

## **561 ELECTRONIC FILING**

- 561.1 All pleadings, motions, memoranda of law, orders, or other documents shall be filed electronically through the Board's designated vendor LEXISNEXIS® FILE & SERVE (Vendor), which can be contacted online at [www.lexisnexis.com/fileandserve](http://www.lexisnexis.com/fileandserve).
- 561.2 Upon receipt by the Vendor of a properly executed Subscriber Agreement at their website, the Vendor shall assign a confidential password to the attorney or other designated representative of a party before the Board which must be used to file, serve, receive, review, and retrieve electronically filed pleadings, orders, and other documents. (A password received from the Vendor by attorneys for electronic filing in other jurisdictions may also be used to make filings to the Board). An attorney or other authorized user shall be responsible for any use of his or her password.
- 561.3 Unless the Board orders otherwise, an original of all documents filed electronically, including original signatures, shall be maintained by the party filing the document and shall be made available, upon reasonable notice, for inspection by other counsel or the Board. From time to time, it may be necessary to provide the Board with a hard copy of an electronically filed document.
- 561.4 Any pleading filed electronically shall be considered as filed with the Board at the time when the transmission is completed ("authorized date and time"). Any document filed with the Board before midnight Eastern Standard Time at the Board's offices is deemed filed with the Board on that date, however, for the purpose of computing time for any other party to respond, any document filed on a day or at a time when the Board is not open for business, shall be deemed to have been filed on the day and at the time of the next opening of the Board for business.
- 561.5 The Vendor is hereby appointed the Agent of the Board as to the electronic filing, receipt, service, and/or retrieval of any pleading or document maintained electronically. Upon filing and receipt of a document, the Vendor shall issue a confirmation that the document has been received. The confirmation shall serve as proof that the document has been filed. A filer will receive an e-mail notification of document(s) that the Board subsequently rejects, and may be required to re-file the document(s) to meet necessary filing requirements.
- 561.6 If the electronic filing is not filed with the Board because of: (1) an error in the transmission of the document to the Vendor which was unknown to the sending party; (2) the Vendor's failure to process the electronic filing upon receipt; or (3) other technical problems that the filer might experience, the Board may upon satisfactory proof enter an order

permitting the document to be filed *nunc pro tunc* to the date it was first attempted to be sent electronically.

561.7 Documents filed electronically shall comply with the following requirements:

- (a) All electronically filed pleadings shall, to the extent practicable, be formatted in accordance with the applicable rules governing formatting of paper pleadings, and in such other and further format as the Board may require from time to time. (*See* §501);
- (b) Every pleading, document, and instrument electronically filed shall be deemed to have been signed by the attorney or declarant and shall bear a facsimile or typographical signature of such person, along with the typed name, address, telephone number, and Bar number of a signing attorney. Typographical signatures shall be styled “/s/ name” and shall be treated as personal signatures for all purposes under these Rules;
- (c) The electronic title of each electronically filed pleading or other document (“papers”) shall include:
  - (1) Party or parties filing the paper;
  - (2) Nature of the paper;
  - (3) Party or parties against whom relief, if any, is sought; and
  - (4) Nature of the relief sought (for example, “Appellant’s Motion to Compel Discovery and for sanctions against Appellee”); and
- (d) Where counsel is filing a pleading in consolidated cases, a single filing in the lead case is deemed to be filed in all cases consolidated with it.

561.8 The following applies to the electronic service of pleadings and other documents:

- (a) **Electronic and Facsimile Service.** All parties or their representatives shall make service upon other parties electronically through the Vendor. Parties who subscribe to the Vendor consent to receive electronic service of documents via the Vendor’s system. Parties, or their designated counsel, shall receive all documents e-filed and/or e-served upon them via access to the Vendor’s system over the Internet or, if a party or party’s designee has not subscribed to the Services, via facsimile transmission. For the purposes of this subsection, service of documents through the

Vendor's system via facsimile is hereby authorized in addition to those methods of service permitted in section 501;

- (b) Effect of Electronic Service of Filings. The electronic service of a pleading or other document shall be considered as valid and effective service on all parties and shall have the same legal effect as the filing of an original paper document. Proof of service required by section 501 shall not be necessary for electronically filed documents;
- (c) Service on Parties; Time to Respond or Act. E-service shall be deemed complete at the time the Vendor's system receives the document as reflected by the authorized date and time appearing on the confirmation provided. However, for the purpose of computing time for any other party to respond, any document filed on a day or at a time when the Board is not open for business shall be deemed to have been filed at the time of next opening of the Board for business. If electronic service on a party does not occur because of: (1) inaccessibility to the Vendor's system; (2) an error in the Vendor's transmission of notice to the party being served; (3) the Vendor's failure to process the electronic filing for service; or (4) the party was erroneously excluded from the service list, the party to be served shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right, duty, or other act must be performed. In the event of service via facsimile, the Vendor's system will record the date and time the fax transmission was completed as proof of service;
- (d) *Pro Se* Users. Where a party is proceeding before the Board *pro se* (on one's own behalf and/or without legal counsel), *pro se* users can only receive service via U.S. Mail;
- (e) The Board may issue, file, and serve notices, orders, and other documents electronically, subject to the provisions of this section; and
- (f) A motion to file documents under seal shall be filed and served electronically. Redacted copies of documents filed under seal may be filed and served electronically; documents filed under seal containing privileged information may be filed conventionally (in physical form) or as a sealed electronic document.

561.9

For purposes of this section, the following terms and phrases shall have the meanings ascribed:

**E-filing** - Electronic transmission of an original document (pleading) to the Board via the Vendor's system. An E-File consists of a document, an image, or both.

**E-service** - Electronic transmission of an original document (pleading) to all other designated recipients via the Vendor's system. Upon the completion of any transmission to the Vendor's system, a receipt is issued to the sender acknowledging receipt by the Vendor system.

SOURCE: Notice of Final Rulemaking published at 59 DCR 2460 (March 30, 2012); as amended by Notice of Final Rulemaking published at 59 DCR 4220 (May 4, 2012).