents filed documents via the ECF System must be:

- (A) converted ~~to Portable Document Format (into PDF)~~; and
- (B) text searchable.

The ECF ~~system~~ System will not accept PDF ~~documents~~ files containing tracking tags, embedded system commands, password protections, access restrictions, or other security features, special tags, or dynamic features.

(ii) **Scanned Documents.**

- (A) Electronically Documents filed ~~documents should via the ECF System must~~ not be scanned prior to filing unless the original documents are unavailable in electronic form.
- (B) A Filing User is responsible for ensuring the accuracy and readability of a scanned document.

(b) **Size Limitations.**

- (i) **In General.** A single filing may be divided into multiple PDF files.
- (ii) **Number of Files.** Counsel must endeavor to limit the total number of PDF files that constitute a single filing. All files, however, must comply with the requirements of paragraph ~~4012~~ 4012(a) below.
- (iii) **Size of Files.**

- (A) Unless otherwise ordered by the court, each PDF file must not exceed the size limitation established by the court.

- (B) The current size limitation is posted on the court's website or may be obtained by calling the clerk's office.

(iv) **Exceeding the Size Limitation.** For files that exceed the size limitation and cannot be divided into multiple PDF files, the Filing User may:

- (A) use a portable storage disc or drive; or
- (B) seek leave of the court to file in some other electronic format.

(c) **Events.** Events are used in the ECF System for filing documents and creating docket entries on the docket sheet. A Filing User:

- (i) must select an event or events for each filed document based on the purpose of the document or relief requested; and
- (ii) should use the most specific event available rather than a more generic event.

(d) **Linking Filings.** An electronically filed A document filed via the ECF System—such as a response or reply—that pertains to a motion or other filing must be linked properly in the ECF System to the filing to which it pertains.

~~4012.~~ **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.”

13. Filings Via Portable Storage Discs and Drives.

- (a) **In General.** Filing documents on a portable storage disc or drive is accomplished by:
- (i) ~~electronically~~ filing via the ECF System a “Notice of Intent to File” containing:
 - (A) an index of the exhibits included on the disc or drive;
 - (B) a statement certifying that the contents of the disc or drive have been scanned using anti-virus software with up-to-date anti-virus definitions; and
 - (C) a certificate stating when copies of the disc or drive were mailed or delivered to the clerk’s office;
 - (ii) providing the clerk’s office with ~~two~~ one copy of the disc or drive along with a printed copy of the “Notice of Intent to File”; and
 - (iii) serving one copy of the disc or drive on opposing counsel.
- (b) **Date of Filing.** The disc or drive is deemed filed on the date it is received in the clerk’s office.
- (c) **Striking a Notice of Intent to File.** If the disc or drive is not received in the clerk’s office within 5 days after the “Notice of Intent to File” is ~~electronically~~ docketed via the ECF System, 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 or drive 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 or drive might be labeled “EX01_University_Hospital_98-0000.pdf.”

- (e) **Format.** Before filing a disc or drive, the Filing User should:
- (i) “close” or finalize the disc or drive so that additional material cannot be written onto the disc or drive; and
 - (ii) scan the disc or drive using appropriate anti-virus software after its creation and closure.
- (f) **Packaging and Labeling.** The Filing User should package the disc or drive 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 or drive contains (e.g., Exhibits 01-20).

VI. FILING PROCEDURES

14. Notice of Filing; Service.

- (a) **ECF Cases.**
- (i) **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)~~ **ii. 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(b) Non-ECF Cases.

(i) Notification of Filings. A pro se litigant may consent to receive notice of all filings via e-mail by filing an E-Notification Consent Form in each active Vaccine Act case before the court (see Appendix of Forms, Form 15B).

(ii) Service.

(A) Service by Pro Se Litigants. A pro se litigant filing in paper form or via e-mail need not separately serve his or her filings on opposing counsel. Opposing counsel will be

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served when a filing is entered by the clerk in the ECF System.

(B) Service by E-Mail on Pro Se Litigants. If a *pro se* litigant has filed an E-Notification Consent Form:

(I) the *pro se* litigant consents to having his or her e-mail address entered into the ECF System to receive notice of electronic filings;

(II) because of the restricted nature of Vaccine Act cases, to satisfy the service requirement of RCFC 5, the clerk and opposing counsel must serve the *pro se* litigant via separate e-mail with a PDF copy of each filing;

(III) to satisfy the proof of service requirement of RCFC 5.3, opposing counsel must attach to each filing, or file within a reasonable time after service, a certificate of service pursuant to RCFC 5(d)(1)(B) and Vaccine Rule 17(a)(2); and

(IV) the *pro se* litigant waives service by first class mail.

(C) Service by First Class Mail on

Pro Se Litigants. If a *pro se* litigant has not consented to electronic service by filing an E-Notification Consent Form:

(I) the clerk will serve the litigant with all court-issued filings by first class mail; and

(II) opposing counsel must serve the litigant with all of opposing counsel's filings in a manner listed in RCFC 5(b) and attach to each filing, or file within a reasonable time after service, a certificate of service pursuant to RCFC 5(d)(1)(B) and Vaccine Rule 17(a)(2).

15. Effect of Filing and Transmission of Notice of Filing.

(a) ECF Cases. A filing by a party under this Supplement via the ECF System, 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-(b) Non-ECF Cases. A document submitted

by a *pro se* litigant via e-mail or in paper form constitutes a filing under RCFC 5 once entered by the clerk in the ECF System.

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

17. Date of Filing. Except for filings on a portable storage disc or drive and in the case of a document first filed in paper form and subsequently converted to an ECF filing,

(a) ECF Cases. A document filed in an ECF case is deemed filed on the date and time stated in the "Notice of Electronic Filing."

(b) Non-ECF Cases. A document submitted by a *pro se* litigant via e-mail or in paper form is deemed filed on the date and time received by the clerk or, if not in compliance with the court's rules, on the date and time filed by leave of the judge or special master.

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

19. Date Stamp. The filing date of each filing in the ECF System 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.

VII. SIGNATURES AND RELATED MATTERS IN ECF CASES

20. Signature Defined. A Filing User's login and password will serve as his or her signature on a filing for all purposes, including those under RCFC 11.

21. 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 login and password the document is submitted along

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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.

2022. Signatures of Multiple Parties. Documents requiring signatures of more than one party may be filed electronically via the ECF System:

- (a) by submitting a scanned document containing all necessary written signatures; or
- (b) by submitting a document containing an electronic signature for each party (“s/[name of party]”) and the filing attorney’s representation that the other parties have reviewed the document and consent to its filing.

VHVIII. COURT ORDERS AND JUDGMENTS

2423. 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.

2224. 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.

2325. 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);~~ 14 of this Supplement.
- (b) **Service.** ~~The transmission~~ Service of a filing by the “Notice ~~court will be accomplished in a manner prescribed in paragraph 14 of Electronic Filing”~~ satisfies the service requirement of RCFC 77(d); ~~this Supplement.~~

2426. 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.

VHIX. PRIVACY

2527. Filings Protected Against Public Disclosure. Except as provided in Vaccine Rule 18, all filings submitted in a Vaccine Act case are restricted 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~~ the parties to the case.

2628. Personal Information. Because all filings submitted by the parties in a Vaccine Act case are restricted, ~~Filing Users~~ counsel and pro se litigants need not redact personal identifiers and other sensitive information. ~~Filing Users should file~~ All documents, including medical records, ~~should be filed~~ in their original form.

IX. RETENTION, PUBLIC ACCESS, TECHNICAL FAILURE, PUBLIC ACCESS, AND; HYPERLINKS

~~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.~~

2829. Reviewing Filings. Except as provided in Vaccine Rule 18, all filings in Vaccine Act cases are restricted pursuant to 42 U.S.C. § 300aa-12(d)(4)(A) and therefore are ~~not accessible to the public either in the clerk’s office or via the ECF System.~~

30. Technical Failure of the ECF System.

- (a) **Relief by Motion.** If a filing via the ECF System 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.

2931. Hyperlinks.

- (a) **Type.** Filings via the ECF System may contain the following types of hyperlinks:
 - (i) hyperlinks to other portions of the same document;
 - (ii) hyperlinks to documents already filed ~~via~~ the court's ECF System; and
 - (iii) hyperlinks to a location on the Internet that contains a source document for a citation.
- (b) **Cited Authority.** Hyperlinks to cited authority may not replace standard citation format. Complete citations must be included in the text of the filed document.
- (c) **Limitation.** Neither a hyperlink, nor any site to which it refers, ~~shall~~ be considered part of the record. Hyperlinks are simply convenient mechanisms for accessing material cited in a filed document. If a party wishes to make any hyperlinked material part of the record, the party must include the material as an attachment to the filing.
- (d) **Disclaimer.** The court accepts no responsibility for, and does not endorse, any product, organization, or content at any hyperlinked site, or at any site to which that site may be linked. The court accepts no responsibility for the availability or functionality of any hyperlink.

Rules Committee Notes

* * *

2023 Amendment

The Supplement to Appendix B has been amended to require the court, the clerk, and counsel of record for the United States to file via the ECF System in non-ECF cases, and to provide *pro se* litigants with alternative means of submitting filings and receiving notice of filings electronically.

**SECOND SUPPLEMENT TO APPENDIX B
ATTORNEY'S FEES AND COSTS**

1. In General.

(a) Entitlement.

(i) A petitioner awarded compensation is entitled to an award of reasonable attorney's fees and other costs as part of that compensation.

(ii) A petitioner not awarded compensation may be awarded reasonable attorney's fees and other costs if the special master or the court determines that the petition was brought in good faith and there was a reasonable basis for the claim.

(b) Request. A request for attorney's fees and other costs must conform to the requirements set forth in 42 U.S.C. § 300aa-15(e) and Vaccine Rule 13(a).

2. Attorney's Fees. The following materials are necessary to substantiate a request for attorney's fees:

(a) Billing Records. A request for attorney's fees must include contemporaneous time sheets/ attorney invoices showing how many hours were billed on a specific task, and at what hourly rate.

(i) Number of Hours.

(A) Whether hours devoted to a matter are "reasonable" is a subjective inquiry involving the nature of the work performed as well as the expertise of the professional performing the work. The special master or the court may reduce or exclude hours that are excessive, redundant, or otherwise unnecessary.

(B) Each individual task should have its own entry indicating the amount of time dedicated

to that task. Time should be billed in increments of one-tenth of an hour.

(ii) Hourly Rate.

(A) The Office of Special Masters (OSM) Forum Hourly Rate Fee Schedules can be found on the court's website. Hourly rates billed by the attorney, assuming the attorney is entitled to forum rates, should conform to the ranges listed therein.

(B) Unless requesting a rate for a new calendar year, the attorney must refrain from billing at hourly rates that have not previously been awarded. Once a reasonable rate for a year has been established, it will not be increased during the same year.

(b) Attorney Affidavit. A request for an award of attorney's fees at an hourly rate not previously awarded must be substantiated by an affidavit of the attorney which includes, but is not limited to, the years and the breadth of experience of the attorney as a member of the bar of any other jurisdictions, experience as an attorney in the Vaccine Program, and local billing rates, if applicable.

(c) Explanation of Good Faith and Reasonable Basis. If petitioner is not awarded compensation, the request for attorney's fees must address whether the statutory requirements of good faith and reasonable basis have been met, keeping in mind the following:

(i) whether a claim is brought in good faith is a subjective inquiry to be determined by the special master and the court; and

(ii) whether a claim has reasonable basis is an objective

determination, requiring reference to record evidence. Reasonable basis must exist at each stage in a case; a case that once had reasonable basis may lose that designation after further development.

3. Attorney's Costs. The following materials are required to substantiate a request for attorney's costs:

- (a) an itemized list of all costs incurred in the Vaccine Program proceeding; and
- (b) supporting documentation for each cost in the form of invoices, receipts, account statements, or any other document petitioner reasonably believes will fully substantiate the requested cost.

4. Expert Costs. If petitioner retains an individual to provide an expert opinion in the case and seeks reimbursement for this cost, the same requirements pertaining to attorney's fees in paragraph 2(a)(i) above apply. It is incumbent on petitioner to inform the expert of these requirements. The requirements include:

- (a) contemporaneous time sheets/invoices showing how many hours were billed on a specific task multiplied by a proposed hourly rate; and
- (b) any other information petitioner deems necessary to substantiate the reasonableness of the work for which reimbursement is being sought.

5. Petitioner's Personal Costs. In every case in which fees and costs are sought, petitioner must file:

- (a) a statement signed by petitioner and petitioner's attorney indicating whether petitioner has personally incurred any costs in the pursuit of petitioner's claim for compensation; and if petitioner has personally borne costs,
- (b) supporting documentation in the form of invoices, receipts, account statements, or any other document

sufficient to substantiate each requested personal cost.

6. Interim Attorney's Fees and Costs. All requirements set forth in paragraphs 2-4 above apply to requests for interim attorney's fees and costs. Interim attorney's fees and costs may be awarded at the discretion of the special master or the court, based on factors including, but not limited to, the duration of the litigation, the stage of the litigation, the fees and costs already incurred by petitioner, and whether nonpayment of fees and costs at this stage of litigation would pose an undue hardship to petitioner and petitioner's attorney. It is incumbent on a petitioner to include any relevant information necessary for the special master or the court to determine whether an interim award is appropriate under the specific circumstances of the case.

Rules Committee Notes 2023 Adoption

The Second Supplement to the Vaccine Rules sets forth the necessary materials to substantiate a request for attorney's fees and costs. This Second Supplement is intended to provide for the expedited review and award of attorney's fees and costs in Vaccine Act cases by setting forth all required documentation and preventing the necessity of multiple filings.

**FORM 15A
E-NOTIFICATION CONSENT FORM**

In the United States Court of Federal Claims

_____)	
_____ ,)	
Plaintiff,)	
)	No. _____
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	
_____)	

E-NOTIFICATION CONSENT FORM

The undersigned pro se plaintiff in the above-identified case:

- Consents to receiving notice by e-mail via the court’s electronic filing system of all electronic filings in the above-identified case, pursuant to Rule 5(b) of the Rules of the United States Court of Federal Claims.

- Waives service and notice by first class mail of all electronic filings in the above-identified case, including orders and judgments.

- Must be registered with PACER to view electronic filings in the above-identified case.

- Is responsible for immediately notifying the court in writing of any change of e-mail address.

The Clerk of Court is authorized to add plaintiff’s e-mail address identified below to the court’s electronic filing system. Plaintiff will submit all case filings via e-mail to ProSe_case_filings@cfc.uscourts.gov, through the U.S. Mail, or by deposit in the court’s night box located at the garage entrance on H Street NW, between 15th Street and Madison Place.

(Signature of Plaintiff)

(E-mail Address)

(Date)

**FORM 15B
VACCINE E-NOTIFICATION CONSENT FORM**

**In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS**

_____)	
_____ ,)	
Petitioner,)	
)	No. _____
v.)	
)	
SECRETARY OF HEALTH AND)	
HUMAN SERVICES,)	
)	
Respondent.)	
_____)	

E-NOTIFICATION CONSENT FORM

The undersigned pro se petitioner in the above-identified case:

- Consents to receiving notice by e-mail via the court’s electronic filing system of all electronic filings in the above-identified case.
- Consents to service by e-mail, pursuant to Rule 5(b) of the Rules of the United States Court of Federal Claims.
- Waives service and notice by first class mail of all electronic filings in the above-identified case, including orders and judgments.
- Is responsible for immediately notifying the court in writing of any change of e-mail address.

The Clerk of Court is authorized to add petitioner’s e-mail address identified below to the court’s electronic filing system. Petitioner will submit all case filings via e-mail to ProSe_case_filings@cfc.uscourts.gov, through the U.S. Mail, or by deposit in the court’s night box located at the garage entrance on H Street NW, between 15th Street and Madison Place.

	—
	(Signature of Petitioner)
	(E-mail Address)
	(Date)