

**OFFICE OF THE GENERAL COUNSEL
Division of Operations-Management**

MEMORANDUM OM 09-41

March 13, 2009

TO: All Regional Directors, Officers-in-Charge,
and Resident Officers

FROM: Richard A. Siegel, Associate General Counsel

SUBJECT: Revised Language for Docket Letters Regarding E-Filing of Documents

All Regional Offices are currently implementing steps to create an electronic case file in anticipation of the deployment of NxGen, the Agency's new case management system. Also, in anticipation of NxGen, the General Counsel wishes to urge all parties that transact business with the NLRB to file documents with Regional offices, the Division of Judges and the Board electronically through the Agency's website.

To facilitate this important goal, the language of the attachment to all docket letters explaining the Agency's E-filing system has been revised. The revised document is attached to this memorandum. All Regional Offices should begin utilizing this new attachment when sending out docket letters for the filing of unfair labor practice charges and representations petitions. In addition, the following language, formatted in bold with a box outline, should be added to the first page of the docket letter:

FILING DOCUMENTS WITH REGIONAL OFFICES: The Agency is moving toward a fully electronic records system. To facilitate this important initiative, the Agency strongly urges all parties to submit documents and other materials (except unfair labor practice charges and representation petitions) to Regional Offices through the Agency's E-Filing system on its website: <http://www.nlr.gov> (See Attachment to this letter for instructions). Of course, the Agency will continue to accept timely filed paper documents.

Board agents should also incorporate this concept into all correspondence with the parties in which they are requesting information, including EAJA letters. We also urge all Directors and other Agency representatives engaging in outreach activities to highlight the Agency's electronic case file initiative and to actively encourage all parties to submit documents and other materials to Regional Offices and the Board electronically through the Agency's website.

If you have any questions regarding this memorandum, please contact your Assistant General Counsel or Deputy or the undersigned.

/s/
R. A. S.

Attachment
cc: NLRBU

Release to the Public

Attachment

**COMMUNICATIONS WITH REGIONAL, SUBREGIONAL AND
RESIDENT OFFICES ELECTRONICALLY THROUGH THE AGENCY'S WEBSITE
AND WITH BOARD AGENT BY INTERNET E-MAIL**

FILING DOCUMENTS WITH REGIONAL, SUBREGIONAL AND RESIDENT

OFFICES: All Regional Offices are in the process of creating an electronic investigative case file that contains electronic copies of all documents in the paper case file. This electronic case file initiative is a central component of the Agency's development of a new case management system called NxGen. When the NxGen system is deployed throughout the Agency, this system will provide parties greater access to public information about pending cases. To facilitate this important initiative, the Agency strongly urges all parties to submit documents and other materials (except unfair labor practice charges and representation petitions) to Regional Offices through the Agency's E-Filing system on its website:

<http://www.nlr.gov>

On the home page of the Agency's website, click on the "E-Gov" tab and choose the E-Filing link on the pull-down menu. When this page opens, click on the "File Documents" button under "Regional, Subregional and Resident Offices" and then follow the directions. Utilization of the E-Filing form on the Agency's website to file documents is permitted under Section 102.114, notwithstanding any contrary provisions in the Board's Rules and Regulations. The following documents may be sent to a Regional, Subregional or Resident Office electronically through the Agency's website:

- Position Statements
- Notices of Appearance
- Requests for an Extension of Time for Filing of Documents Due to
Be Filed With a Regional Director or Hearing Officer
- Requests for Postponement of a Hearing Due to be Filed With a
Regional Director or Hearing Officer
- Excelsior* Lists
- Observer Designations
- Requests to Proceed
- Withdrawal Requests
- Disclaimers of Interest
- Election Objections and Evidence in Support
- Representation Case Briefs to the Regional Director/Hearing Officer
- Briefs to Administrative Law Judges to be served on Counsel for the
General Counsel
- Unfair Labor Practice Exceptions and Briefs to the Board
to be served on Counsel for the General Counsel
- Answers to Complaints or Compliance Specifications
- Motions for Summary Judgment and responses to such motions to be filed
with the Regional Director or Counsel for the General Counsel
- Petitions to Revoke Subpoenas and responses to such petitions to be filed
with the Regional Director or Counsel for the General Counsel

Motions for Bill of Particulars to be filed with the Regional Director
Any document filed electronically with the Board in accordance with the
Board's E-Filing Project

Provided that:

- For any Answer to a Complaint or Compliance Specification, the document being filed electronically should be in a pdf format, as described below, that includes the signature of counsel or non-attorney representative for represented parties or the signature of the party if not represented. However, if the electronic version of an Answer to a Complaint or a Compliance Specification is not in a pdf format that includes the required signature, then the original answer containing the required signature must be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing.
- Any document submitted to a Region electronically must be complete. Any attachments must be converted into electronic form and included as part of the document.

E-MAIL COMMUNICATIONS WITH BOARD AGENTS: To encourage and facilitate the exchange of case handling information between the parties or their representatives and Board agents, individual Board agents' E-mail addresses will be made available to the parties. We encourage parties and/ or their representatives to provide the Regional, Subregional or Resident Office with their E-mail addresses. E-mail communications with a represented party generally will be through the party's attorney or other representative. If an outside party and/or its representative provides its E-mail address, Board agents will accept and send E-mail messages to arrange appointments, schedule witnesses and exchange other case-relevant information. If a party and/or its representative requests that communications not be sent by E-mail, Board agents will honor such request after receipt of the request in the Regional, Subregional or Resident Office.

Please note that Board agents may, on occasion, be out of the Regional office and unable to receive time-sensitive E-mails. It is critically important that all substantive E-mails and any documents listed above should be filed with the Regional Office through the Agency's website (<http://www.nlr.gov>) as outlined above

E-FILINGS MUST BE TIMELY

The Agency will accept electronic filings up to 11:59 pm in the time zone of the receiving office on the due date. Filings accomplished by any other means must comply with the requirements of [Section 102.111](#) of the Board's Rules and Regulations. The responsibility for the receipt and usability of electronic filings rests exclusively upon the sender. Unless the Agency's E-Filing system is determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file a document will not be excused on the basis that the transmission could not be

accomplished because the Agency's website was off-line or unavailable for some other reason.

PREFERRED DOCUMENT FORMAT IS PDF

The preferred format for submitting documents using E-Filing is Adobe's Portable Document Format (*.pdf). However, in order to make the Board's E-Filing system more widely available to the public, persons who do not have the ability to submit documents in PDF format may submit documents in Microsoft Word format (*.doc). Persons who do not have the ability to submit documents in either PDF or Microsoft Word format may submit documents in simple text format (*.txt).

DOCUMENTS MUST BE VIRUS-FREE

Users are responsible for taking all reasonable steps to prevent sending any material to the Agency that contains computer viruses. All submissions using this E-Filing Form will be scanned for viruses. Any submission that contains a virus will automatically be deleted by the Agency's computer system and thus will not be processed. Rejection of a filing because it contains a virus will not excuse a late filing and is considered to be a user problem, not a technical failure as defined herein.

ALL DOCUMENTS MUST INCLUDE STATEMENT OF SERVICE

All documents submitted to a Regional, Subregional or Resident Office, which under the Board's Rules and Regulations must be served on other parties to the case, must include a statement of service showing how that document was served on other parties in accordance with the service requirements of [Section 102.114\(i\)](#) of the Board's Rules and Regulations. This rule provides: "In the event the document being filed electronically is required to be served on another party to a proceeding, the other party shall be served by electronic mail (email), if possible. If the other party does not have the ability to receive electronic service, the other party shall be notified by telephone of the substance of the transmitted document and a copy of the document shall be served by personal service no later than the next day, by overnight delivery service, or, with the permission of the party receiving the document, by facsimile transmission."

OFFICIAL BUSINESS

Outside parties may send electronic communications to Regional, Subregional and Resident Offices dealing only with official Agency business.

QUESTIONS

Any questions about the General Counsel's, Division of Judges' or the Board's E-filing policies should be directed to an NLRB Information Officer during regular business hours.