

**COMMONWEALTH OF VIRGINIA
WORKERS' COMPENSATION COMMISSION**



**Practice Guide For
Attorneys Using *WebFile***

Designed for Attorneys Engaged in Practice
Before the Commission

JUNE 2010

WELCOME

Welcome to the Virginia Workers' Compensation Commission's **WebFile** system.

The Commission created **WebFile** to provide its partners in the legal community with new, self-service capabilities to view and manage case files and documents online.

This document is a companion document to the **WebFile Guide for Attorneys** which will be available as part of the statewide rollout of the **WebFile** system. In this document, attorneys will find practice tips, helpful hints, and frequently asked questions gathered during the development and pilot phases so far.

Direct questions about any of the information provided in this guide to webfilesupport@vwc.state.va.us.

See <https://webfile.workcomp.virginia.gov> for additional information and FAQs about WebFile.

INTRODUCTION

Practice before the Commission is changing. WebFile, the Commission's new electronic case management system, provides several new features designed to enhance efficiency of dispute handling, and make handling Commission cases more streamlined. Attorneys will now have access to case records in "real time" fashion. Additionally, basic dispute related transactions will take place via the Internet. Finally, mail and fax-based communications will give way to e-mail.

What this means to attorneys is: Simpler noting of attorney representation; faster routing of motions; immediate access to medical records; shared case access for associates and paralegals; fewer scheduling conflicts for hearings; e-mail notifications of case filings.

Many questions surface, however, when embarking on an electronic-based law practice, such as: What about my signature? Do I still have to provide copies to my opponents? What about notary seals? What about sealed settlement documents—are they still private? Are my filings legally effective?

Fortunately, others have paved the way in this regard. In the Final Report of the Commission on Virginia Courts in the 21st Century, commissioned by the Supreme Court of Virginia, the Task Force on Science and Technology was charged with exploring a key vision element:

Vision Seven: In the future, technology will increase the access, convenience, and ease of use of the courts for all citizens and will improve the quality of justice by increasing the courts' ability to determine facts and reach a fair decision.

The Task Force issued an important recommendation:

Courts should be equipped with modern technologies that optimize the use of court resources and facilitate the disposition of cases while at the same time maintaining the security of internal court systems.

Additionally, the General Assembly has paved the way through other hurdles through adoption of laws designed to promote modern, innovate electronic practices. For example, Va. Code 59.1-479 et seq., the Virginia Uniform Electronic Transactions Act, provides that if a "signature or record" is required to be acknowledged or otherwise verified, the requirement is satisfied through electronic means. Additionally, records are allowed to be retained, under the Act, through retention of an electronic record. Moreover, the Act provides guidance for "time and place of sending and receipt" of electronic transmissions, setting forth in general that entry of a record into a recipient's information system serves as the time of sending, and is deemed to be sent from the sender's place of business and received at the recipient's place of business. Finally, other courts, such as the Federal Court system, offer helpful insight into handling an electronic case practice.

In light of the direction offered by the Virginia General Assembly and Virginia's state and federal courts, the Workers' Compensation Commission has designed a system providing electronic case access and

offering certain electronic case management features. The Commission has published terms and conditions for use of the system, which are required to be accepted to use the system and conduct “electronic business” with the Commission.

It is our sincere hope that attorneys practicing before the Commission will do so in confidence that their transactions are secure, valid, and reliable. We appreciate your support, as we seek to fulfill our mission, and welcome your participation as members of the Virginia State Bar.

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I. Gaining Access

Only attorneys licensed by the Virginia State Bar are able to gain access to WebFile. Gaining access to the system for attorneys is a straightforward process, which requires the attorney to contact the WebFile site administrator for his or her firm and request access.

Site administrators are required to follow three simple steps: (1) Register their firm and bar license information for the firm's attorneys who practice workers' compensation with the Clerk of the Commission; (2) Request a site administrator account via e-mail from WebFile support; and (3) Create the site administrator account over the Internet. After creating the account, site administrators then are free to set up their firm's attorneys with accounts.



PRACTICE TIP

Requesting Access

To request access site administrators should send an e-mail to WebFileSupport@vwc.state.va.us and include the following information:

- E-mail address
- Your first and last name
- Your phone number



PRACTICE TIP

Attorneys may share their passwords with their legal secretaries (or other staff members) according to the Commission's policy, which is based on the Eastern District's Policy on Access Delegation:

Delegation of Authority to Use Login and Password

Attorneys may allow a secretary, paralegal, or other person in their office to use their login and password to file documents on their behalf.

However, attorneys should remember that

- their login and password constitute their signature, regardless of whether they personally use the login and password or delegate that authority to someone else.
- they are responsible for safeguarding and protecting their login and password at all times.

II. Noting Representation

In WebFile, attorneys have the option to note representation of the Claimant or Claim Administrator organization (i.e. both the Employer and the Insurance Carrier), without having to send in a separate letter to the Clerk's Office. This step enables immediate access to relevant case files, and automatically adds a Letter of Representation to the record. If you represent only one of the "defense" parties, e.g., only the employer, and not the carrier, then you will submit a letter asserting that fact to the Commission. After the Commission processes that letter, you will be able to access that file via WebFile.



PRACTICE TIP

When a WebFile site administrator removes an Attorney from a firm's profile, it does not remove the attorney from a case, it just blocks WebFile access. The new attorney will need to file a Motion to Substitute Counsel, or the "old" attorney a Motion to Withdraw, as appropriate. You may file such a Motion through WebFile.



PRACTICE TIP

An attorney does NOT assert that he or she represents a party by creating a WebFile account. This is a separate step. Any Attorney with a law firm that has registered with the Clerk of the Commission can have a WebFile account, regardless of whether or not they actually represent any clients before the Commission at that time. Their accounts are established through their firm's WebFile site administrator.



PRACTICE TIP

You can have access to files via WebFile, even though a colleague is designated, for Commission purposes, as the 'Primary Attorney.' In this way, you can help 'cover' for attorneys (e.g. those on vacation, with hearing conflicts in other jurisdictions, etc.).

If you wish to be noted as the Primary Attorney, you may do so when first Noting your Representation; otherwise, you may contact the Deputy Commissioner's office handling the case to make this request.

III. Copying Opponents

Whenever new filings occur, the WebFile system processes email notifications that are automatically generated and sent to all WebFile-registered attorneys that represent one or more parties to the claim. WebFile users receive immediate notification, and can easily sort and archive these for future reference.

At this time, copying one's opponent through separate paper mailing is still required. Once WebFile users have the ability to 'opt out' of paper, however, electronic notifications will satisfy the obligation to copy opponents.



PRACTICE TIP

You must copy your opponent on the letter noting your representation, as well as on any other notice or document that you would normally send today. If you note representation through the 'automatic' WebFile process, you may print out the auto-generated representation letter, and forward it to your opponents.

If your opponent is a WebFile User, he will receive an electronic notification and can view this transaction from within the system.

*NOTE: In the future, WebFile users will be given the option of 'opting out' of paper. **However, until the Commission transitions to 'e-notice' only, you cannot rely on the WebFile notice to satisfy your obligation to provide a copy of a filing to your opponent.** Opponents who are WebFile users will receive an e-notice, but they must also receive a paper notice (as they do today) until the transition period is declared complete and the WebFile terms and conditions updated accordingly.*

At that point, WebFile users may choose to 'opt out' of receiving paper copies of relevant filings.



PRACTICE TIP

Following is an example of a certificate of service to be used only *after* attorneys are given the option to “opt out” of paper notifications.

CERTIFICATE OF SERVICE SAMPLE

I hereby certify that on the ____ day of _____, 20____, I electronically filed the foregoing with the Commission using the **WebFile** system, which will then send a notification of such filing to the following **WebFile** Users who have opted out of receiving paper notifications, as indicated by the “Opt Out” icon on WebFile:

Jacob Smith
Attorney at Law
123 Main Street
Any Town, VA 22310
jsmithatty@goodlaw.com

John Johnson
ABC Law Firm
1000 Maple Avenue
Any Town, VA 23220
jjohnson@abclaw.gmail.com

And I hereby certify that this same day I have mailed the document by U.S. mail to remaining Parties Who Have Not Opted Out of receiving notifications and whom I am obligated to copy:

Jane Jones
224 Ivy Lane
Any Town, VA 22214



The Certificate of Service sample referred to above can be used as a guide for how to create your own Certificate of Service document. Completed certificates can be uploaded to the record, either separately or in a (scanned) document bundle, or added as part of the document upload function when submitting a Web Form. Attorneys who elect to turn off paper will receive only e-mail notifications on those claims for which they have noted representation. ***Until the “Opt Out of Paper Notification” process is available, the Certificate of Service document should list ALL parties to the claim under the ‘Parties Who Have Not Opted Out’ of receiving paper notifications.***

IV. Preventing Conflicts

One of the main benefits WebFile provides to primary attorneys on a claim is preventing conflicts with other hearings scheduled before the Commission. WebFile links to a centralized, Outlook-based internal scheduling system which houses an attorney's Commission hearing schedule, which will provide warning when scheduling hearings of conflicts with existing docketed events.



PRACTICE TIP

While WebFile does help prevent conflicts with existing Commission hearings, the system does not house your scheduled hearings with other jurisdictions or courts, nor does it act as a 'tickler system' to remind you of upcoming hearings.



PRACTICE TIP

Only the "Primary Attorney" will have his or her upcoming scheduled VWC hearings checked for conflicts. Thus, when adding yourself to a file, you should select the "Primary Attorney" option only if you are planning to play the role of "lead attorney" on the case and attend scheduled hearings. If you are simply temporarily "covering" for a colleague, e.g. during a vacation, you should not select this option.

V. Making Filings

WebFile enables two types of filings: (1) the upload of existing documents; and (2) the creation of new filings using a list of preset Web Forms. The system facilitates several different filings, such as Claim for Benefits, Request for Mediation, Medical Records, Employer’s Applications, and general correspondence. In every case, the system immediately adds the new document to the record, which is immediately accessible by all approved users, and also triggers appropriate internal processing tasks.

IMPORTANT: Do not submit a copy of a filing, by mail or otherwise, that has also been made via WebFile, “to be extra certain” that the filing was successful. Feel free to verify filing by clicking on the “Documents & Filings” tab and viewing the filing.



PRACTICE TIP

Upload Documents

When using the “Upload Documents/Forms” tab on WebFile, users are required to select a category, or label, to describe the filing. Additionally, when categorizing a filing as a “Medical Record,” the user is required to supply the “Name of Provider.”



PRACTICE TIP

Document Routing

All filings made via WebFile are immediately routed to the Deputy Commissioner assigned to the case. Thus, WebFile is the most reliable method for quickly getting filings into the hands of a Deputy Commissioner.



PRACTICE TIP

Web Forms

You can save time by submitting a Web Form in certain transactions instead of uploading documents. Submitting a Web Form “automatically” creates an image of the filing, which you are then free to view and download, as appropriate. You are also able to attach relevant supporting documents to filings made via the Web Form process. Web Forms are available for the following filings: Claim for Benefits/Request for Hearing; Employer’s Application for Hearing; 20-day Order Response Form – Claim Filed; 20-day Order Response Form – Payments Made; and Request for Mediation.



PRACTICE TIP

Medical Records

Pursuant to Commission Rule 4.2, copies of medical records should be filed with the Commission **only** after a request for hearing is filed, and then only if they are “relevant” and have not already been filed. Parties are required to exchange, among themselves, **all** medical records.

To reiterate: File copies of medical records with the Commission (1) only after a request for hearing is filed; (2) only if they are relevant to the hearing request; and (3) only if the records have not already been filed with the Commission. **Tip: You may check for prior filing on WebFile under the “Documents & Filings” tab.**



PRACTICE TIP

Petition and Order Filings

All WebFile filings are immediately viewable by relevant parties. There is a single exception to this rule, however, involving certain Petition and Order settlement filings. The “Petition and Order (Claimant’s Info Letter)” is submitted under seal, meaning that only restricted Commission staff, and no external parties, are able to view the filing. Other Petition and Order documents are not sealed. To accomplish this “sealing,” the user should select “Petition and Order (Claimant’s Info Letter)” as the WebFile category for the claimant’s information letter, and select “Petition and Order” for the other, non info-letter documents.



PRACTICE TIP

In Camera Review

On occasion records are submitted to a VWC Deputy Commissioner for in camera review, e.g., in connection with a Motion to Quash a Subpoena. WebFile does not provide for submission of documents for in camera review; instead, such a submission made through WebFile would be viewable by all parties to the case immediately upon submission. For this reason, users should not use WebFile to submit documents for in camera review, but should either mail or hand deliver such documents directly to the attention of the Deputy Commissioner.



PRACTICE TIP

File Date

Pursuant to the WebFile Terms and Conditions, a document submitted to VWC via WebFile is “considered filed only when it is loaded onto the Commission’s servers. Thus, a record submitted at 11:59 p.m. on day 1, but loaded onto the servers at 12:00 a.m. on day 2, is considered filed on day 2.” Users will receive a “success message” confirming that the filing was made. Users may also click on the “Documents & Filings” tab to view the successfully filed document.

VI. Viewing Records

Attorneys, like all approved WebFile users (e.g. Claimants and Claim Administrators), have access to the full and complete claim record, which includes all of the document images (with the exception of sealed documents) as well as the claim details available to internal Commission users. Moreover, documents that once had to be requested and mailed are now available for immediate download.



PRACTICE TIP

When establishing an Attorney User account, Site Administrators should ensure that only ONE account per attorney e-mail address is established; otherwise, the user may receive the same notices at multiple e-mail addresses, or fail to receive all notifications at the appropriate single e-mail address.



PRACTICE TIP

If you “right click” on the document label, and select “save,” you are able to save a copy of the document directly to your computer, without the need to print the document. You may also return at any time, 24x7x365, to WebFile to view the document.