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NOTICE TO THE COMMERCIAL DIVISION BAR

The Commercial Division, Supreme Court, New York County provides the following information to the Bar regarding e-filing in Commercial Division cases in this county.

Commercial Division Cases Presumptively E-Filed

Among the types of cases for which electronic filing is available in New York State Supreme Court through the New York State Courts Electronic Filing System ("NYSCEF") are Commercial Division matters. New York County Supreme Court has to date been the focal point of electronic filing in New York State. As a further step in the efforts of this court, the following policy is being implemented in the Commercial Division of New York County Supreme Court, with the concurrence of all Justices of the Division. Beginning June 15, 2008, all cases in the Commercial Division in this county are presumptively to be e-filed. Specifically:

(1) All cases to be initiated after that date in which assignment to the Commercial Division will be sought should be commenced electronically.

(2) All cases in which a Request for Judicial Intervention ("RJI") is filed after that date and in which a Commercial Division assignment is sought should be e-filed. If such a case has not been e-filed as of the filing of the RJI, the E-Filing Office of this court will convert the case to e-filed status; counsel who do not have an ID and password for the e-filing system should obtain one promptly and file and serve a consent to e-filing. (To obtain an ID and password, counsel should contact the E-Filing Office of this court at the phone number or e-mail address listed below.) Should any such case thereafter be transferred out of the Division, it will be reassigned at random to a General Assignment E-Filing Part.

(3) After June 15, Justices in all Division Parts may request that Division cases that were previously filed in hard copy form be converted to e-filed status; in such instances, counsel will be informed either by the Justice or the E-Filing Office. Counsel may convert any such case prior to such notice. The E-Filing Office of this court will work with parties in cases in this posture to ensure an efficient conversion that is not burdensome to counsel. If numerous documents have already been filed in hard copy form in such a case, the court may not require the e-filing of all of them, but in lieu thereof may post on the e-filing docket for that case a copy of the County Clerk's minutes.

Electronic filing is not mandatory. It is, however, the expectation of the court that attorneys will cooperate with the undersigned and the Commercial Division Justices in our efforts to improve the efficiency of court operations and to bring the courthouse increasingly into the age of advanced technology. Should an attorney not wish to participate in electronic filing in a particular Division case, he or she shall address the subject with the Division Justice assigned and all other parties at a conference or as otherwise directed by the Justice.

Courtesy Copies

Pursuant to the electronic filing rules (Uniform Rule § 202.5-b), in electronically filed cases in this county, the official record of a document that has been e-filed is the document in electronic form as it appears in the electronic docket. Submission of courtesy hard copies of documents intended for review by a Division Justice, notably including motion papers, is required unless the Justice informs counsel otherwise. Exhibits should be tabbed and the copies should be marked with the Motion Sequence Number where that is known. With respect to motions returnable in the Motion Support Office Courtroom (Room 130), such copies should be submitted in accordance with the regular procedures of the Courtroom. Although courtesy hard copies must be submitted, it is the obligation of counsel to see to it that all papers in an e-filed case submitted by counsel are filed in the official file - - the e-docket of the case - - unless the court provides otherwise (e.g., in the case of an exhibit that cannot conveniently be e-filed, such as a photograph).

Beginning June 15, 2008, in order to ensure efficient processing of papers in this court, in all e-filed cases in the Division, the party submitting a courtesy copy of a document for judicial review must place conspicuously on the front page of the document the following legend, indicating in the apposite space the number of the document as shown in the e-filed docket of the case in NYSCEF:

COURTESY COPY. THIS DOCUMENT HAS BEEN E-FILED AS DOCUMENT NO. _____

In all e-filed cases in any Commercial Division Part, courtesy hard copies of documents intended for judicial review, including all motion papers (but not including the signed order to show cause), will, with one qualification, be discarded by court staff upon the completion of judicial action thereon; such copies will not be filed with the Office of the County Clerk. Counsel may, however, place conspicuously on the first page of a document the following legend:

COUNSEL WILL RETRIEVE THIS COPY AND REQUESTS RETENTION

Any courtesy copies so marked will be retained in the Motion Support Office Courtroom (Room 130) for two weeks after the decision on the motion or other judicial action has been recorded by the E-Filing Office, after which, if not retrieved by counsel, those papers too will be discarded. Therefore, counsel must ensure that all documents submitted to the court as courtesy hard copies for judicial action, including proposed orders to show cause, supporting papers thereon, affidavits, briefs and other papers handed up at argument in the courtroom, are filed in the e-docket and are marked with the legend indicating that such filing has taken place.

Application of Traditional Courthouse Requirements in NYSCEF Cases

The application in NYSCEF cases of traditional courthouse requirements regarding the processing of papers, such as with respect to proposed orders to show cause, is explained in a Protocol accessible on the New York County homepage of the Commercial Division website (the address of which is www.nycourts.gov/comdiv).

Motion Papers in Non-E-Filed Cases

Beginning later this year, pursuant to procedures that will be announced, in all Commercial Division cases that have not been included in the e-filing system, counsel submitting motion papers, whether moving, opposition or reply papers or any other papers permitted by the Justice assigned, including papers on motions brought on by order to show cause, shall submit with the papers a computer diskette bearing an exact copy of the papers in PDF format. The staff of the court will include these papers in our Supreme Court Records On-Line Library (“Scroll”), access to which is available on the general website of the Supreme Court, Civil Branch, New York County (at the following address: www.nycourts.gov/supctmanh (under “Case Information”)). With regard to the privacy of information contained in such papers, counsel are reminded that the court has promulgated a Protocol governing our public access project, which is implemented through Scroll, including several rules applicable to such information and intended to ensure the privacy of certain information. Counsel are urged to access the Protocol at “Case Information” on our website and follow the rules.

Training and Information About E-Filing

The E-Filing Office of this court is located in Room 119 of the New York County Courthouse, 60 Centre Street, Manhattan. The Office offers each week a two-hour training course in the NYSCEF electronic filing program, for which two CLE credits are awarded at no charge. Attorneys familiar with the Federal ECF system will find that NYSCEF bears a significant resemblance to the former. Training may prove to be unnecessary for such practitioners.

The NYSCEF software contains a Practice System, which allows users to practice with the software as much as they find useful.

For further information about NYSCEF, for registration, IDs and passwords, including for the Practice System, and to sign up for training, counsel should contact the E-Filing Office at 646-386-3610 or newyorkef@courts.state.ny.us. The e-filing site can be accessed at www.nycourts.gov/efile.

Dated: May 20, 2008

HON. JACQUELINE W. SILBERMANN
ADMINISTRATIVE JUDGE