

UNITED STATES COURT OF APPEALS FOR VETERANS CLAIMS

MISC. NO. 06-16

IN RE: RULES OF PRACTICE AND PROCEDURE

ORDER

Pursuant to the authority of 38 U.S.C. §§ 7263(b) and 7264(a) and consistent with 28 U.S.C. § 2071(b), the Court has revised Rules 1, 25, 32, and 45 and related E-Rules 1, 2, 3, 5, 6, 10, 11, and 13 of its Rules of Practice and Procedure. The revisions, *inter alia*, provide for broader use of email for submission of documents by self-represented appellants, permit self-represented appellants to submit briefs by facsimile, and remove the option for self-represented filers to use the CM/ECF filing system. The proposed revisions were published for public comment by Misc. No. 05-16 (March 9, 2016). No public comments were received. As noted in Misc. No. 05-16, the Court has benefitted from the views of its Rules Advisory Committee. Accordingly, it is

ORDERED that the attached revisions to the Court's Rules of Practice and Procedure and E-Rules are hereby published and are effective this date. Also attached, for reference, are the revised rules with changes shown.

DATED: July 18, 2016

FOR THE COURT:

/s/Gregory O. Block
GREGORY O. BLOCK
Clerk of the Court

Attachments

Revised Rules
Revised Rules with Changes Shown

ATTACHMENT TO MISCELLANEOUS ORDER NO. 06-16

REVISED RULES 1, 25, 32, AND 45 AND E-RULES 1, 2, 3, 5, 6, 10, 11, AND 13

RULE 1. SCOPE OF RULES

(a) Scope. These Rules, as supplemented by the E-Rules specifically applicable to submissions for the Case Management/Electronic Case Filing (CM/ECF) system, govern practice and procedure in the U.S. Court of Appeals for Veterans Claims (the Court), a court of national jurisdiction. The E-Rules are on our website at www.uscourts.cavc.gov.

(b) Effect on Court's Jurisdiction. Neither these Rules nor the E-Rules extend or limit the jurisdiction of the Court.

(c) CM/ECF / Non-CM/ECF Electronic Filing. Absent a waiver from the Clerk of the Court (Clerk), filing through the CM/ECF system is mandatory for all representatives (as defined by Rule 46). *See* E-Rules 2 and 3. Represented parties who have registered to participate in filing through CM/ECF are called CM/ECF Users. For CM/ECF Users, if there is any conflict between these Rules and the E-Rules, the E-Rules apply.

Self-represented parties and others exempted by the Court from filing through CM/ECF are called Non-CM/ECF Users. Non-CM/ECF Users may submit documents electronically by email or facsimile, if properly formatted. *See* Rule 25(b)(3) (Method and Timeliness). Where applicable in these Rules, the corresponding E-Rule has been cited.

RULE 25. FILING AND SERVICE

(a) Document Submission and Filing. *In General.* A document required or permitted to be filed in the Court with regard to an appeal or petition for extraordinary relief shall be submitted to the Clerk with proof of service. *See* E-Rule 1(a)(6) (Notice of Docket Activity). Submitted documents otherwise proper for filing shall generally be filed by the Clerk as of the date of receipt by the Clerk. Parties are responsible for delivery of any document to the Court. Confirmation of receipt or filing may be obtained by accessing the case docket on the Court's website at www.uscourts.cavc.gov.

Notice of Appeal or petition for extraordinary relief. A Notice of Appeal or petition for extraordinary relief may be submitted by mail, personal delivery or other delivery service, or fax, or as an attachment to an email, as designated in subsection (b).

(1) *Document submission and filing by representatives and amici curiae required to use CM/ECF.* Subject to the exceptions in Rules 25(a) (Document Submission and Filing) and 25(b) (Method and Timeliness) for a Notice of Appeal or petition for extraordinary relief, and for a notice

of appearance, fee agreement, or declaration of financial hardship emailed concurrently with the Notice of Appeal or petition for extraordinary relief, all submissions by a representative or amicus curiae shall be submitted through the CM/ECF system. See Rule 1(c) (CM/ECF/Non-CM/ECF Electronic Filing) and *see generally* E-Rules.

(2) *Document submission and filing by self-represented parties and others exempt from using CM/ECF.* All submissions by self-represented parties and others exempted by the Court from using CM/ECF may be submitted by mail, personal delivery or other delivery service, or fax, or as an attachment to an email to the Clerk. See Rule 25(b) (Method and Timeliness).

(b) Method and Timeliness.

(1) *Mail, personal delivery, or other delivery service.* Submissions by mail, personal delivery, or other delivery service shall be mailed or delivered to the Clerk of the Court, U.S. Court of Appeals for Veterans Claims, 625 Indiana Avenue, NW, Suite 900, Washington, DC 20004-2950.

(A) Submissions through the U.S. Postal Service shall be deemed received by the Clerk as of the date of postmark. Otherwise the Clerk shall use the actual date of receipt for filing purposes.

(B) A document submitted through the U.S. Postal Service by a self-represented party who is an inmate confined in an institution is timely filed if the document is deposited in the institution's internal mail system within the time specified for filing and is accompanied by evidence showing the date of deposit and stating that first-class postage has been prepaid.

(2) *Fax.* Submissions by fax shall be faxed to the Clerk of the Court at (202) 501-5848.

(A) The Clerk shall use the actual date of receipt for filing purposes.

(B) Faxed documents shall be preceded by a cover sheet showing the sender's name, address, and telephone and fax numbers; the Court case number, if one has been assigned, and caption; and the number of pages being sent.

(3) *Email.*

(A) *CM/ECF Users.* A Notice of Appeal, petition for extraordinary relief, or a notice of appearance, fee agreement, or declaration of financial hardship submitted concurrently therewith, may be submitted as an attachment to an email to the Clerk at esubmission@uscourts.cavc.gov. All documents attached to emails must be in pdf format, have at the top the names of the parties, and bear an electronic signature. Also, the subject line of the email forwarding the document should include the name of the document (e.g., Notice of Appeal) and the names of the parties. See E-Rule 1(a)(2) and (9) (Definitions) and E-Rule 10 (Electronic Signatures). No other documents may be submitted by email. The Clerk shall use the actual date of receipt for filing purposes.

(B) *Non-CM/ECF Users.*

(I) Self-represented parties. Self-represented parties may submit any document as an attachment to an email to the Clerk at self-rep@uscourts.cavc.gov. All documents attached to emails must be in pdf format; have at the top the name of the parties and the docket number of the case, if one has been assigned; and bear an electronic signature. Also, the subject line of the email forwarding the document should include the name of the document (e.g., Motion To Dispute RBA), the names of the parties, and the docket number of the case, if available. *See* E-Rule 1(a)(2) and (9) (Definitions) and E-Rule 10 (Electronic Signatures). The Clerk shall use the actual date of receipt for filing purposes.

(ii) Represented parties exempted by the Court from using CM/ECF. Representatives exempted by the Court from using CM/ECF may submit documents initiating an appeal (i.e., a Notice of Appeal or petition for extraordinary relief), as well as a notice of appearance, fee agreement, or declaration of financial hardship if submitted concurrently therewith, as an attachment to an email to the Clerk at esubmission@uscourts.cavc.gov. Once the case has been docketed, all other documents may be submitted as an attachment to an email to the Clerk at efiling@uscourts.cavc.gov. All documents attached to emails must be in pdf format; have at the top the name of the parties and the docket number of the case, if one has been assigned; and bear an electronic signature. Also, the subject line of the email forwarding the document should include the name of the document (e.g., Motion To Dispute RBA), the names of the parties, and the docket number of the case, if available. *See* E-Rule 1(a)(2) and (9) (Definitions) and E-Rule 10 (Electronic Signatures). The Clerk shall use the actual date of receipt for filing purposes.

(4) *CM/ECF*. A separate docket entry shall be used for each document submitted using CM/ECF. The Clerk shall consider the actual date of docket entry as the date of receipt for filing purposes and that date shall constitute the date of filing unless the Clerk notes otherwise on the docket.

(c) Manner and Proof of Service. Any document submitted for filing with the Court shall be served on all parties in the case.

(1) *CM/ECF Users*. When a document is submitted through the CM/ECF system, the system will electronically generate a notice of docket activity. That notice shall constitute both service and proof of service of the submitted document with regard to any party in that case who is also a CM/ECF User.

(2) *Non-CM/ECF Users*. Service by or on a party who is a Non-CM/ECF User shall be accomplished by providing a copy of the document to be filed to a responsible person at the office

of the representative of a party, or the office or home of a party, by personal delivery, mail, or private commercial carrier. Proof of service is accomplished by submitting with the document to be filed either:

(A) an acknowledgment by the person served of his or her personal service, or

(B) a statement certified by the person(s) who made service, showing the date and manner of service and the names and addresses of the persons served.

Proof of service may appear on or be attached to the document filed. The Secretary's representative is the General Counsel of the Department of Veterans Affairs, whose address is General Counsel (027), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420-0002.

(d) Identification. All documents submitted for filing with the Court must be submitted under signature of the party submitting the document or of the party's representative of record. When a document is submitted for filing through CM/ECF or email, it shall contain an "electronic signature." *See* E-Rule 1(a)(2) (Definitions) and E-Rule 10 (Electronic Signatures).

RULE 32. FORM OF BRIEFS, APPENDICES, AND OTHER DOCUMENTS

(e) Length of Briefs. Except by permission of the Court or as limited by Rule 47 (Expedited Proceedings), principal briefs may not exceed 30 pages and reply briefs may not exceed 15 pages, not counting the table of contents; the table of authorities; any appendix containing superseded statutes, rules, and regulations and unpublished authorities; and the certificate of service.

RULE 45. DUTIES OF CLERK

(a) General Provisions. The Clerk shall take the oath required by law. Neither the Clerk nor any deputy clerk may practice as an attorney or counselor in any court while continuing in office. The office of the Clerk is open during business hours on all days except Saturdays, Sundays, legal holidays, and other days when the Court is closed (*see* Rule 26(a) (Computing Time)) from 9:00 a.m. to 4:00 p.m. A night box is available at the entrance to the Public Office from 4:00 p.m. to 6:00 p.m. on all days that the Court is open. *But see* Rule 25(a) (Document Submission and Filing); (b)(2) and (b)(3) (Method and Timeliness -Fax and Email) and E-Rule 5(c) (Effects of Filing Through CM/ECF).

Case Management/Electronic Case Filing System (CM/ECF) E-Rules

The following E-Rules govern the submission of documents through the CM/ECF system in cases before the U.S. Court of Appeals for Veterans Claims (the Court). These E-Rules may be amended from time to time, with or without prior notice, by further order of the Court. The Court may deviate from these E-Rules in specific cases as deemed appropriate.

E-Rule 1 - Definitions

(a) For the purposes of these E-Rules:

(1) The term "CM/ECF" means Case Management/Electronic Case Filing. CM/ECF is an automated system for case management and document filing.

(13) The term "Non-CM/ECF User" means a self-represented or other party exempted by the Court from using the CM/ECF system.

E-Rule 2 - Scope of Electronic Filing

(b) Self-represented parties are exempt from submitting documents through CM/ECF, but may submit any document as an attachment to an email to the Clerk of the Court at self-rep@uscourts.cavc.gov. All documents attached to emails must be in pdf format; have at the top the names of the parties and the docket number of the case, if one has been assigned; and bear an electronic signature. Also, the subject line of the email forwarding the document should include the name of the document (e.g., Motion to Dispute RBA), the names of the parties, and the docket number of the case, if available. *See* Rule 25(b)(3) (Method and Timeliness -Email); E-Rule 1(a)(2) and (9) (Definitions); and E-Rule 10 (Electronic Signatures).

(c) Except for documents initiating cases in the Court (such as a Notice of Appeal or petition for extraordinary relief), all submissions filed by a representative must be filed electronically using CM/ECF. *But see* (e) below. For documents initiating a case, in addition to conventional methods of filing, *see* U.S. VET. APP. R. 3, 4, 25, such documents may also be filed by attaching the document to an email sent to submission@uscourts.cavc.gov.

(d) ***

(e) ***

(f) All electronic documents must be filed in pdf format.

E-Rule 3 - CM/ECF Eligibility, Registration, Passwords

(b) A pro bono limited appearance will have CM/ECF User status commencing at the time a motion for a stay of proceedings for the purpose of conducting case evaluation is filed. *See* U.S. VET. APP. R. 5. Such CM/ECF User status will cease when any stay granted is lifted.

(c) Completion of the Court's CM/ECF filer registration constitutes consent to electronic service through CM/ECF of all documents as provided in these E-Rules and Misc. Order 19-07.

(d) CM/ECF Users agree to protect the security of their passwords and immediately notify the CM/ECF Help Desk (202-418-3453) if they learn that their password has been compromised. CM/ECF Users may be sanctioned for failure to comply with this provision.

(e) A CM/ECF User who does not have any open cases with the Court and who desires to become inactive may withdraw from participation in CM/ECF. Withdrawal is accomplished by providing the Clerk with written notice (to efiling@uscourts.cavc.gov) of the intent to withdraw. *See also* E-Rule 2(e).

E-Rule 5 - Effects of Filing Through CM/ECF

E-Rule 6 - Service of CM/ECF Documents

E-Rule 10 - Electronic Signatures

(c) Electronically represented signatures are considered valid signatures. If any individual objects to the representation of his or her signature on an electronic document, he or she must, within 10 calendar days of its filing, file a notice setting forth the basis of the objection.

E-Rule 11 - Notice and Entry of Court-Issued Documents

(b) Unless a self-represented party or representative exempted by the Court from using CM/ECF elects otherwise, the Clerk will send a copy in paper form of any Court-issued documents to a party who is not a CM/ECF User. *See* U.S. VET. APP. R. 45(c). A Non-CM/ECF User may elect to receive Court-issued documents via email by submitting written notification to the Clerk. The written notification may be submitted by mail, fax (to (202) 501-5848), or email (a self-represented party should use: self-rep@uscourts.cavc.gov; a representative exempted by the Court from CM/ECF should use: efiling@uscourts.cavc.gov).

E-Rule 13 - Public Access

(a) Except for the cases sealed under Rule 48 of the Court's Rules of Practice and Procedure, documents filed electronically are public documents and once filed are not protected by federal privacy statutes or regulations. Documents filed electronically are automatically linked to automated docket entries without prior review by personnel of the Court. Because of the worldwide access to these electronic records, this fact should be carefully considered by all parties when filing documents. *See* U.S. VET. APP. R. 48.

(b) It is the responsibility of all parties to refrain from and prevent the filing with the Court of any electronic document that will not be locked that contains personal identifiers or information such as medical information otherwise protected by privacy statutes or regulations or that is deemed personal in nature and not necessary for the resolution of the matters under consideration by the Court. Redaction of private information not necessary for the resolution of the matters before the Court from documents submitted through CM/ECF or by email or fax is permitted. Parties wishing to challenge such redactions may do so by filing a motion with the Court within 15 days of the document's filing. *See* U.S. Vet. App. R. 6.

ATTACHMENT TO MISCELLANEOUS ORDER NO. 06-16

REVISED RULES 1, 25, 32, AND 45
AND E-RULES 1, 2, 3, 5, 6, 10, 11, AND 13
(with changes shown)

RULE 1. SCOPE OF RULES

(a) Scope. These Rules, as supplemented by the E-Rules specifically applicable to ~~electronic filing submissions~~ for the Case Management/Electronic Case Filing (CM/ECF) system, govern practice and procedure in the U.S. Court of Appeals for Veterans Claims (the Court), a court of national jurisdiction. The E-Rules are on our website at www.uscourts.cavc.gov.

(b) Effect on Court's Jurisdiction. Neither these Rules nor the E-Rules extend or limit the jurisdiction of the Court.

(c) CM/ECF / Non-CM/ECF Electronic Filing. ~~Electronic filing is mandatory for all represented parties, a~~ Absent a waiver from the Clerk of the Court (Clerk), individuals who filing through the CM/ECF system is mandatory for all representatives (as defined by Rule 46). See E-Rules 2 and 3. Represented parties who have registered to participate in electronic filing through CM/ECF are called CM/ECF Users. Only upon Court approval may a self-represented party become a CM/ECF User. See E-Rules 2(e) and 3. Where applicable in these Rules, the corresponding E-Rule has been cited. For CM/ECF Users, if there is any conflict between these Rules and the E-Rules, the E-Rules apply.

Self-represented parties and others exempted by the Court from filing through CM/ECF are called Non-CM/ECF Users. Non-CM/ECF Users may submit documents electronically by email or facsimile, if properly formatted. See Rule 25(b)(3). Where applicable in these Rules, the corresponding E-Rule has been cited.

RULE 25. FILING AND SERVICE

(a) Document Submission and Filing. *In General.* A document required or permitted to be filed in the Court with regard to an appeal or petition for extraordinary relief shall be submitted to the Clerk with proof of service. See E-Rule 1(a)(6)(Notice of Docket Activity). Submitted documents otherwise proper for filing shall generally be filed by the Clerk as of the date of receipt by the Clerk. Parties are responsible for delivery of any document to the Court. Confirmation of receipt or filing may be obtained by accessing the case docket on the Court's website at www.uscourts.cavc.gov.

(+) *Notice of Appeal or petition for extraordinary relief.* A Notice of Appeal or petition for extraordinary relief may be submitted by mail, personal delivery or other delivery service, or fax, or as an attachment to an email, as designated in subsection (b).

~~(2) Representatives, amici curiae, and others authorized to submit documents using CM/ECF.~~ (1) Document submission and filing by representatives and amici curiae required to use CM/ECF. Subject to the exceptions in Rules 25(a)(1) (Document Submission and Filing) and 25(b) (Method and Timeliness) for a Notice of Appeal or petition for extraordinary relief, and for a notice of appearance, fee agreement, or declaration of financial hardship emailed concurrently with the Notice of Appeal or petition for extraordinary relief, all submissions by a representative or amicus curiae ~~and others authorized to use CM/ECF~~ shall be submitted electronically using through the CM/ECF system. See Rule 1© (CM/ECF/Non-CM/ECF Electronic Filing) and see generally E-Rules.

~~(3) (2) Document submission and filing by self-represented litigants parties and others exempt from using CM/ECF.~~ Subject to the exception in Rule 25(a)(1) (Document Submission and Filing) for a Notice of Appeal or petition for extraordinary relief, and a notice of appearance, fee agreement, or declaration of financial hardship emailed concurrently with the Notice of Appeal or petition for extraordinary relief, all submissions by a All submissions by a self-represented litigant parties and others who have not been approved for submitting documents electronically exempted by the Court from using CM/ECF may be submitted by mail, personal delivery; or other delivery service; or fax, or as an attachment to an email to the Clerk. See Rule 25(b) (Method and Timeliness). Additionally, any document other than a brief may be submitted by fax. See Rules 28 (Briefs) and 29 (Brief of an Amicus Curiae).

(b) Method and Timeliness.

(1) *Mail, personal delivery, or other delivery service.* Submissions by mail, personal delivery, or other delivery service shall be mailed or delivered to the Clerk of the Court, U.S. Court of Appeals for Veterans Claims, 625 Indiana Avenue, NW, Suite 900, Washington, DC 20004-2950.

(A) Submissions through the U.S. Postal Service shall be deemed received by the Clerk as of the date of postmark. Otherwise the Clerk shall use the actual date of receipt for filing purposes.

(B) A document submitted through the U.S. Postal Service by a self-represented appellant party who is an inmate confined in an institution is timely filed if the document is deposited in the institution's internal mail system within the time specified for filing and is accompanied by evidence showing the date of deposit and stating that first-class postage has been prepaid.

(2) *Fax.* Submissions by fax shall be faxed to the Clerk of the Court at (202) 501-5848.

~~(A) The length of a fax submission is limited. A document submitted by fax shall not exceed 10 pages. The cover sheet of such submission does not count in determining the 10-page limit. A document shall not be submitted by multiple transmissions to avoid the 10-page limit.~~

~~(B)~~ (A) The Clerk shall use the actual date of receipt for filing purposes.

(C) ~~(B)~~ Faxed documents shall be preceded by a cover sheet showing the sender's name, address, and telephone and fax numbers; the Court case number, if one has been assigned, and caption; and the number of pages being sent.

(3) *Email.*

(A) CM/ECF Users. A Notice of Appeal, petition for extraordinary relief, or a notice of appearance, fee agreement, or declaration of financial hardship submitted concurrently therewith, may be submitted as an attachment to an email to the Clerk at esubmission@uscourts.cavc.gov. All documents attached to emails must be in pdf format, have at the top the names of the parties, and bear an electronic signature. Also, the subject line of the email forwarding the document should include the name of the document (e.g., Notice of Appeal) and the names of the parties. See E-Rule 1(a)(2) and (9) (Definitions) and E-Rule 10 (Electronic Signatures). No other documents may be submitted by email. The Clerk shall use the actual date of receipt for filing purposes.

(B) Non-CM/ECF Users.

(i) Self-represented parties. Self-represented parties may submit any document as an attachment to an email to the Clerk at self-rep@uscourts.cavc.gov. All documents attached to emails must be in pdf format; have at the top the name of the parties and the docket number of the case, if one has been assigned; and bear an electronic signature. Also, the subject line of the email forwarding the document should include the name of the document (e.g., Motion To Dispute RBA), the names of the parties, and the docket number of the case, if available. See E-Rule 1(a)(2) and (9) (Definitions) and E-Rule 10 (Electronic Signatures). The Clerk shall use the actual date of receipt for filing purposes.

(ii) Represented parties exempted by the Court from using CM/ECF. Representatives exempted by the Court from using CM/ECF may submit documents initiating an appeal (i.e., a Notice of Appeal or petition for extraordinary relief), as well as a notice of appearance, fee agreement, or declaration of financial hardship if submitted concurrently therewith, as an attachment to an email to the Clerk at esubmission@uscourts.cavc.gov. Once the case has been docketed, all other documents may be submitted as an attachment to an email to the Clerk at efiling@uscourts.cavc.gov. All documents attached to emails must be in pdf format; have at the top the names of the parties and the docket number of the case, if one has been assigned; and bear an electronic signature. Also, the subject line of the email forwarding the document should include the name of the document (e.g., Motion To Dispute RBA), the names of the parties, and the docket number of the case, if available. See E-Rule 1(a)(2) and (9) (Definitions) and E-Rule 10 (Electronic Signatures). The Clerk shall use the actual date of receipt for filing purposes.

(4) *CM/ECF.* A separate docket entry shall be used for each document submitted using CM/ECF. The Clerk shall consider the actual date of docket entry as the date of receipt for filing purposes and that date shall constitute the date of filing unless the Clerk notes otherwise on the

docket.

(c) Manner and Proof of Service. Any document submitted for filing with the Court shall be served on all parties in the case.

(1) *CM/ECF Users.* When a document is submitted through the CM/ECF system, the system will electronically generate a notice of docket activity. That notice shall constitute both service and proof of service of the submitted document with regard to any party in that case who is also a CM/ECF User.

(2) *Non-CM/ECF Users.* Service by or on a party who is a nNon-CM/ECF User shall be accomplished by providing a copy of the document to be filed to a responsible person at the office of the representative of a party, or the office or home of a party, by personal delivery, mail, or private commercial carrier. Proof of service is accomplished by submitting with the document to be filed either:

(A) an acknowledgment by the person served of his or her personal service, or

(B) a statement certified by the person(s) who made service, showing the date and manner of service and the names and addresses of the persons served.

Proof of service may appear on or be attached to the document filed. The Secretary's representative is the General Counsel of the Department of Veterans Affairs, whose address is General Counsel (027), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420-0002.

(d) Identification. All documents submitted for filing with the Court must be submitted under signature of the party submitting the document or of the party's representative of record. When a document is submitted for filing through CM/ECF or email, it shall contain an "electronic signature." See E-Rules-1(a)(2) (Definitions) and E-Rule 10 (Electronic Signatures).

~~**(e) Requirements for CM/ECF Users.**~~

~~(1) *Representatives.* Unless exempted by the Court for good cause and except for documents initiating cases in the Court (such as a Notice of Appeal or petition for extraordinary relief), all documents submitted by a representative must be transmitted electronically using CM/ECF. See generally E-Rules.~~

~~(2) *Self-Represented litigants.* Self-represented litigants may file documents using CM/ECF only if they are approved by the Court. See generally E-Rules.~~

RULE 32. FORM OF BRIEFS, APPENDICES, AND OTHER DOCUMENTS

(e) Length of Briefs. Except by permission of the Court or as limited by Rule 47 (Expedited Proceedings), principal briefs may not exceed 30 pages and reply briefs may not exceed 15 pages,

not counting the table of contents; the table of authorities; any appendix containing superseded statutes, rules, and regulations; and unpublished authorities; and the certificate of service. ~~But see Rule 25(b)(2) (Fax).~~

RULE 45. DUTIES OF CLERK

(a) General Provisions. The Clerk shall take the oath required by law. Neither the Clerk nor any deputy clerk may practice as an attorney or counselor in any court while continuing in office. The office of the Clerk is open during business hours on all days except Saturdays, Sundays, legal holidays, and other days when the Court is closed (See Rule 26(a) (Computing Time)) from 9:00 a.m. to 4:00 p.m. A night box is available at the entrance to the Public Office from 4:00 p.m. to 6:00 p.m. on all days that the Court is open. *But see* Rule 25(a) (Document Submission and Filing); (b)(2), and (b)(3) (Method and Timeliness -Fax and Email)) and E-Rule 15 (c) for electronic (Effects of Filing Through CM/ECF).

Case Management/Electronic Case Filing System (CM/ECF) E-Rules

The following E-Rules govern the electronic filing submission of documents through the CM/ECF system in cases before the United States Court of Appeals for Veterans Claims (the Court). These E-Rules may be amended from time to time, with or without prior notice, by further order of the Court. The Court may deviate from these E-Rules in specific cases as deemed appropriate.

E-Rule 1 - Definitions

(a) For the purposes of these E-Rules:

(1) The term "CM/ECF" means Case Management/Electronic Case Filing. CM/ECF is an automated system for case management and document filing. ~~The CM/ECF system enables users to file cases and documents electronically.~~

(13) The term "Non-CM/ECF User" means a self-represented or other party exempted by the Court from using the CM/ECF system.

E-Rule 2 - Scope of Electronic Filing

(a) ***

(b) ~~Self-represented litigants may only file documents electronically if they are approved as CM/ECF Users. See E-Rule 3(b):~~ parties are exempt from submitting documents through CM/ECF, but may submit any document as an attachment to an email to the Clerk of the Court at self-rep@uscourts.cavc.gov. All documents attached to emails must be in pdf format; have at the top the names of the parties and the docket number of the case, if one has been assigned; and bear an electronic signature. Also, the subject line of the email forwarding the document should include the name of the document (e.g., Motion to Dispute RBA), the name of the parties and the docket number of the case, if available. See Rule 25(b)(3) (Filing and Service (Method and Timeliness (Email))); E-Rule 1(a)(2) and (9) (Definitions); and E-Rule 10 (Electronic Signatures).

(c) Except for documents initiating cases in the Court (such as a Notice of Appeal or Petition for Extraordinary Relief), all submissions filed by a representative must be filed electronically using CM/ECF. But see (e) below. For documents initiating a case, in addition to conventional methods

of filing, *see* U.S. VET. APP. R. 3, 4, 25, such documents may also be filed by electronically attaching the document to an email sent to esubmission@uscourts.cavc.gov.

(d) ***

(e) ***

(f) All electronic documents must be filed in PDF pdf format.

E-Rule 3 - CM/ECF Eligibility, Registration, Passwords

(a) ***

~~(b) A self-represented party may file a motion seeking leave to register as a CM/ECF User solely for purposes of that case. Only upon Court approval may a self-represented party file documents electronically. A self-represented party's CM/ECF User status will cease upon termination of the case or termination of the party's self-represented status.~~

~~(e)~~(b) A pro bono limited appearance will have CM/ECF User status commencing at the time a motion for a stay of proceedings for the purpose of conducting case evaluation is filed. *See* U.S. VET. APP. R. 5. Such CM/ECF User status will cease when any stay granted is lifted.

~~(d)~~(c) Completion of the Court's CM/ECF Filer Registration constitutes consent to electronic service through CM/ECF of all documents as provided in these E-Rules and Misc. Order 19-07.

~~(e)~~(d) CM/ECF Users agree to protect the security of their passwords and immediately notify the CM/ECF Help Desk (202-418-3453) if they learn that their password has been compromised. CM/ECF Users may be sanctioned for failure to comply with this provision.

~~(f)~~(e) A CM/ECF User who does not have any open cases with the Court and who desires to become inactive may withdraw from participation in CM/ECF. Withdrawal is accomplished by providing the Clerk with written notice (to efiling@uscourts.cavc.gov) of the intent to withdraw. *See also* E-Rule 2(e).

E-Rule 5 - Effects of ~~Electronic Filing~~ Through CM/ECF

E-Rule 6 - Service of ~~Electronic~~ CM/ECF Documents

E-Rule 10 - Electronic Signatures

(a) ***

(b) ***

(c) Electronically represented signatures ~~as described above~~ are considered valid signatures. If any ~~CM/ECF User~~ individual objects to the representation of his or her signature on an electronic document ~~as described above~~, he or she must, within 10 calendar days of its filing, file a notice setting forth the basis of the objection.

E-Rule 11 - Notice and Entry of Court-Issued Documents

(a) ***

(b) Unless a self-represented party or representative exempted by the Court from using CM/ECF elects otherwise, the Clerk will send a copy in paper form of any Court-issued documents to a party who is not a CM/ECF User. See U.S. VET. APP. R.45 (C) A Non-CM/ECF User may elect to receive Court-issued documents via email by submitting written notification to the Clerk. The written notification may be submitted by mail, fax (to (202) 501-5848), or email (a self-represented party should use: self-rep@uscourts.cavc.gov; a representative exempted by the Court from CM/ECF should use: efiling@uscourts.cavc.gov.

E-Rule 13 - Public Access

(a) Except for the cases sealed under Rule 48 of the Court's Rules of Practice and Procedure, documents filed electronically are public documents and once filed are not protected by federal privacy statutes or regulations. Documents filed electronically are automatically linked to automated docket entries without prior review by personnel of the Court. Because of the worldwide access to these electronic records, this fact should be carefully considered by all ~~CM/ECF Users~~ parties when filing documents ~~using the CM/ECF~~. See U.S. VET. APP. R. 48.

(b) It is the responsibility of all ~~CM/ECF Users~~ parties to refrain from and prevent the filing with the Court of any electronic document; that will not be locked; that contains personal identifiers or information such as medical information otherwise protected by privacy statutes or regulations or that is deemed personal in nature and not necessary for the resolution of the matters under consideration by the Court. Redaction of private information not necessary for the resolution of the matters before the Court from documents filed electronically submitted through CM/ECF or by email or fax is permitted. Parties wishing to challenge such redactions may do so by filing a motion with the Court within 15 days of the document's filing. See U.S. Vet. App. R. 6.