

- Rule
- (b) Duplication.
(c) Form and Size.
(d) Date.
(e) Telephone Number.
83. Number of Copies.
- 83.1. Content of Briefs or Memoranda; Length of Briefs or Memoranda.
(a) Content of Briefs or Memoranda.
(b) Length of Briefs or Memoranda.
- 83.2. Time for Filing.
(a) Responses and Objections.
(b) Replies.
(c) Motions Under Rules 12(b), 12(c) and 56.
(d) Leave of Court.
(e) Cross-motions.
(f) Reconsideration of Orders.
84. Transfers and Referrals.
(a) Transfers from Other Courts.
(b) Referral of Cases by the Comptroller General.
85. Title.
86. Effective Date.

APPENDICES

- A. Instructions to Reporters; Forms.
- B. Procedures for Processing Complaints of Judicial Misconduct Pursuant to 28 U.S.C. §372(c).
- C. Procedure in Common Carrier Cases.
- D. Procedure in Congressional Reference Cases (28 U.S.C. §§1492, 2509).
- E. Application for Attorneys' Fees Under Equal Access to Justice Act.
- F. United States Court of Federal Claims Rules of Disciplinary Enforcement.
- G. Procedures Before Trial.
- H. Motions.
- I. Bill of Costs.
- J. TITLES I-IV Vaccine Rules of the Office of Special Masters of the United States Court of Federal Claims.
TITLES V-VIII Review of Decisions of Special Masters Rendered Pursuant to the National Vaccine Injury Compensation Program.
- K. United States Court of Federal Claims Cover Sheet.
- L. United States Court of Federal Claims Subpoena.
Vaccine Subpoena.

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The rules of the United States Court of Federal Claims are based upon the Federal Rules of Civil Procedure (Fed. R. Civ. P. or the Federal Rules). For ease of reference to rulings in Federal Rules Decisions on comparable rules, chapter titles and rule numbers of the Court of Federal Claims rules follow closely the Fed. R. Civ. P. Amendments and additions to the Federal Rules have been made as required to give effect to the jurisdictional differences of the Court of Federal Claims. Federal Rules which are not applicable to the Court of Federal Claims have been omitted, and subdivisions of the Federal Rules that have not been used, either in amended or supplemented form, are so designated.

FEDERAL RULES OF CIVIL PROCEDURE OMITTED

- Rule
22. Interpleader.
- 23.1. Derivative Actions by Shareholders.
- 23.2. Actions Relating to Unincorporated Associations.
38. Jury Trial of Right.
47. Jurors.
48. Juries of Less than Twelve—Majority Verdict.
49. Special Verdicts and Interrogatories.

- Rule
50. Motion for a Directed Verdict and for Judgment Notwithstanding the Verdict.
51. Instructions to Jury; Objection.
64. Seizure of Person or Property.
66. Receivers Appointed by Federal Courts.
69. Deposit in Court.
69. Execution.
70. Judgment for Specific Acts; Vesting Title.
71. Process in Behalf of and Against Persons Not Parties.
- 71A. Condemnation of Property.
73. Appeal to a Court of Appeals.
74. Joint Appeals to the Supreme Court or to a Court of Appeals.
75. Record on Appeal to a Court of Appeals.
76. Record on Appeal to a Court of Appeals; Agreed Statement.

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RULES OF THE UNITED STATES COURT OF FEDERAL CLAIMS

The United States Claims Court was created by the Federal Courts Improvement Act of 1982 (Pub. L. No. 97-164, 96 Stat. 25 (1982)), and redesignated the United States Court of Federal Claims by the Federal Courts Administration Act of 1992 (Pub. L. 102-572, 106 Stat. 4516). It inherited substantially all of the jurisdiction formerly exercised by the United States Court of Claims. Section 139(b)(1) of the Act, 28 U.S.C. §2503(b), authorizes the United States Court of Federal Claims to prescribe rules of practice and procedure for its proceedings.

TITLE I. SCOPE OF RULES—ONE FORM OF ACTION

Rule 1. Scope of Rules

(a) **Scope.** (1) These rules govern all proceedings in actions filed in the United States Court of Federal Claims on or after October 1, 1982, and all further proceedings in actions then pending, except to the extent that in the opinion of the court their application in a particular action pending on October 1, 1982, would not be feasible or would work an injustice. In such event the court by order shall adapt the prior procedures of the United States Court of Claims as required. These rules shall be cited as RCFC.

(2) These rules shall be construed to secure the just, speedy, and inexpensive determination of every action.

(3) In all cases not provided for by rule, a judge may regulate the applicable practice in any manner not inconsistent with these rules.

(b) **Federal Rules of Civil Procedure.** The Federal Rules applicable to civil actions tried by the court sitting without a jury and in effect on December 1, 1991, have been incorporated in these rules to the extent that they appropriately can be applied to proceedings in this court.

(As amended Dec. 4, 1992.)

Rule 2. One Form of Action

There shall be one form of action to be known as a “civil action.”

TITLE II. COMMENCEMENT OF ACTION:
SERVICE OF PROCESS, PLEADINGS, MO-
TIONS, AND ORDERS

Rule 3. Commencement of Action

(a) **Complaint; Filing Period.** A civil action in this court shall be commenced by filing a complaint with the Clerk of the Court. See Rule 77(f)(2).

(b) **Date of Filing.** (1) The records of the clerk, including the date stamped on the complaint, shall be final and conclusive evidence of the date on which a complaint was filed, in the absence of the filing and allowance of a motion under subdivision (b)(2) of this rule.

(2)(A) A party plaintiff who contends that the effective date of plaintiff's complaint should properly be a date earlier than that shown by the clerk's records may seek a corrective order from the court by means of a motion.

(B) Upon motion of a party plaintiff supported by a proper showing that the clerk's records are factually incorrect, the court will correct the records by order.

(C) In a situation where a complaint is stamped by the clerk after the last date allowed by a statute of limitations for the filing of the complaint, if the complaint was received by the clerk through the mail, it may, by order of court, upon motion of the party plaintiff, be deemed to have been filed on the last date allowed if there is a proper showing (i) that the complaint was sent by registered or certified mail, properly addressed to the clerk at 717 Madison Place, N.W., Washington, D.C. 20005, and with return receipt requested; (ii) that it was deposited in the mail sufficiently in advance of the last date allowed for filing to provide for receipt by the clerk on or before such date in the ordinary course of the mail; and (iii) that the party plaintiff as sender exercised no control over the mailing between the deposit of the complaint in the mail and its delivery.

(c) **Copies.** Plaintiff shall file an original and 7 copies of the complaint, the original of which shall be accompanied by the completed cover sheet as shown in Appendix K utilizing the Cover Sheet Information. See Rule 83.

Rule 4. Process

(a) **Service upon the United States.** Service of the complaint upon the United States shall be made through the delivery by the clerk to the Attorney General, or to an agent designated by authority of the Attorney General, of copies of the complaint in numbers prescribed by subdivision (b) of this rule.

(b) **Copies.** The clerk shall serve on the Attorney General or his designated agent 5 copies of the complaint.

(c) **Proof and Date of Service.** At the time the clerk serves a complaint the clerk shall enter the fact of service on the docket, and such entry shall be prima facie evidence of service. For the purposes of this rule, the date of service shall be the date of filing with the clerk.

Rule 5. Service and Filing of Other Papers

(a) **Service; When Required.** Except as otherwise provided in these rules, every order re-

quired by its terms to be served, every pleading subsequent to the original complaint unless the court otherwise orders, every paper relating to discovery required to be served upon a party unless the court otherwise orders, every written motion, and every written notice, appearance, demand, offer of judgment, designation of record on appeal, and similar paper shall be served upon each of the parties.

(b) **Same; How Made.** Whenever under these rules service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or party by mailing it to the attorney or party at the last known address or, if no address is known, by leaving it with the clerk. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at the attorney's or party's office with a clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the attorney's or party's dwelling house or usual place of abode with some person of suitable age and discretion then residing therein. Service by mail is complete upon mailing, but filing is not.

(c) **Filing; Certificate of Service.** All papers after the complaint required to be served upon a party, together with a certificate of service, shall be filed with the court, except that depositions upon oral examination and notices thereof, written questions, interrogatories, requests for documents, requests for admission, and answers and responses thereto and other related discovery materials shall not be filed unless on order of court. See Rule 83.

(d) **Filing with the Court Defined.** The filing of papers with the court as required by these rules shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with chambers, in which event the judge shall note thereon the filing date and forthwith transmit them to the office of the clerk. Papers may not be filed by facsimile transmission. All matters are to be brought to the attention of a judge through formal filings rather than by correspondence; letters are not to be directed to a judge unless specifically requested.

(e) **Proof of Service.** (1) Service shall be made by the party, attorney of record or any other person acting under the attorney of record's direction. The person making service shall execute a certificate of service that contains the following information:

(A) the day and manner of service;

(B) the person and/or entity served; and

(C) the method of service employed, *e.g.*, personal, mail, substituted, etc.

(2) The certificate of service shall be attached at the end of the original document, including appendices, and copies thereof. If service other than by mail is used and it is impractical to attach the certificate at time of filing, such certificate may be filed subsequently.

(3) The certificate may at any time be amended or supplied unless to do so would result in material prejudice to the substantial rights of any party.