



# E-Filing and E-Service at OALJ and BALCA

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# I. Overview

## A. Purpose

This memorandum contains general information, requirements, and tips about e-filing and e-service in proceedings before the United States Department of Labor, Office of Administrative Law Judges (“OALJ”) and the Board of Alien Labor Certification Appeals (“BALCA”). References to OALJ below apply as well to BALCA.

## B. E-filing

### 1. With OALJ

The Department’s eFile/eServe System (“EFS”) at [efile.dol.gov](https://efile.dol.gov) is recommended for filing with OALJ. EFS was developed and is maintained by the Office of Chief Information Officer (“OCIO”). Although still in a pilot phase for filings with OALJ, EFS provides advantages over other forms of filing, such as access to an online Case Dashboard, and e-service on other EFS users. More in-depth information about EFS not covered in this memorandum, including user guides and training materials, is found on the EFS website at <https://efile.dol.gov/support>.

During the COVID pandemic, OALJ relaxed its procedural rules to permit e-filing by e-mail following the procedures described at [www.dol.gov/agencies/oalj/FILING\\_BY\\_EMAIL](https://www.dol.gov/agencies/oalj/FILING_BY_EMAIL). Because EFS is now available for routine filing, and the restrictions related to the pandemic are becoming less impactful, the need for an e-mail option is greatly reduced. Accordingly, OALJ will eventually phase out this option for routine filings. For some e-filings, however, such as those where permission has been granted to file under seal, use of OALJ’s *e-mail/e-filing system* will be required.

EFS and OALJ’s *e-mail/e-filing system* function differently, sometimes in significant ways. This memorandum provides information about those differences.

### 2. With the ARB and BRB

The only online e-filing option for the Administrative Review Board (“ARB”) and the Benefits Review Board (“BRB”) is EFS. OALJ’s *e-mail/e-filing system* may not be used for filings with the ARB or BRB. Parties should consult the [ARB](#) and [BRB](#) websites for information about e-filing and e-service at those agencies.

## II. System Requirements and Best Practices

### A. Getting Started

#### 1. Registration and Basic Process

##### (a) *EFS*

To use *EFS*, go to [efile.dol.gov](http://efile.dol.gov) and consult the materials found in the Support tab. In broad terms, to get started in *EFS* you will first need to obtain login.gov credentials, and then create a profile in *EFS*. Creating a profile will make you a registered user in *EFS*. However, you must request and be granted *EFS* e-filing privileges for specific cases. *EFS* access to a case is generally limited to parties' representatives and to self-represented parties.

##### (b) OALJ

OALJ's *e-mail e-filing system* does not require a registration or login. Parties, however, must follow the procedures for structuring your e-mail as stated in [www.dol.gov/agencies/oalj/FILING\\_BY\\_EMAIL](http://www.dol.gov/agencies/oalj/FILING_BY_EMAIL) and the information contained in this memorandum.

#### 2. Requesting Case Access Privileges in *EFS*—Notice of Appearance Requirement

##### (a) When Making an *EFS* Access Request

*EFS* access requests are reviewed to ensure that the applicant is either a representative in the case or is proceeding as a self-represented (“pro se”) party. To that end, OALJ requires the filing of a Notice of Appearance when first requesting *EFS* access privileges for a particular case. This requirement applies equally to attorney and non-attorney (“lay”) representatives, and to self-represented parties. It also applies even if the party previously filed a Notice of Appearance while the claim was pending before the Office of Workers' Compensation Programs (“OWCP”) or other agency of the Department.

Your initial e-filing session in *EFS* in a case will be more efficient if you already have your Notice of Appearance form filed out and ready to upload before starting the session. Notice of Appearance Forms are available on the [OALJ Standard Hearing Forms](#) page. Depending on your software, after you have filled out the form, to save your changes it may be necessary to “print to PDF” rather than “saving” the document as a PDF.

Note that the Notice of Appearance forms include an acknowledgement that the party consents to e-service. See 29 C.F.R. § 18.30(a)(2)(ii)(E).

### **(b) When More Than One Attorney Is Seeking *EFS* Access for a Case**

If two or more attorneys for the same client will be making formal Notices of Appearance as an attorney of record in a case, it is best for *EFS* access purposes for each attorney to submit a separate Notice of Appearance. The filing of separate Notices of Appearance will permit both attorneys to be listed in the service sheet as the attorneys, have access to filings, and receive e-service through *EFS*.

If the intent, however, is that only one attorney from the firm is making a formal Notice of Appearance, and the second attorney will only be e-filing documents on behalf of the attorney of record, then for *EFS* purposes the lead attorney should use *EFS*'s delegation process rather than having the other attorney enter a Notice of Appearance. See <https://efile.dol.gov/are-you-a-legal-assistant> for information on how the delegation process works. Using delegation rather than a formal Notice of Appearance will avoid the delegate's name being considered an attorney of record and being listed on the service sheet.

### **(c) When Filing Using OALJ's *e-mail e-service system***

Although uploading a Notice of Appearance is not required to be able to e-file when using OALJ's *e-mail e-service system*, this does not mean that such cases are exempt from the filing of a Notice of Appearance. The filing of a Notice of Appearance by representatives is required in all cases before OALJ. See 29 C.F.R. § 18.22.

## **3. Filings by Amicus Curiae and Other Non-Party Participants**

For data security reasons, full access to the *EFS* is generally restricted to the parties to the proceeding. Thus, your request for *EFS* e-filing privileges may be denied if you are proceeding as a non-party participant (such as an amicus curiae or a non-party seeking to quash a subpoena) or are seeking to do such. Rather, documents filed by non-party participants may be filed using OALJ's *e-mail e-filing system*.

## **4. Access by the U.S. Department of Labor, Office of the Solicitor**

Attorneys from the U.S. Department of Labor, Office of the Solicitor (SOL) have been pre-cleared to use *EFS* as "trusted users," and thus may use *EFS* to file as amicus curiae, and in situations where the agency they are representing is not formally a "party" in the strict sense, but that agency has a programmatic interest in the case. See, e.g., 29 C.F.R. § 1979.108(a) (Assistant Secretary may participate as a party, or as amicus curiae, in an AIR21 retaliation case).

Where, however, a SOL attorney is appearing as the trial attorney for a program agency, and will be e-filing documents and receiving e-service, that attorney should file a Notice of Appearance in the same manner as a non-DOL attorney.

## **B. Maintaining Your *EFS* Profile**

### **1. Notice of Change of Business or Contact Information**

Once an attorney, non-attorney representative, or self-represented litigant files a Notice of Appearance, that person must notify OALJ and the other parties to the case of changes in contact information, such as name, address, business association (e.g., a change in law firm association), e-mail, or phone number. A standardized form for providing such notice is available on the [OALJ Standard Hearing Forms](#) page.

If you are an *EFS* user, you must **also** separately go into your *EFS* profile and update your contact information. If you change the e-mail address you used for your login.gov credentials, you will have to create new login.gov credentials and *EFS* profile. To migrate your existing case dashboard case access for particular cases, you must file an *EFS* helpdesk ticket. See the *EFS* support User Guide at [https://efile.dol.gov/system/files/2021-04/how\\_to\\_delete\\_and\\_recreate\\_your\\_login\\_account.pdf](https://efile.dol.gov/system/files/2021-04/how_to_delete_and_recreate_your_login_account.pdf) on how to do this.

### **2. Re-setting Your Login.gov Account**

*EFS* users are required to maintain a login.gov account. If your e-mail address changes, or the phone or backup code used for two-factor authentication by login.gov are changed or lost, you can delete and recreate your login.gov account without losing any of your case data in *EFS*. See the *EFS* support User Guide at [https://efile.dol.gov/system/files/2021-04/how\\_to\\_delete\\_and\\_recreate\\_your\\_login\\_account.pdf](https://efile.dol.gov/system/files/2021-04/how_to_delete_and_recreate_your_login_account.pdf) on how to do this.

### **3. Withdrawal of Representation**

Once an attorney or non-attorney representative has filed a Notice of Appearance in a case, that person cannot simply stop the representation, but rather must file a motion with the presiding administrative law judge (“ALJ”) for leave to withdraw. See 29 C.F.R. § 18.22(e). A standardized form for requesting leave to withdraw is available on the [OALJ Standard Hearing Forms](#) page. *Note that once a representative’s withdrawal from a case is approved, that representative will no longer be able to access the EFS dashboard for that case. Thus, you should download any needed documents from EFS before filing a motion to withdraw.*

## C. Document Format

### 1. Default File Format – PDF

The default e-filing format is text-searchable portable document format (“PDF”).

Where possible, the PDF should be created from the native application (“born digital”), such as a word processing application. Exhibits may be scanned if necessary. If you must scan a document, you should OCR that document if you have the capacity to do so and the OCRing does not cause the document to become illegible due to font replacement.

### 2. Optimizing Your PDF

To optimize your PDF for filing, the following is recommended:

**Avoid signatures requiring an encryption key.** Use the s/ convention for papers requiring a signature pursuant to 29 C.F.R. § 18.35. See H. Signatures below for more information. You may also use images of signatures or signatures that are added to a document using a signature pad.

Digital signatures with encryption keys are not required for filings with OALJ. If you use a digital signature with an encryption key, it may not pass through to PDF archival format and similarly may be lost when combined with other PDFs for a certification of a hearing record.

**Use standard fonts.** Use standard typefaces (fonts) whenever possible (essentially Times New Roman; Helvetica; Courier; Symbol; and Zapf Dingbats). If you use a non-standard or proprietary font, you should embed it in your PDF document. Modern word processing applications may have their PDF writers pre-set to do this for you. Using standard or embedded fonts is necessary to prevent alteration of a document if it is combined with other PDFs for archival or record certification purposes.

**Generally, file documents in a single bookmarked PDF.** Unless an online system size limitation is reached for documents and referenced exhibits, most ALJs prefer that the entire filing be submitted in a single PDF, including the service sheet. (Do not, however, mix different types of motions in a single filing). If the filing has multiple parts, the PDF should contain bookmark links to the corresponding exhibit or appendix (*e.g.*, Prehearing statement, Witness list, Exhibit index). Parties, however, should pay close attention to the presiding ALJ’s instructions, as some ALJs prefer filings to be made by separate PDFs with an index, and may have additional formatting and document preparation requirements—especially in regard to hearing exhibits.

**Hearing exhibits.** If an ALJ does not have specific instructions regarding e-filing of hearing exhibits, a party should include all hearing exhibits offered by that party in a single PDF with bookmarks for each individual exhibit within that PDF (*e.g.*, CX1, CX2, or EX1, EX2), unless doing



so is prevented by online system size limitations. Similarly, joint exhibits should be submitted in a single PDF with bookmarks for each individual joint exhibit (*e.g.*, JX1, JX2).

**PDF portfolios.** OALJ currently permits filings in PDF Package/Portfolio document format (*i.e.*, packaging of multiple documents together into one PDF file).

However, please beware that PDF Portfolios can create problems when archived or combined with other documents in a hearing record. This is especially an issue for black lung and longshore cases in which OWCP is the official custodian of the administrative record; OWCP's digital records system cannot accept PDF Portfolios, and thus they are extracted into a set of regular PDFs when the record is transmitted to OWCP.

**Accessibility.** If you are able, create your documents using accessibility tools. This may become a requirement for "born digital" pleadings in the future. See <https://www.section508.gov/create/documents/> for further information.

### **3. Exhibits That Cannot Be Filed in PDF**

Although not common in U.S. Department of Labor ALJ hearings, it is sometimes important for a party to present a document in its native format rather than PDF. Usually this is because the native format has some sort of evidentiary value, and the parties were unable to stipulate to what the document would show in its native format. Also, this could happen because some documents, such as spreadsheets with a large number of columns, become illegible when converted to PDF. In these situations, *EFS* and OALJ's *e-mail e-filing system* work differently.

*EFS* can only accept files with the following extensions: pdf, jpg, jpeg, doc, docx, xls, xlsx, txt, rtf. Exhibits in other digital formats, such as a video, must be filed by other means, such as a DVD or through OALJ's *e-mail e-filing system*. *EFS* cannot accept zipped files.

OALJ's *e-mail e-filing system* can accept any file format that can be attached to an e-mail, provided it is smaller than the file size limitations. The *e-mail e-filing system* can also accept zipped files.

As noted above, PDF is the preferred format, and *EFS* or OALJ will automatically save a PDF version of the filed document into PDF if the format is capable of such. OALJ, however, will also save the native format version in case it needs to be viewed by the ALJ or appellate authority in that format.

Documents must be filed in a format that will permit the ALJ to view the file. OALJ has the typical suite of Microsoft Office applications, and can view Word, Excel and PowerPoint files, and standard graphic and video files. Parties needing to file documents requiring a specialized application should coordinate with the presiding ALJ's staff on how to proceed.

## D. Naming Convention

### 1. For Documents Being E-filed

The preferred naming convention for documents being e-filed is:

OALJ-Case-Number-Party-Title-of-Document.pdf

Reasonably understood abbreviations in file names are acceptable. For example, a complainant's motion for summary decision in a Sarbanes-Oxley Act whistleblower case could be named something like this:

2021SOX00000-Compl-Mot-for-Sum-Dec.pdf

**\*\*\*It is very important not to use punctuation, symbols, or special characters in file names as this can cause errors when e-filing. For the same reason, do not have blank spaces anywhere in the name. To separate elements in a document's name, use hyphens as shown in the sample above.\*\*\***

Be careful not to include confidential information in file names.

### 2. For the Subject Line of the E-mail When Using OALJ's *E-mail E-filing System*

If e-filing using OALJ's *e-mail e-filing system*, the subject line of the e-mail transmission (as opposed to the file name of the document being filed) must include the name of the presiding judge, the name of the parties, the case number, and a short description of the filing. The subject line should look something similar to this:

Subject: Judge John Doe; Jones v. Big Co.; OALJ No. 2020-BLA-05555; Motion for Continuance

See [www.dol.gov/agencies/oalj/FILING\\_BY\\_EMAIL](http://www.dol.gov/agencies/oalj/FILING_BY_EMAIL) for more information about how to structure your e-mail filing.

## E. File Size Limitations

### 1. *EFS* – 200MB

For e-filing using *EFS*, document size is limited to 200MB. *EFS* cannot accept compressed or "zipped" files.

### 2. OALJ's *E-mail E-filing System* – 50MB

For e-filing using OALJ's *e-mail e-filing system*, document size is limited to 50MB. OALJ's *e-mail e-filing system*, however, can accept compressed or "zipped" files.

### 3. Dividing Documents That Exceed Size Limits

Documents that exceed the size limitations may be filed in separate parts. Try to divide up the document in logical places (such as between chapters or sections of the document) if possible. You may label the separate parts with reasonable abbreviations, similar to these examples:

- 2020LDA00000-Clmt-Mot-for-Sum-Dec-ExA-Pt-1-of-3
- 2020LDA00000-Clmt-Mot-for-Sum-Dec-ExA-Pt-2-of-3
- 2020LDA00000-Clmt-Mot-for-Sum-Dec-ExA-Pt-3-of-3

See [D. Naming Convention](#) above for more information about how to name your document.

### 4. Very Large Documents

If a document is so large that online filing is not practicable, electronic documents may be filed by other means, such as DVD, CD, or USB drive. Parties should check with the presiding ALJ's staff about the preferred method of filing if online or e-mail filings cannot be used.

## F. Time and Date

### 1. Administrative Notice

The Chief ALJ has issued an Administrative Notice to clarify how OALJ will apply the current regulations in regard to when submissions are received and filed. See Administrative Notice, [Online E-Filings: When Made—And When the “Last Day” of a Filing Period Ends](#), 2022-MIS-00002 (Chief ALJ Mar. 11, 2022).

### 2. When E-filing Online or by E-mail, When Is the Submission Logged as Received and Filed?

A paper is filed with OALJ when it is received by the docket clerk or the ALJ during a hearing. 29 C.F.R. § 18.30(b)(2). For purposes of e-filing using *EFS* or OALJ's *e-mail e-service system*, filings can be received up to 11:59:59 p.m. local time of the applicable OALJ National or District Office.

Note that a “paper” filed electronically is a written paper for purposes of § 18.30. See FRCP 5(d)(3)(D), as incorporated by 29 C.F.R. § 18.10(a).

### 3. When Does the “Last Day” of a Filing Period End?

When e-filing using *EFS* or OALJ’s *e-mail e-service system*, OALJ will apply FRCP Rule 6(a)(4)(A), to set the last day for that filing as ending at midnight in the applicable time zone for e-filed documents. Note that when filing by the other means permitted by § 18.30(b)(3)—mail, courier service, hand delivery, or facsimile—the “last day” filing must be made by 4:30 p.m. local time.

### 4. Delay Between Submission and Acceptance

Please note that OALJ docket personnel perform quality control checks before e-filed submissions are entered in OALJ’s docket computer. Thus, there may be a delay between the submission and when the filing appears as accepted in your *EFS* dashboard and/or as a docket event on the [Case Status Lookup](#) feature on the OALJ website. See [K. Viewing Options](#) below for more information. If there are no technical problems with the filing, the filing date/time will be based on the date it was received by *EFS* or OALJ’s *e-mail e-filing system* rather than when it was cleared and processed for filing.

## G. Avoiding Filing Errors

### 1. Docket Review of Papers Filed

When e-filing using *EFS*, an OALJ staff member will review the submission and *may* reject it if it is not acceptable for filing. When a filing is rejected for technical reasons by the reviewing clerk, a notification will be sent to you with a brief explanation for the reason for the rejection. Acceptance by OALJ docket personnel for filing is only for minimal technical acceptability; it always remains the responsibility of the e-filer to ensure that the filing is accurate and complete. OALJ’s acceptance of the submission for filing is not a guarantee that the filing does not contain technical problems. In addition, the presiding ALJ may later reject a filing for legal, procedural, or other reasons.

The OALJ staff member’s acceptance of a submission for filing does not mean that the ALJ has granted the sought-after relief in the filing. This is only an acceptance of the filing into the docket for the case.

### 2. Checklist

E-filers should become familiar with all of the information contained in this Memorandum. E-filers, however, must pay particularly close attention to the following when filing:

- **Don’t Procrastinate.** Consider how long it will take learn to e-file. Don’t miss a deadline because you didn’t have enough time to get set up to e-file. See *II.G.3*.

*Avoid Waiting to the Last Moment; Pay Attention to Maintenance Schedules* for more information.

- **Have Your Certificate of Service Ready to Upload.** You will need to prepare a certificate of service and be ready to upload it when you e-file. In order to do this, you need to understand who does or doesn't get served by *EFS* or by *OALJ's E-Service System*. Thus, you must review the E-Service section below in this Memorandum. See *IV. E-service* and *V. Certificate of Service* for more information.
- **Prevent E-mail from OALJ Going to Your Junk E-mail.** Set your e-mail system to accept incoming e-mail from *OALJ e-mail e-filing system* and/or *EFS*. See *IV.F. Keeping Your E-mail Address Current, and Setting Your E-mail System to Accept E-mails from OALJ and EFS* for more information.
- **Scrub Metadata.** Scrub metadata, editing markup and comments before filing a digital legal paper. See *VI.F.9. Scrubbing of Metadata and Editing Markup Before E-filing* for more information.
- **Follow the Protocol for Filing Confidential Information.** Follow *OALJ's* e-filing protocol for confidential information. See *III.A. Sealed Documents and In Camera Review* for more information.
- **Obey Redaction Requirements.** Redact as required by 29 C.F.R. § 18.31 prior to submitting your e-filing. See *III.C. Personally Identifiable Information ("PII")* for more information.
- **Obey the ALJ's Directions.** Follow any case specific directions of the presiding ALJ. The presiding ALJ has the authority to regulate the course of a proceeding and may set case specific e-filing and e-service directives that modify or clarify the default procedures described in this memorandum.

### **3. Avoid Waiting to the Last Moment; Pay Attention to Maintenance Schedules**

Both *OALJ's e-mail e-filing system* and *EFS* are available 24/7/365, except when taken offline for scheduled maintenance or in the event of a system failure. Nonetheless, it is advisable to time your filing well in advance of a deadline to ensure success. Generally, failure to file timely due to failures in your Internet connection, computer or software failure, or other reasons not attributable to the Department's e-filing systems run the risk of not being accepted as valid reasons for tolling a time period.

You should endeavor to have all necessary documents ready before starting your e-filing session. At a minimum, you will need your pleading and a certificate of service. If using *EFS*, and this is your first filing in the case, you will need to have a Notice of Appearance form ready to upload. See *Section II.2.(a) When Making an EFS Access Request* for more information about access requests and Notices of Appearance. See *IV. E-service* and *V. Certificate of Service* for more information about serving other parties.

#### **4. When Using *EFS*, and You Cannot Find a Clearly Applicable Filing Type in the Drop-Down Menu, Use the “Other” Category**

When e-filing in *EFS*, you will be required to use a pick list to identify the type of filing you are making (*e.g.*, motion, response, notice, etc.). This creates metadata to assist in docketing the filing. If you cannot find an option on the *EFS* drop-down menu that adequately describes the type of filing you are making, use the “other” category from the drop-down menu and provide a concise description of the filing in the free-form text field.

#### **5. When Using *EFS*, Do Not Combine Different Types of Motions, Responses or Other Matters into a Single Submission**

When e-filing in *EFS*, you will be required to use a pick list to identify the type of filing you are making (*e.g.*, motion, response, notice, etc.). This creates metadata to assist in docketing the filing. If your submission contains, for example, both a response to a motion and a request for an extension of time, but you only use the response drop down option, your request for an extension of time will not get the appropriate metadata associated with it, and it may not come to the ALJ’s attention in a timely manner. It is better to file the response and motion separately.

#### **6. Do Not Use Both *EFS* and OALJ’s *E-mail E-filing System* for Filing the Same Document**

If you file online using *EFS*, do not also file the same document using OALJ’s *e-mail e-filing system*, as this can cause confusion and unnecessary work for the docket staff, as well as duplicative entries in the docket. It also introduces unnecessary ambiguity relating to when a filing was made, and which document versions must be retained for records management purposes. Similarly, if you file using OALJ’s *e-mail e-filing system*, do not also file the same document using *EFS*.

#### **7. When Using *EFS* or OALJ’s *E-mail E-filing System* Do Not Also File a Hard Copy of the Submission**

When filing a document through *EFS* or OALJ’s *e-mail e-filing system*, the digital document will be the official filing for the matter. In general, filing a hard copy of the document is not required or necessary, and doing so just creates additional work for you or your staff and OALJ’s docket staff. It also introduces unnecessary ambiguity relating to when a filing was made, and which document versions must be retained for records management purposes. *See IV. E-service* and *V. Certificate of Service* for more information about serving other parties.

## 8. Switching Between EFS and OALJ's E-mail E-Filing System

Although not advisable, at present, there is nothing to technically prevent you from switching between EFS and OALJ's e-mail e-filing system, and it may be necessary for EFS users to e-mail certain filings. **If you do switch your method of e-filing, you must take into account how the systems work differently, especially in regard to e-service.** For example, if you have already been granted EFS access for a case, and switch to OALJ's e-mail e-filing system, EFS will not serve your filing on other EFS users for that case, and you will have to serve the filing yourself by other means. Other EFS users, however, will still serve you via EFS, even if you switch to e-mail.

Because EFS cannot be used for many types of confidential filings, there may be instances where you will be required to use OALJ's e-mail e-filing system, such as when you are making a filing under seal or for in camera review. See *III.A. Sealed Documents and In Camera Review below* for information on the protocol for confidential filings.

## 9. Scrubbing of Metadata and Editing Markup Before E-filing

When drafting legal papers, use of the word processor's editing markup and commenting tools is common practice. Moreover, most word processors create metadata which is embedded in the document, some of which is hidden. If you do not scrub such editing markup and metadata prior to conversion of the document to PDF, or scrub the PDF after the conversion, the markup and metadata will potentially be viewable by the ALJ and the parties upon whom the document was served. *At the least this could be embarrassing, and at the worst could result in disclosure of confidential or privileged information.*

OALJ cannot provide you with technical support on scrubbing markup and metadata. If you are not familiar with how to do it, you should obtain technical support.

## H. Signatures

### 1. s/ Convention Is Recommended

E-filed motions and other papers requiring a signature pursuant to 29 C.F.R. § 18.35 need not contain a handwritten signature but may be signed using the "s/" convention (s/ followed by the typed name). See [https://www.dol.gov/agencies/oalj/ELECTRONIC\\_SIGNATURES](https://www.dol.gov/agencies/oalj/ELECTRONIC_SIGNATURES); see also FRCP 5(d)(3)(C).

Here is an example:

s/ JANE DOE  
JaneDoe@gmail.com  
State Bar Number 12345

Attorney for (Claimant/Employer/etc.)  
ABC Law Firm  
123 Main St  
Anytown, MD 55555  
Telephone: (555) 555-5555

## **2. Other Types of Digital Signatures**

You may also use a digitized electronic image of the signature, or a signature that is added to a document using a signature pad. You may use a digital signature that is authenticated by a public key or other mechanism, but please be aware that the filing is likely to be combined with other PDF documents when a final hearing record is created for certification to an appellate body, or for archiving. Combining PDFs for archiving or certification may result in the digital signature's authentication mechanism being removed.

## **I. Consolidated Cases in *EFS***

### **1. When E-filing in *EFS*, Use the Multi-Case Option to Make Filings in Consolidated Cases**

In *EFS* the e-filer in a consolidated case must use the multi-case option to list all relevant OALJ case numbers so that the filing is made in each of the consolidated cases.

Failure to use the multi-case feature to designate each case to which the filing should be associated will result in an incomplete record in the docket sheet for the cases not designated. A video tutorial on this process is available at <https://efile.dol.gov/support/oalj/multicase-filing>.

### **2. When E-filing in *EFS* in a Consolidated Case in Which You Are Not a Representative, You Will Need Special Access**

Where separate cases have been consolidated by the presiding ALJ, it may be necessary for parties or their representatives to e-file and receive e-service in proceedings in which they are not the attorney or non-attorney representative (lay representative), or self-represented litigant (pro se party). In such situations, a "Request for *EFS* Access – Consolidated Case" form may be used to request *EFS* access for the consolidated cases in which the requester is not representing a party. The form for requesting *EFS* access in a consolidated case is available on the OALJ [Standard Hearing Forms](#) page. In such cases, the requester should have already filed a Notice of Appearance for *EFS* access in the case or cases in which the requester is the representative or is self-represented.



## J. E-filing Requests for Subpoenas

See OALJ's [Subpoenas](#) page for information on how to make requests for issuance of subpoenas.

## K. Viewing Options

### 1. EFS Dashboard

One of the main benefits of using *EFS* to e-file is access to a dashboard where you can review all documents issued by OALJ in the case, as well as all filings by other parties. Information on how the *EFS* dashboard works is found at <https://efile.dol.gov/support/oalj/dashboard>.

The *EFS* dashboard is not the official docket for the case, but rather is akin to a postal mailbox. *Do not rely on the EFS dashboard as a document repository.*

Please note that when the filings appear on the *EFS* dashboard will vary depending on how the paper was filed. E-filings with no technical issues will appear fairly quickly. Filings by parties with OALJ in hard copy are scanned and uploaded, and it may take several days for these filings to appear in the *EFS* dashboard. Although there are exceptions, for cases that were pending prior to December 7, 2020 (the date that *EFS* was put into production), papers previously filed in hard copy generally are not being scanned and thus may not appear in your *EFS* dashboard.

If you are making a filing that should not be viewed by other parties to the case, you **MUST** follow the OALJ protocol for filing documents under seal or for *in camera* review. Failure to do so may result in that document being loaded into the *EFS* dashboard and being reviewable by other parties to the case, or by non-parties with *EFS* access such as attorneys from the Office of the Solicitor whose client agency has an interest in the case. *See III.A. Sealed Documents and In Camera Review* for more information.

### 2. OALJ Case Status Lookup

Any person may use OALJ's [Case Status Lookup](#) to view the public portion of the case docket.

All documents issued by OALJ may be viewed and downloaded from the Case Status Lookup unless that document was designated as FOIA exempt or otherwise placed under seal by the presiding ALJ. The service sheets, however, are not published to the OALJ website, as they may contain the home address of a self-represented party.

You may use the Case Status Lookup as a convenient method for checking to see when a filing you or another party made has been accepted into the OALJ docket. Please note, however, that there may be a several-day delay between submission and final acceptance for filing.

Documents filed by parties are not made available to the public through the Case Status Lookup. Rather, only the docket event text may be viewed. *EFS* users who have been granted access to the case may view and download the filings from their *EFS* dashboard.

## III. Documents That Should Not Be E-Filed Online or Must Be Redacted or Filed Under Seal

### A. Sealed Documents and *In Camera* Review

#### 1. Importance of Following Protocol

Filers are cautioned to pay strict attention to the protocol below in order to prevent inadvertent disclosure of sealed information or information transmitted to the ALJ for *in camera* review. As an e-filer, you are responsible for ensuring that information which is considered confidential under applicable law does not appear in the public hearing record. ***If confidential documents are not properly designated or redacted when filed, you may be responsible for harm done by your failure to take steps to protect that information.*** See, e.g., [\*Erhart v. Bofi Holding, Inc.\*](#), Nos. 15-02287 and -02353 (S.D. Cal. Aug. 19, 2021) (2021 U.S. Dist. LEXIS 157084) (court's denial of motion in a SOX case to remove a declaration and attachments from the public docket, as the court did not have the power to make private what has already become public).

Note: As used in the protocol described in Section III.A. of this memorandum, the terms "confidential" or "confidentiality" are used as in the general context of civil litigation, rather than the more specific context of a security classification under Executive Order 13526.

#### 2. Avoiding Confidentiality Issues

OALJ conducts public hearings. 29 C.F.R. § 18.81. A presumption of public access applies to the entire hearing process, and any filing with OALJ is subject to release under the Freedom of Information Act. ***The best way to avoid having confidential information included in the public record is not to file such information with OALJ in the first place.*** Often, if the confidential information contained in a document is not relevant to the issues before the ALJ, the party can redact the confidential information prior to filing. Most confidentiality issues in litigation before OALJ can be resolved by agreement among the parties, and the presiding ALJ will typically require a showing that the parties attempted to resolve such issues prior to seeking the ALJ's intervention.

### 3. E-Filing Protocol

If it appears it will be necessary to file sealed documents into the hearing record, or to seek the ALJ's *in camera* review of documents, or to make some other type of permitted *ex parte* confidential communication with the ALJ, e-filers **MUST** follow the procedures stated below.

(a) *Motion for Leave to File Under Seal.* If it is necessary to make a filing under seal with OALJ, including a document submitted for *in camera* review, the party must file a motion seeking leave to do so from the presiding ALJ **PRIOR** to submission of the document or information to the ALJ.

Note that this sequence differs from the protocol for e-filing documents under seal in CM/ECF in the federal courts. CM/ECF permits the e-filer to upload the document for e-filing at the same time that the motion to file under seal is filed. **In contrast, DO NOT upload the confidential document together with the motion to seal in proceedings before OALJ or BALCA, as it could result in your confidential document being automatically placed on the public docket.**

If the motion is opposed, the motion must include a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without the ALJ's action.

A motion for leave to file a document or information under seal is a public document and may be e-filed as would any other motion. With the ALJ's approval, however, a memorandum in support of the motion for leave to make a filing under seal may be itself filed under seal. If approval to file the supporting memorandum under seal is granted, **DO NOT** use *EFS* to file that memorandum. Rather, you **MUST** file the memorandum via a secure method as instructed by the ALJ or the ALJ's staff.

Merely filing a motion for leave to make a filing under seal does not guarantee that that motion will be granted. Rather, you must make your legal argument as to why sealing the document is supported by applicable law and the facts of the case.

(b) *Manner of Filing.* If the motion to file a document under seal or other restricted format is granted, you **MUST** file the document via a secure method *as instructed by the ALJ or the ALJ's staff*. The method of filing may vary depending on the capacity of the parties and OALJ's infrastructure, and the particular circumstances. **DO NOT** use *EFS* to file the document for filings that should not be viewed by another party and/or non-party; if you do, the document will be visible to all *EFS* users granted

access to the case. In addition, DO NOT use OALJ's *e-mail e-filing system* unless a secure procedure is first worked out with the presiding ALJ.

(c) *Service of Filing.* When you file a document under seal or for *in camera* review, you will not be able to use *EFS*, and thus *EFS* will not serve the filing on other *EFS* users in the case. Thus, even if you are an *EFS* user for routine filings, you will need to serve the filing, as appropriate for the situation, by other means as described in 29 C.F.R. § 18.30(a)(2). OALJ will not serve the filing on your behalf. See below for more information about e-Service. See *IV. E-service* and *V. Certificate of Service* for more information about service.

## **B. Highly Sensitive Documents**

Highly sensitive documents (HSD) are the limited category of documents that require a heightened level of protection because they contain classified information of the United States or information that, if disclosed, could reasonably be expected to harm national security or cause exceptionally grave damage or injury to any person, entity, institution, or interest of the United States.

Where the parties are aware that a case will involve HSDs, they must contact the Office of the Chief Administrative Law Judge PRIOR to the docketing of the case in order to establish a protocol warranted for the case. If it becomes apparent that the case will involve the filing of HSDs only after the case has been docketed, the parties should contact the presiding ALJ for further guidance. If a case truly involves HSDs, parties will not be able to use either *EFS* or OALJ's *e-mail e-filing system*. *Cases involving HSDs are extremely rare at OALJ. HSDs generally do not include mere confidential or proprietary information, or personal identifiable information that a party wants to file under seal or is subject to a routine protective order.*

## **C. Personally Identifiable Information (PII)**

Unless otherwise permitted by statute or regulation, you may not file, either electronically or in hard copy, unredacted social-security numbers, taxpayer-identification numbers, birth dates, the name of an individual known to be a minor, or a financial-account number. See 29 C.F.R. § 18.31. When redacting a PDF document using a PDF editor, be sure to use a dedicated redaction tool and not merely cover the information with a block that can be removed to reveal the confidential information.

For more information, see [Important Notice Regarding Public Access to Court Records](#). See also in regard to PII on subpoenas: [Notice](#) (Chief ALJ Aug. 26, 2005) (OALJ will reject or redact subpoenas bearing a SSN); [Administrative Notice](#) (Chief ALJ Dec. 17, 2007) (Partial SSN, or attachment or appendix containing a SSN, are not acceptable alternatives).

## D. Discovery Communications and Disclosures

Discovery-related communications between parties or their representatives are not typically filed, electronically or otherwise, without an order of the presiding ALJ. This includes, for example, notices of deposition, depositions, interrogatories, requests for documents or tangible things or to permit entry onto land, requests for admission, a “documents only” subpoena notice, and initial disclosures required by 29 C.F.R. § 18.50(c)(1) and (2). Unsealed discovery materials, however, may be e-filed as exhibits in support of a motion, or as proposed exhibits for the evidentiary hearing.

## E. Settlement Judge and Mediation Proceedings

Parties may e-file a motion for appointment of a settlement judge or a mediator using either *EFS* or OALJ’s *e-mail e-filing system*. However, once settlement judge or mediator proceedings commence, filings directed to the settlement judge or mediator must not be filed in *EFS* or OALJ’s *e-mail e-filing system*. Rather, submit those filings in the manner directed by the settlement judge or mediator. See OALJ’s Alternative Dispute Resolution page at [https://www.dol.gov/agencies/oalj/topics/information/Alternative Dispute Resolution](https://www.dol.gov/agencies/oalj/topics/information/Alternative%20Dispute%20Resolution) for more information.

## F. FOIA Requests

Do not use either *EFS* or OALJ’s *e-mail e-filing system* to file FOIA requests. FOIA requests filed by e-mail are accepted only at [foiarequests@dol.gov](mailto:foiarequests@dol.gov). This is a central FOIA email box maintained by DOL’s Office of Information Services (OIS). **FOIA requests sent to any other DOL email addresses will not be accepted as a properly submitted request.** FOIA requests e-mailed directly to OALJ will not be accepted. If you believe that OALJ has the records you are seeking, you should so note in your FOIA request to ensure that OIS knows to forward it to OALJ.

See <https://www.dol.gov/general/foia> for more information about how to file a FOIA at the Department. See OALJ’s FOIA page at <https://www.dol.gov/agencies/oalj/topics/libraries/LIBFOIA> for information on how to file a FOIA request by hard copy directly with OALJ.

## IV. E-service

### A. Types of E-service

There are two types of e-service when interacting with OALJ: (1) e-service by OALJ of documents issued by the presiding ALJ, and (2) e-service of filings of parties on other parties to the case. This section addresses the quirks and complications of both types of e-service.

### B. Do Not Rely on *EFS* as a Document Repository

For both types of e-service you are responsible for downloading a copy of the document you receive by e-service for your own recordkeeping. Do not rely on *EFS* as a permanent document repository. Although *EFS* retains documents online for a long enough period to serve the life of most cases, they will eventually be removed.

### C. Checklist

E-filers should become familiar with all of the information contained in this Memorandum. E-filers, however, must pay particularly close attention to the following:

- **Don't Procrastinate.** Consider how long it will take learn to e-file and e-serve. Build in enough time to create a certificate of service for the submission.
- **Prevent E-mail from OALJ Going to Your Junk E-mail.** Set your e-mail system to accept incoming e-mail from OALJ *e-mail e-filing system* and/or *EFS*. See *IV.F. Keeping Your E-mail Address Current, and Setting Your E-mail System to Accept E-mails from OALJ and EFS* for more information.
- **Understand Who Gets Served by *EFS*.** *EFS* only e-serves your filings on other *EFS* users (1) if you have been granted e-filing privileges in the case and are using *EFS* to file, and (2) if the other party or that party's representative is an *EFS* user who has been granted *EFS* privileges for that case *at the time of your filing*. For all other parties, you must serve them yourself. If you file using OALJ's *e-mail/e-filing system*, you must serve all parties yourself. See *IV.E. E-service of Filings of Parties* for more information.
- **Understand Who Gets Served by OALJ's E-service System.** OALJ's *e-mail e-service system* only serves OALJ-issued documents (i.e., orders and decisions issued by a presiding ALJ). OALJ's system only serves the e-mail address of the attorney or non-attorney representative of record.
- **Obey the ALJ's Directions.** Follow any case specific directions of the presiding ALJ. The presiding ALJ has the authority to regulate the course of a proceeding and

may set case specific e-filing and e-service directives that modify or clarify the default procedures described in this memorandum.

## D. E-Service of ALJ-Issued Documents

### 1. Official E-Service

For both *EFS* and OALJ's *e-mail e-filing system*, all e-filers will be e-served with documents issued by OALJ, such as orders, notices, decisions, etc., unless good cause is shown for not being able to accept e-service. *EFS* users who have made an entry of appearance in a case will be served with OALJ-issued documents through *EFS*. Persons not using *EFS* will e-served by OALJ by e-mail.

Certain agencies within the Department of Labor are "standard recipients" who always receive e-service through *EFS* (e.g., Regional Solicitors; OWCP program offices, etc.). Such e-service may be of all OALJ-issued documents, or in some instances only the ALJ's final decision, depending on the program needs of the agency.

### 2. Longshore and Defense Base Act Final Decisions

Please note that the *final ALJ decision* in cases arising under the LHWCA and its extensions, such as the Defense Base Act, is served by the OWCP District Director and not OALJ or *EFS*. OALJ, however, serves other types of non-final orders in those cases.

### 3. Welcome E-Mail

When OALJ first sets a party up for e-service of ALJ-issued documents, a "welcome" e-mail is sent. OALJ is aware that this "welcome" e-mail has caused confusion by recipients.

This welcome e-mail serves two functions. First, it informs the party of the fact that the ALJ's orders, notices and decision will be served by e-mail unless the party is granted an exemption for good cause by the presiding ALJ. Second, it is used to verify that the e-mail address is valid. This welcome e-mail is auto-generated by OALJ's *e-service system* **and will not include a served document**. It is only later, after the e-mail address is verified, that a party will begin being e-served ALJ-issued documents by e-mail. Once a party is provided e-filing privileges for a case in *EFS*, *EFS* rather than OALJ's *e-mail system* will serve OALJ-issued documents.

When you will start receiving e-service of documents issued by the presiding ALJ after the "welcome" e-mail is sent will vary, depending on the status of the proceeding. It may be fairly contemporaneous with the welcome e-mail, or it may be days, weeks or even longer before an ALJ-document is issued depending on how active the litigation is before the ALJ.

## E. E-service of Filings of Parties

You must serve any filing with OALJ on the other parties to the case. You must also file a certificate of service to document who was served and the means of service.

Service of e-filings differs significantly between *EFS* and OALJ's *e-mail e-filing system*.

### 1. *EFS* (efile.dol.gov) - Consent - Service Responsibility

Parties who e-file using *EFS* are deemed to consent to receipt of e-service of e-filed documents by other *EFS* e-filers in the case. Notice of this consent is provided on the Notice of Appearance form you must use to obtain e-filing privileges in the case. DO NOT use *EFS* to e-file if you do not consent to receive e-service from *EFS*.

***EFS* will serve on your behalf e-filings that you made on other *EFS* users who have been granted e-filing privileges for the case, but not on other persons or entities.** Note that if you are an *EFS* user—but cannot use *EFS* to file a certain document (such as a document being filed under seal)—you will need to serve other parties in the case directly.

**Service on parties who are not *EFS* e-filers in the case must be accomplished by other means.** See 29 C.F.R. § 18.30(a)(2). Section V.3. *Determining Who Is Served by EFS and Who You Must Serve by Other Means* below contains a link to information on how to determine which parties have been granted *EFS* access in a particular case.

On March 14, 2022, OCIO implemented enhancements to the e-mails sent by *EFS* to notify users of e-served documents. One of the enhancements is that the e-mail now displays a list of who was served by *EFS*. You may view samples of the new e-mail notifications on the [EFS website](#).

### 2. OALJ's E-mail E-filing System - Service Responsibility

OALJ's *e-mail e-filing system* only serves ALJ-issued documents; it does not serve documents filed by parties. **Thus, e-filers using OALJ's *e-mail e-filing system*, or who are still filing in hard copy, must serve other parties by other means.** See 29 C.F.R. § 18.30(a)(2).



## F. Keeping Your E-mail Address Current, and Setting Your E-mail System to Accept E-mails from OALJ and EFS

You are responsible for maintaining an “electronic post office box” that is adequate to handle all documents that will be sent electronically. You must ensure that the e-mail address you use for EFS and OALJ’s e-mail e-filing system is functional and checked regularly. Failure to do so may result in your not receiving service or important notices on cases. *See also Section II.B. Maintaining Your EFS Profile* above for more information.

Spam blockers and other e-mail routing settings on the recipient’s e-mail system can prevent timely receipt of e-service. Thus, it is essential to check whether your e-mail system is routing the documents to a junk e-mail box, quarantining the e-mail, or is otherwise blocking receipt of the e-mail. This may happen even if you had been receiving the OALJ e-mails previously, where your e-mail administrator changed the settings.

You can generally prevent routing of OALJ e-mails to a spam folder by adding OALJSQLMail@dol.gov to the contacts or address book for the e-mail account.

You should also check your particular e-mail service regarding additional methods for marking messages as from a trusted source. Because security implementation evolves rapidly, you should check your e-mail provider’s website for the most current information—but these links are provided for informational purposes:

- In Microsoft Outlook, add OALJSQLMail@dol.gov to the [Safe Senders List](#).
- In Gmail, unmark email from OALJSQLMail@dol.gov [as spam email](#).

Other issues with timely receipt of e-mail can result if your e-mail box becomes too full to accept new e-mails, or your e-mail service provider has too small of a size limitation for receipt of incoming e-mails.

Failure to take heed of the preceding can result in serious consequences. *See, e.g., [Rollins v. Home Depot USA, Inc.](#)*, 8 F.4th 393 (5th Cir. Aug. 9, 2021) (2021 U.S. App. LEXIS 23602) (plaintiff’s attorney’s failure to know that his e-mail system was placing court notifications in an “other” folder resulted in default); [Katz v. USDOL, Administrative Review Board](#), 857 Fed. Appx. 859 (7th Cir. Aug. 18, 2021) (unpublished) (2021 U.S. App. LEXIS 24675; 2021 WL 3668056) (parties are expected to monitor their emails).

## V. Certificate of Service

### A. Requirement

When filing a document with OALJ, you are required also to serve it on every party in accordance with 29 C.F.R. § 18.30(a). If a party is represented, you must serve the filing on that representative; you are not required to also serve that party directly unless the presiding ALJ directs you to do so. See 29 C.F.R. § 18.30(a)(2)(i). If a party is self-represented, you must serve that person or entity directly.

**You must verify that service with a certificate of service and include the certificate with your submission.** A certificate of service (sometimes referred to as a service sheet) is a signed written statement that the paper was served on all parties. See 29 C.F.R. § 18.30(a)(3).

### B. Sample Certificate of Service

Here is a link to a [Sample Certificate of Service](#) that you may use as a template.

### C. Determining Who Is Served by *EFS* and Who You Must Serve by Other Means

If you e-file using *EFS*, the system will e-serve your filings on any party which is also using *EFS* for e-filing. Because parties may opt to use *EFS* at any point in the OALJ proceeding, you must check your *EFS* dashboard to determine who is *currently* being served by *EFS*. If a party is not using *EFS*, you must serve that party yourself by one of the means permitted by 29 C.F.R. § 18.30(a)(ii). [Here is link to a memo describing how to determine who is being served by \*EFS\*.](#)

If you e-file using OALJ's *e-mail e-filing system* under the procedures stated at [www.dol.gov/agencies/oalj/FILING\\_BY\\_EMAIL](http://www.dol.gov/agencies/oalj/FILING_BY_EMAIL), or are serving a document by hard copy, you must serve the other parties in the case yourself by one of the means permitted by 29 C.F.R. § 18.30(a)(ii). OALJ will not perform this service on your behalf.

Even if you are using *EFS* for routine filings, if you need to file a particular document with OALJ through OALJ's *e-mail e-filing system*—such as when you are filing under seal pursuant to the directions of the presiding ALJ—*EFS* will not serve the other parties, and you must do this by other means permitted by 29 C.F.R. § 18.30(a)(ii), and as appropriate for the circumstances.

## VI. Rulemaking

The Department published a Notice of Proposed Rulemaking in the Federal Register that proposes amendments to OALJ's regulations at 29 C.F.R. Part 18 in regard to e-filing and e-service. The comment period for the proposed rule is closed, and the Department is currently considering the comments received. Here are links to the regulatory actions relating to OALJ's Rules of Practice and Procedure at 29 C.F.R. Part 18:

- [Direct Final Rule](#), 86 Fed. Reg. 1800
- [Notice of Proposed Rulemaking](#), 86 Fed. Reg. 1868
- [Direct final rule; withdrawal](#), 86 Fed. Reg. 11426
- [Reopening of comment period](#), 86 Fed. Reg. 14558

## VII. Administrative Notices of the Chief ALJ

See Administrative Notice, *Procedural Notices Related to Covid-19 Pandemic*, 2022-MIS-00003 (Chief ALJ Apr. 29, 2022), for the current status of the Administrative Notices issued by OALJ related to procedures adopted during the pandemic.

## VIII. Technical Questions

### A. General Support

The *EFS* website at [efile.dol.gov/support](https://efile.dol.gov/support) contains User Guides, Video Tutorials, Answers to Frequently Asked Questions, and a form for seeking Help Desk assistance.

### B. Contacting OALJ

*EFS* was created and is maintained by OCIO and not OALJ. Thus, OALJ cannot provide technical support on *EFS* functionality. Moreover, OALJ cannot provide you with technical support on creating PDF documents, scrubbing markup and metadata, how to encrypt an attachment to an e-mail, how to set up your e-mail in-box to not send OALJ e-mail to spam, or similar matters. If you are not familiar with how to do these things, you should obtain technical support from a private source.

If you have a technical question about the presiding ALJ's specialized directions on an e-filing or e-service, you may send an e-mail to the relevant National or District Office e-mail box. Be sure to mark it as a general question and not a filing. Please note, however, that OALJ cannot have ex parte communications with parties about substantive procedural or legal matters. If you have a substantive question about, or an objection to an ALJ's specialized directions on e-filing or e-service, you should submit it as a filing, properly served on the other parties of record.

Names, addresses, and telephone numbers of OALJ contacts are found at:

- [National Office](#)
- [BALCA](#)
- [Boston, MA](#)
- [Cherry Hill, NJ](#)
- [Cincinnati, OH](#)
- [Covington, LA](#)
- [Newport News, VA](#)
- [Pittsburgh, PA](#)
- [San Francisco, CA](#)
- [Washington, DC](#)