

Rule 81. Papers Filed; Conformity; Form, Size, Copies

(a) Conformity Required. All papers filed with the court must be produced, duplicated, and filed in conformity with these rules as to means of production, methods of duplication, form and size, and number of copies.

(b) Means of Production. All papers must be plainly and legibly typewritten or otherwise produced by any duplicating or copying process.

(c) Caption and Signing. All papers must bear a caption in conformity with Rule 7 and must be signed in conformity with Rule 11.

(d) Numbering of Pages. The pages of each paper must be numbered consecutively, commencing with the number 1.

(e) Designation of Originals. When multiple copies of a paper are filed, one must be designated as the original by the party.

(f) Pleadings and Other Papers. Unless otherwise provided by these rules, all papers must be filed in duplicate, only the original of which need be signed. Pleadings and other papers must be 8½ by 11 inches in size, with typed matter not exceeding 6½ by 9½ inches, and with type size of 12 points or larger, including type used in footnotes. Pages must be numbered on the bottom and bound or attached on the top margin. Typed matter must be double spaced except footnotes, which may be single spaced, quoted material, which may be indented and single spaced, and titles, schedules, tables, graphs, columns of figures, and other interspersed material which are more readable in a form other than double spaced.

(g) Status of Case. Papers filed after a case has been commenced must identify, with respect to each case affected by the papers, the court number assigned to the case, the court calendar on which the case is listed; and, if the case has been assigned, the name of the judge to whom the case has been assigned or reassigned.

(h) Confidential Information.

(1) If a party considers it necessary to refer in a pleading or other paper to confidential or privileged information, two sets of the pleadings or other papers must be filed.

(A) Confidential Set. One set of the pleadings or other papers must be labeled "Confidential" on the cover page and be filed with the clerk of the court. In addition, each page containing confidential material must bear a legend so indicating; however, in a case where Rule 73.2(c) is applicable, the label "Business Proprietary" may be used instead.

(B) Nonconfidential Set. The second set of pleadings or other papers must be labeled "Nonconfidential" on the cover page and be filed with the clerk of the court. In addition, each page of the "nonconfidential" set from which confidential or privileged information has been deleted must bear a legend so stating.

(2) Each party to the case must be served with one copy of the "nonconfidential" pleading or other paper, and, when permitted by an

applicable protective order, one copy of the "confidential" pleading or other paper, in accordance with Rule 5.

(3) Non-Availability to the Public. The "confidential" set of pleadings or other papers filed with the court will be available only to persons authorized to receive them and will not be made available to the public.

i) Briefs or Memoranda. A brief or memorandum must be filed in duplicate and must be 8½ by 11 inches in size. Pages must be numbered on the bottom portion thereof and bound or attached on the left margin. Typed matter must be double spaced, except quoted material which may be indented and single spaced, and except titles, schedules, tables, graphs, columns of figures, and other interspersed material which are more readable in a form other than double spaced.

(j) Movant's Brief or Memorandum. A brief or memorandum of the movant must contain under proper headings and arranged in the following order:

(1) a table of contents;

(2) a table of statutes, regulations, and cases cited, giving the volume and page in the official editions where they may be found, and arranging the cases in alphabetical order;

(3) in a case involving a specific importation, a brief description of the merchandise, country of origin and of exportation, date of exportation, date of entry, and port of entry;

(4)(A) in cases involving classification, the verbatim paragraph or paragraphs or item or items of the tariff statute under which the merchandise was assessed, and the verbatim paragraph or paragraphs or item or items under which it is claimed that the merchandise is properly dutiable, together with any other verbatim pertinent statutory provisions or regulations; (B) in cases involving valuation, the statutory basis of appraisement and the unit of value at which the merchandise was appraised, and the claimed statutory basis of value and unit of value, together with the verbatim pertinent statutory provisions;

(5) the questions presented for decision, including all subsidiary questions involved; when a brief is filed under Rule 56.2, the issues must be presented in accordance with Rule 56.2(c)(1)(B), and need not be restated under this paragraph (5);

(6) a concise statement of facts relevant to the issues with a specific citation to the page or pages in the record or exhibits supporting each such material fact;

(7) a summary of argument, which must be a succinct, but accurate and clear, condensation of the contentions made in the body of the brief;

(8) an argument, exhibiting clearly the contentions of the party with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, exhibits, and pages of the record relied on;

(9) a short conclusion stating the relief sought.

(k) Responding Party's Brief or Memorandum. A brief or memorandum of a responding party must conform to the requirements prescribed in subdivision (j) of this rule, except that no statement of the facts need be made beyond what may be considered necessary to correct any inaccuracies or omissions in the movant's brief, and except that items (3), (4) and (5) need not be included unless a responding party is dissatisfied with their presentation by the movant.

(l) Reply Brief or Memorandum. A reply brief or memorandum must be confined to rebutting matters contained in the brief of a responding party.

(m) General. A brief or memorandum must be concise, logically arranged, and free from burdensome, irrelevant, immaterial, pejorative and scandalous matter. A brief or memorandum not complying with this rule may be disregarded by the court.

PRACTICE COMMENT: All decisions of the United States Court of International Trade are published in: slip opinion form, the Customs Bulletin, and the official reports of the United States Court of International Trade. Certain decisions will also be published in the Federal Supplement or the Federal Rules Decisions. Decisions are also available on the LEXIS and WESTLAW electronic databases and those issued beginning in 1999 may be viewed on the website of the United States Court of International Trade, www.cit.uscourts.gov.

1. Published Opinions

After an opinion appears in the official CIT reports, Federal Supplement (F. Supp. or F. Supp. 2d), or Federal Rules Decisions (F.R.D.), the slip opinion is no longer used, and the citation is to the official reports, and unofficial reports, if available, together with the year of publication. One should not cite the Customs Bulletin and Decisions in any event.

Example

JCM, Ltd. v. United States, 23 CIT 121 (1999).

If the opinion is also published in F. Supp., F. Supp. 2d or F.R.D., citation of these reporters should follow the citation of the official reports.

Examples

Ludvig Svensson (U.S.) Inc. v. United States, 23 CIT 573, 62 F. Supp. 2d 1171 (1999);

NOT, 23 CIT 573, Slip Op. 99-82, 62 F. Supp. 2d 1171 (1999).

2. Internet Resources

The following guidelines should be used when contemplating citing Internet-based materials:

a. To provide a stable record of what was presented to the court, whenever possible cite to a printed version of the resource.

b. For LEXIS and WESTLAW, a correct and complete citation is sufficient. For government internet-based materials, a complete citation, including the full internet address (e.g., the “Uniform Resource Locator” for a website) is sufficient. For other Internet-based resources, if a printed version is not available for citation, print or otherwise capture the Internet-based resource and attach it as an exhibit to the document in which it has been cited.

c. Where it is not possible or practical to print or capture the entire non-governmental Internet-based resource, include the relevant portions in an exhibit to the document in which it has been cited.

d. In citations to any Internet-based materials, include the name of the author(s) (where applicable), the title of the specific page being cited (underscored or in *italics*), the title of the website or other Internet-based resource, the date and time the material was posted (if available), and the full Internet address. If the date and time are available for the referenced material, include a parenthetical stating when the material was “last updated” or “last modified” if that information is available, or last visited.

e. For material available and readily accessible in printed form, an Internet citation may be provided as a parallel citation, introduced by “*available at.*”

f. Citations to Internet-based materials should point directly to the referenced document (i.e., provide a permanent link or “permalink”).

Examples of citations to Internet-based materials follow.

- (i) NYRL N074904, 2 (Sep. 15, 2009), *available at* <http://rulings.cbp.gov/ny/2009/n074904.doc>.
- (ii) Int'l Trade Admin., Dep't of Commerce, *Market Economy Questionnaire, Section A, Organization, Accounting Practices, Markets and Merchandise*, A-10 (June 18, 2010), <http://ia.ita.doc.gov/questionnaires/20100618/q-inv-sec-a-061810.pdf>.
- (iii) Katherine Skiba, *Obamas Honor Mexico at State Dinner*, Chicago Tribune (May 19, 2010, 9:57 PM), <http://www.chicagotribune.com/news/politics/obama/ct-met-obama-state-dinner-0520-20100519,0,5557697.story> (attached as Exhibit 4).
- (iv) *How Hot is a Habero?*, Red Rock Farms, <http://www.redrockfarms.info/howhot> (last visited Nov. 1, 2010) (attached as Exhibit 2).

g. Documents filed in the court's CM/ECF system should include the document number. For example, Plaintiff's Motion For Partial Summary Judgment 13, ECF No. 22.

For further rules of citation, reference may be made to *The Bluebook: A Uniform System of Citation* (Columbia L. Rev. et al. ed., 19th ed. Harvard L. Rev. Ass'n 2010)[Bluebook]. For punctuation, capitalization, abbreviations, and other matters of style, reference may be made to the U.S. Government Printing Office Style Manual. Assistance in citing recent decisions of this court may be obtained from the court librarian (212) 264-2816.

PRACTICE COMMENT: The court has established Security Procedures For Safeguarding Confidential Information in the Custody and Control of the Clerk. These procedures apply to confidential information or privileged information received by the court and may include: trade secrets, commercial and financial information, and information provided to the United States by foreign governments or foreign businesses or persons. These procedures do not pertain to national security information.

Section 11(a) of the Security Procedures regulates the transmittal of confidential information to and from the clerk by government agencies and private parties. A copy of Section 11(a) is available upon request from, and is posted in the office of the clerk.

PRACTICE COMMENT: Compliance with Rule 81 is encouraged because it will facilitate review of papers by the court. Pursuant to Rule 5(d), the clerk may refuse to accept any paper presented for filing because it does not comply with the procedural requirements of the rules or practice of the court. Additionally, a judge may reject nonconforming papers or take other appropriate action if it is determined that such action is warranted.

PRACTICE COMMENT: Rule 5(g) contains requirements for designation of business proprietary and other confidential information and the form of notification required when a party desires to delay filing a non-confidential version of a submission by one business day.

(As amended Oct. 3, 1984, eff. Jan. 1, 1985; July 28, 1988, eff. Nov. 1, 1988; Nov. 29, 1995, eff. Mar. 31, 1996; May 1, 1998, eff. Sept. 1, 1998; Jan. 25, 2000, eff. May 1, 2000; Dec. 18, 2001, eff. Apr. 1, 2002; Sept. 30, 2003, eff. Jan. 1, 2004; May 25, 2004, eff. Sept. 1, 2004; Nov. 25, 2008, eff. Jan. 1, 2009; March 24, 2009, eff. May 1, 2009; Dec. 7, 2010, eff. Jan. 1, 2011; Dec. 6, 2011, eff. Jan. 1, 2012; Dec. 4, 2012, eff. Jan. 1, 2013.)