



SUPREME COURT CIVIL BRANCH NEW YORK COUNTY

COUNTY CLERK OF NEW YORK COUNTY

PROTOCOL ON COURTHOUSE AND COUNTY CLERK PROCEDURES FOR ELECTRONICALLY FILED CASES (REVISED MARCH 17, 2014)

This Protocol explains how traditional courthouse and County Clerk requirements for the processing of cases are applied in e-filed matters. For information about the New York State Courts Electronic Filing System (“NYSCEF”), see the NYSCEF website (www.nycourts.gov/efile).

A. E-FILED CASES GENERALLY

1) **Cases Commenced via NYSCEF:** Cases commenced by filing of the initiating papers with NYSCEF are identified as e-filed cases by a special index number. Index numbers are grouped by type of case. E-filed cases are identified by the number “5” as the second digit of an index number, although in tax certiorari matters and general cases (“100,000” series) it may be necessary due to the volume of cases filed to expand into use of a “6” as the identifying second digit. E-filed cases are further identified by the addition of a suffix “E” to the index number in the court’s case history computer program, the Civil Case Information System (“CCIS”); the index number with suffix should be used on all documents filed with the court in e-filed matters.

2) **Mandatory E-Filing:** E-filing is mandatory in all types of cases (other than election law, matrimonial, Art. 78, and Mental Hygiene Law matters) that are commenced in this court on or after February 19, 2013.¹ All such cases must be commenced by filing with the County Clerk electronically through NYSCEF and all subsequent documents in such cases must be e-filed, except in the limited circumstances set forth in the relevant rules (Uniform Rule 202.5-bb), such as a defined emergency. Further, an attorney who certifies in good faith that he or she lacks the equipment or knowledge needed to e-file and who has no staff member or employee under his or her direction who has such knowledge and equipment may opt out of participation in e-filing in a mandatory case by filing a form (posted on the “Forms” section of the NYSCEF website as Form EFM 2 and available in the court’s back offices) with the Clerk. An unrepresented party may choose to opt out by filing the same form. In matters in which a Request for Judicial Intervention (“RJI”) has not yet been filed, the executed form shall be filed with the County

¹ Between May 24, 2010 and February 18, 2013, e-filing was mandatory in various categories of newly-filed cases. For additional information, see relevant Administrative Orders posted on the NYSCEF website at the following address: <https://iapps.courts.state.ny.us/nyscef/RulesAndLegislation>.

Clerk. In matters in which an RJI has been filed, the form shall be delivered to the New York County E-Filing Department (60 Centre Street, Room 119; newyorkef@nycourts.gov; 646-386-3610). An attorney may also seek an exemption from the Justice assigned upon a showing of good cause. Unless the court otherwise directs, in *qui tam* actions, papers shall not be e-filed until the issue of election has been resolved and the complaint has been served.

3) **Consensual E-Filing**: Consensual e-filing has also been in place for some years, though it has now largely been overtaken in this county by the mandatory program. See Uniform Rule 202.5-b (Consensual E-Filing Rules).

4) **Cases E-Filed in Part**: If in a mandatory e-filed case an attorney or unrepresented party opts out or obtains an exemption from participating in e-filing, the case shall remain an e-filed matter and each participating attorney or party shall e-file all documents to be filed with the court and shall serve one another electronically as provided in the E-Filing Rules. Non-participating parties shall file and serve and be served in hard copy format. Pursuant to the E-Filing Rules, non-participating parties and counsel shall submit to the court the original hard copy documents in normal format, together with a covering notice (see below), and, in addition, an unbound hard copy thereof.

5) **Security Filters**: Attorneys participating in e-filing should have their staff check to ensure that any “blocklist” or other security feature on their e-mail systems will permit the receipt of e-mails from other parties and the court in NYSCEF matters.

B. FILING OF PAPERS GENERALLY

1) **Documents Must Be E-Filed**: Unless otherwise provided in the Rules or herein or where a special exemption is granted due to physical requirements (e.g., oversized maps; see Item B (9)), all documents to be filed with the court in a NYSCEF case, including all documents on motions and all letters to the court (where permitted), must be filed with the NYSCEF system. Documents that attorneys would not ordinarily file with the court in a hard-copy case need not be e-filed. Unless otherwise provided by the E-Filing Rules or this Protocol, in e-filed cases the County Clerk and the court will not accept documents filed in paper form.

2) **Commencement Under Seal or Anonymous Caption**: See Section K (3) hereof.

3) **Notice of Hard-Copy Submission**: Where in accordance with the E-Filing Rules a party submits a document in hard copy in an e-filed case, the document must bear, as the back page facing out, a Notice of Hard-Copy Submission - E-Filed Case (a form available in the “Forms” section on the NYSCEF website (Form EFM 3) and in the court’s back offices). Under the Rules, an emergency filer must e-file documents that initially were filed in hard copy form within three business days of the emergency filing; the originals will be discarded after the documents have been processed and the failure to e-file as required will therefore lead to an incomplete record.

4) **Index Numbers; When Issued**: In cases commenced electronically, the County Clerk will issue an index number as soon as possible. In the event that counsel faces circumstances that require accelerated assignment, counsel may send a request for such assignment by e-mail to the County Clerk at cc-nyef@nycourts.gov (put in the subject line “Request to Expedite”).

5) **Fees**: Court fees in NYSCEF cases must be paid via NYSCEF by a credit or bank card (Mastercard, Visa, or American Express). Fees are not accepted in person in the County Clerk’s Office. NYSCEF itself imposes no user fees.

6) (a) **Working Copies of Documents for Judicial Review**: Various Justices require that, in all NYSCEF cases assigned to them, unless otherwise directed, counsel submit working copies of e-filed documents that are intended for judicial review. Working copies are not required of documents that are only processed by a back office (e.g., preliminary conference request, note of issue). Generally, in these Parts, documents intended for judicial review must be filed with the NYSCEF system first and the required working copy must be delivered to the court thereafter. Working copies shall include exhibit tabs and backs and, for motion papers, the Motion Sequence Number, which is a number given to each distinct formal motion (but not cross-motion) for the purpose of identification. In addition, the filer of a working copy must firmly bind thereto, as the back page facing out, a copy of the Confirmation Notice that was generated by NYSCEF when that document was e-filed. Working copies that are submitted without the related Confirmation Notice will not be accepted. The official record of a document in an e-filed case is the electronic record of the document stored by the County Clerk (Uniform Rule 202.5-b (d) (4)). Working copies are intended only for the use of the Justice and will be discarded after the Justice has finished with them. Thus, in the event that counsel fails to e-file a document, it will not be part of the court record.

(b) **Parts Not Requiring Working Copies**: Notwithstanding any references herein to required working copies, such copies shall not be submitted in e-filed cases in the following Parts unless specifically requested by the Part in a particular case: Part 5 (Freed, J.); Part 6 (Lobis, J.); Part 12 (Jaffe, J.); Part 15 (Rakower, J.); Part 35 (Edmead, J.); Part 37 (Engoron, J.); Part 42 (Bannon, J.); Part 52 (Chan, J.); Part 57 (Moulton, J.); and Part 62 (Nervo, J.) and Commercial Division Part 39 (Scarpulla, J.).

7) **Authorization Form - Filing Agent**: A person or entity acting as filing agent for an attorney to a case must file an authorization form (accessible on the NYSCEF website) prior to or together with the first e-filing by that attorney in that action. Uniform Rule 202.5-b (d) (1) (I).

8) (a) **Correction of E-Filed Documents**: Generally speaking, documents that have been e-filed will not thereafter be deleted by the County Clerk from NYSCEF because the filer asserts that the filing contains an error or a significant omission. When the filer wishes to correct a perceived error or omission in a filed document, he or she should file an amended version of the document, with the original remaining on file, or else obtain a court order providing for deletion of the original. The County Clerk will only delete a document upon request of the filer or on the County Clerk's own initiative when it is obvious from the face of the document alone that the filer made a fundamental error and never intended to file the document that was filed (e.g., where a filer who seeks to file a summons and complaint inadvertently uploads a completely unrelated, non-litigation document or files a document in the file for a different case or in the wrong county). The County Clerk will advise the filer when any such fundamental errors are detected. To request a deletion in a proper case, counsel should contact the County Clerk at 646-386-5956 (Phyllis Mingione, Counsel).

(b) **Errors Due to Failure to Redact**: If an attorney e-files a document that contains information that was intended to be, but that inadvertently was not, redacted (e.g., the full number of a bank account), the attorney may immediately inform the County Clerk of the error and the County Clerk may place the document in the status on NYSCEF of "Unavailable Pending Review," meaning that the document will not be accessible in NYSCEF by the public outside the courthouse pending the outcome of a review by the court. The document will, however, have been e-served on participating counsel and unrepresented parties and will be accessible to the public at the courthouse. In this situation, the County Clerk will require that the party in question obtain an order from the court resolving the redaction problem (e.g., sealing the original document and permitting its replacement with a redacted version). If no such order is obtained within a reasonable time, the County Clerk will make public the document previously marked "Unavailable Pending Review." If an order is obtained, the order should be brought to the attention of the County Clerk for action by him by contacting the Clerk at 646-386-5956 (Phyllis Mingione, Counsel). See the immediately preceding paragraph.

(c) **Amending the Caption**: If counsel wishes to amend the caption by stipulation or as of right, counsel must e-file a form of Notice to County Clerk - Amendment of Caption (accessible on the NYSCEF website). If the court by order grants leave to amend the caption, counsel should submit to the County Clerk by e-filing same a copy of that order and a completed Notice to the County Clerk - CPLR § 8019 (c) (NYSCEF Form EF-22, available on the NYSCEF site). See Par. J.

9) **Submission of Special Exhibits**: If a filer needs to submit unusual exhibits in original form that cannot practically be e-filed, such as oversized maps or electronic recordings, the filer should consult with the County Clerk, who will normally require that the filer retain custody of the original subject to possible future directives of the court. In such instances, the filing counsel shall file with NYSCEF a “space saver” in the form of a Notice of Hard Copy Exhibit Filing (NYSCEF Form EF 21). The Notice should be uploaded to NYSCEF as document type “Exhibit” and the filer should indicate in the “Additional Document Information” field that the filer is retaining custody of the original. Failure to e-file the Notice may result in a gap in the official record of the court.

C. REQUESTS FOR JUDICIAL INTERVENTION

An RJJ (2012 version) in a NYSCEF case shall be submitted via NYSCEF. A fillable version is available in NYSCEF (Forms EF 4), although at this point the document once completed must be printed out and scanned. Once e-filed, the RJJ and any accompanying document will be forwarded to the relevant back office for random assignment of the case and processing of the document. Counsel need not appear (as to proposed orders to show cause, see below). A filer who seeks assignment to the Commercial Division must submit with the RJJ a Commercial Division RJJ Addendum (Uniform Rule 202.70 (d)(see Forms EF 4)); a copy of the pleadings need be submitted only if the document has not previously been e-filed. If the RJJ seeks intervention with regard to a document, such as a motion, that is intended for review by a Justice who requires working copies, a working copy of the RJJ must be submitted with the working copy of the motion and the NYSCEF Confirmation Notice.

D. MOTIONS ON NOTICE

1) **Motions/Petitions Returnable in Room 130; Calendaring**: A motion on notice or a notice of petition in a NYSCEF case, as in others, shall be e-filed no later than eight days prior to the return date and shall be made returnable in the Motion Submission Part Courtroom (Room 130). The General Clerk’s Office will automatically place the application on the calendar of Room 130 for the date fixed; no appearance or other action by the filing attorney is required in order for the motion to be calendared. Motions in these cases appear on a distinct calendar.

2) **Adjournments on Motions/Petitions in Room 130**: E-filed applications may be adjourned in Room 130 if an adjournment complies with the procedures of the Motion Submission Part Courtroom (see the summary of those procedures at www.nycourts.gov/courts/ljd/supctmanh/Motions_and_Applications.shtml). An adjournment that so complies may be obtained by filing with NYSCEF a stipulation of all parties (designated in the filing menu as a “Stipulation Re: Adjournment of Motion - in Submissions Part - Rm. 130”); upon e-filing of the stipulation, the motion number and the current return date of the motion being adjourned shall be set forth in the “Additional Document Information” field in NYSCEF. The Office will effectuate the adjournment without need for an appearance or any other action by the parties. Counsel should not file a copy of the e-filed stipulation with the Room 130 e-mail adjournment address (NYMOTCAL@nycourts.gov), which is for use in hard copy cases only.

3) **Adjournments on Motions/Petitions in the Part**: E-filed applications may be adjourned in the Part if an adjournment complies with the Part’s procedures (see the Uniform Rules of the Justices on the court’s website). An adjournment that so complies may be obtained by filing with NYSCEF a stipulation of all parties (designated

in the filing menu as a “Stipulation Re: Adjournment of Motion - Before Judge”); the motion number and the current return date of the motion being adjourned shall be set forth in the “Additional Document Information” field in NYSCEF. Absent any problems, the Part will effectuate the adjournment without need for an appearance or any other action by the parties.

4) (a) **Working Copies on Motions in Room 130:** After documents on motions have been e-filed, working copies thereof, with Confirmation Notice firmly attached as the back page facing out, must be submitted in cases assigned to Parts that require such copies. Copies lacking the Notice will not be accepted. (Each document or group of documents that is separately bound shall bear a Confirmation Notice.) On the final return date (but not before), by 10 AM, working copies, including copies of the moving papers, shall be handed up in the Motion Submission Part Courtroom (Room 130). Working copies must not be delivered to the Part or Chambers on motions pending in Room 130 as doing so will cause administrative confusion and possible misplacement of papers. If the Clerk of Room 130 becomes aware that an attorney has failed to submit required working copies on the final return date, the motion may be placed, for one time only, on a special Room 130 calendar to permit submission of those copies. The court will not provide direct notice to the attorney that this has occurred; attorneys should use *e-Track* to receive e-mail notifications (see <http://iapps.courts.state.ny.us/webcivil/etrackLogin>) or consult the listing in the Law Journal regarding disposition of the Room 130 calendar. If the working copies are not submitted on the special calendar, the motion file will be transmitted as is by Room 130 to the Justice for such action as the Justice finds appropriate. Attorneys who maintain their office outside the County of New York may submit working copies on motions by mail or overnight delivery. Any such submission shall be sent in a timely manner to the General Clerk’s Office (Room 119) and be conspicuously marked on the outside “NYSCEF Matter;” lack of such marking may delay processing.

(b) **Working Copies in the Part:** On orders to show cause returnable in a working copy Part, working copies of e-filed opposition and (if allowed) reply papers (with backs and tabs) must be delivered to the Part. As to all such documents, and any document the court may allow a party to hand up in the courtroom on a motion/petition on notice beyond those previously submitted in Room 130, the attorney must, in any such Part, file each document with NYSCEF and thereafter submit a working copy bearing, firmly affixed thereto as the back page facing out, a copy of the related NYSCEF Confirmation Notice. Documents lacking a copy of the Notice will not be accepted.

5) **Exhibits:** Whenever possible, attorneys submitting exhibits in NYSCEF cases should make each exhibit a separate attachment to an affidavit/affirmation in the system; i.e., exhibits should not be filed as a single PDF-A together with the affidavit/affirmation or grouped together as a single PDF-A attachment because either format makes it difficult for the Justice to locate particular exhibits as needed. Counsel should also include appropriate descriptive language in the “Additional Document Information” field in NYSCEF.

6) **Experimental Program for E-Filing of Hyperlinked and Bookmarked Motion Papers:** The court is conducting an experimental program for the submission of hyperlinked and bookmarked affidavits, affirmations, and exhibits thereto, and briefs on motions and on pre-trial and post-trial submissions in Commercial Division Part 39 (Hon. Saliann Scarpulla) and Commercial Division Part 48 (Hon. Jeffrey K. Oing). These submissions shall be filed in accordance with the Statement of Procedures annexed to this Protocol.

7) **Notification of Decisions and Orders:** See Section L.

E. LONG FORM ORDERS/JUDGMENTS ON MOTIONS

1) **Submission of Proposed Documents via NYSCEF; No Working Copy Required:** If the court in a decision

directs that an order or judgment be settled or submitted (i.e., settlement on notice not required) on a motion in a NYSCEF case, the proposed order/judgment, with notice of settlement where required, and any proposed counter-order/judgment shall be filed with the court via NYSCEF. Where the decision directs that an order be settled, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Notice of Settlement - w/Proposed Order/Counter Order.” If the decision directs that a judgment be settled, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Notice of Settlement - w/Proposed Jdgmt./Counter Jdgmt.” If the decision directs that an order or judgment be submitted, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Proposed Order (Submit Per Judge’s Direction).” In these situations, even in a case assigned to a Part that is generally a working copy Part, no working copy of a proposed order/counter-order or judgment need be submitted, and no appearance by counsel is required. If the court’s decision directs that a proposed order be presented directly to a working copy Part or Chambers, the attorney should file it with NYSCEF and deliver a working copy to the Justice as directed, including the Confirmation Notice.

2) Processing of Proposed Documents: The relevant back office (the General Clerk’s Office Order Section (Room 119) or the Commercial Division Support Office (Room 119A)) will process the documents in the customary manner. The Clerk of the back office will print out a copy of the proposed order/counter-order or judgment and, as appropriate, may make changes thereon by hand or otherwise or, if circumstances warrant, may contact the submitting attorney by e-mail or telephone and request therefrom a corrected submission. Any corrected submissions from counsel should be e-filed as well, with no working copy required. Once a proposed order/counter-order or judgment in final form has been arrived at, the Clerk will print out it and the other documents submitted and forward them in hard copy to the Justice. As to notice of signing and entry, see Section L. As to judgments, see Section M.

F. ORDERS TO SHOW CAUSE

1) Proposed Orders to Show Cause and Supporting Documents to be Filed On-Line; Review On-Line; Working Copy: Except as noted in the next paragraph, proposed orders to show cause and supporting documents in all NYSCEF cases must be submitted first by filing with NYSCEF; original (hard copy) documents will not be accepted by the Clerk. The Clerk of the Commercial Division Support Office or the Ex Parte Office will review on-line the proposed order filed with NYSCEF and will, as needed, communicate with the submitting attorney about any issues by e-mail or phone. Review and processing of proposed orders to show cause by the Clerk normally take 24 hours. Once a final version of the submission has been arrived at in this way, it shall be e-filed. The Clerk will print out the proposed order in final form. In a case in a working copy Part, the proposed order in final form will be placed in a file jacket and the submitting attorney shall carry the jacket and a working copy of the supporting documents with Confirmation Notice(s) to the assigned Justice. In a case in a paperless Part (see Section B (6) (b)), the proposed order will be reviewed online, no working copy shall be submitted, and the final version will be transmitted to the Part by the Clerk electronically.

2) Exceptions: Permissible Submissions in Hard Copy: Notwithstanding the foregoing, if a party seeking a TRO submits an affirmation/affidavit demonstrating significant prejudice from the giving of notice (see Uniform Rule 202.7 (f) and Commercial Division Rule 20) or if in accordance with the Rules a party to a mandatory e-filed case is exempt from participation or seeks to submit documents in a defined emergency, the proposed order to show cause and supporting documents may be presented to the Commercial Division Support Office or the Ex Parte Office in hard copy form rather than filed on-line in the first instance. A completed Notice of Hard Copy Submission - E-Filed Case (NYSCEF Form EF 20, accessible on the NYSCEF site) indicating why the documents are being filed in hard copy form must be firmly attached to the papers as the back page facing out. If counsel seeks

a TRO but does not submit an affirmation/affidavit demonstrating significant prejudice, the documents shall be filed as provided in the immediately preceding paragraph. A proposed order to show cause and supporting documents that must be presented to a Justice outside normal court hours (see “Motions and Applications” under “Court Operations -- Courthouse Procedures” at www.nycourts.gov/courts/1jd/supctmanh/) shall also be presented in hard copy. In all situations described in this paragraph (other than that of an exempt party), documents submitted in hard copy form must thereafter be e-filed, as set forth below.

3) **Hard Copy Service:** When hard copy service is made of documents that were submitted in hard copy form pursuant to Par. 2 of this section and where no party is served via NYSCEF, the filer (except one who is exempt from mandatory e-filing) shall, no later than three business days after service, e-file the supporting papers (designating them in the NYSCEF document filing menu as “Supporting Papers to OSC (After Service),” together with proof of hard copy service. Failure to do so will cause the County Clerk file to be incomplete. The filer shall also send notice of the completion of service to the court at the e-mail address: genclerk-ords-mot@nycourts.gov. The Clerk will e-file the signed order to show cause after the deadline for service has passed.

4) **Declination:** If the Justice declines to sign a proposed order to show cause, the Clerk will electronically file the declined order. If the proposed order to show cause and supporting documents were filed with the court in hard copy form pursuant to Par. 2 of this section, the filing attorney or party (other than an exempt party) shall file the proposed order and supporting documents with NYSCEF (select the “Fee Previously Paid” option) no later than three business days after the filing by the Clerk. Failure to do so will cause the County Clerk file to be incomplete.

5) **E-Service of Signed OSC and Supporting Documents:** If the court directs that the signed order to show cause and supporting documents be served electronically, a conformed copy of the signed order should be designated as “Conformed Copy of OSC” in the NYSCEF document filing menu.

G. EX PARTE APPLICATIONS (OTHER THAN ORDERS TO SHOW CAUSE)

1) **Generally, Proposed Applications to Be E-Filed First; When Working Copy Required:** Proposed ex parte applications in a matter required to be e-filed shall be e-filed and will be reviewed by the clerk online; no hard copy is required at this stage. If any issues arise with regard to the form of the document, the clerk will communicate with counsel by phone or e-mail. Once all issues have been resolved in this way, the clerk will forward the electronic submission to a paperless Part (see Par. B (6) (b)) if the matter is assigned thereto; in such a situation no working copy is required. If the case is assigned to a Part that requires working copies, the clerk will print out the proposed order in final form and a working copy of the supporting papers must be submitted to the clerk by counsel. If the matter will not be assigned but will be submitted to an Ex Parte Justice, the clerk will print out the proposed order and a working copy of the supporting papers and submit them to the Ex Parte Justice unless the supporting papers are longer than 40 pages; here again, no working copy will be required. If the supporting papers are longer than 40 pages and a working copy is required, the clerk will print out the proposed order and advise counsel to submit to the clerk a working copy of the supporting papers.

2) **When Applications May Be Submitted in Hard Copy Form:** If the circumstances underlying a proposed ex parte application make it necessary that advance notice to the other side be avoided (e.g., ex parte order of attachment), the application may be submitted in hard copy form with a completed Notice of Hard Copy Submission - E-Filed Case (EF 20) firmly appended thereto as a back page facing out. If a proposed order requires a “data correct” stamp from the County Clerk or the approval of the Attorney General or the like, or where pursuant to statute or rule original documents or documents bearing original signatures must be submitted in support of the application, the application shall be submitted in hard copy form with a completed Notice of Hard Copy Submission. The filer shall e-file the application within three business days after service.

H. STIPULATIONS AND REQUESTS FOR SO-ORDERING OF STIPULATIONS

If an attorney wishes to submit a stipulation or a stipulation to be “so ordered,” he or she should file the document with NYSCEF, accurately describing the type of “Stipulation” using the document filing menu. If the Justice

requires working copies, counsel shall also submit a working copy of the document, together with a Confirmation Notice, to the Part.

I. SERVICE ON PARTIES

Pursuant to the E-Filing Rules, service of interlocutory documents is made by posting a document to the NYSCEF site, which automatically and immediately transmits an e-mail notice of the filing, including a link to the document, to all participating counsel and unrepresented parties on the case. The Rules also authorize service by other methods permitted by the CPLR. If service by such a method is made, proof of service must be filed with NYSCEF.

J. SERVICE OF ORDERS ON THE COUNTY CLERK AND BACK OFFICES

1) **Service on the County Clerk:** If an order in a NYSCEF case directs that the County Clerk take action, a copy of the order must be served on the County Clerk (CPLR § 8019 (c)), as the order will usually expressly provide. This shall be done by filing with NYSCEF a completed Notice to the County Clerk - CPLR § 8019 (c) (NYSCEF Form EF-22, available on the NYSCEF site). An exception to this procedure is where the order directs that the file be sealed; see Section K (3) for the procedure in this situation. Sealing is done by the County Clerk.

2) **Service on a Back Office of the Court:** If an order in a NYSCEF case directs that a back office of the court take action (e.g., striking a note of issue, effectuating a preference), notice of such order must be given to the back office by counsel, as the order will usually expressly provide. Such notice shall be given by transmitting a copy of the order by e-mail to the appropriate e-mail box (put in the subject line "Service of Order"). The e-mail addresses for the relevant back offices of the court -- the General Clerk's Office, which handles both matters related to motions and most non-motion filings in the court, such as notes of issue, preliminary conference requests and so forth, and the Special Referee Clerk -- are as follows:

Orders Concerning Motions -- General Clerk's Office, Rm. 119, Address: genclerk-ords-mot@nycourts.gov

Orders Concerning Trial Status, Jury Demands, Consolidations and Other Non-Motion Questions -- General Clerk's Office, Rm. 119, Address: genclerk-ords-non-mot@nycourts.gov

Special Referee: spref-nyef@nycourts.gov

3) **Service on Both Court Back Office and the County Clerk:** If an order needs to be served on both the County Clerk and a back office, counsel should follow the steps set forth in both Par. 1 and Par. 2 hereof.

K. SECURE DOCUMENTS AND SEALING OF DOCUMENTS

1) **Social Security Numbers:** "No person may file any document available for public inspection ... in any court of this state that contains a social security account number of any other person, unless such other person is a dependent child, or has consented to such filing, except as required by federal or state law or regulation, or by court rule." GBL 399-ddd (6).

2) **Secure Document Status Repealed:** In the past, e-filed documents could be designated "secure" by the filing user, as a result of which the documents would be accessible in NYSCEF outside the courthouse only to the parties to the case, though they would be accessible to all at the courthouse. The relevant portion of the rules that so provided (Uniform Rule 202.5-b (d) (3) (iii)) was deleted by Administrative Order effective April 15, 2013. Documents previously filed in secure status will retain that status unless otherwise directed by the court. It is the responsibility of counsel and parties to comply with legislation restricting disclosure of confidential personal information.

3) **Sealing; Compliance with Part 216; Procedures:** If counsel for a party seeks to have documents sealed in NYSCEF, specific steps, set forth below, must be taken and an order pursuant to Part 216 of the Uniform Rules

obtained. Until the court has resolved the sealing issue, counsel shall file documents in hard copy form, with a Notice of Hard Copy Submission - E-Filed Case (EF 20) appended.

(a) **Commencing a New Case Under Seal; Anonymous Caption**: Where counsel seeks to obtain a sealing order for a case file at the outset of the case, the attorney should not simply e-file the commencement documents, but should rather submit a proposed order to show cause, in hard copy form with a Notice of Hard Copy Submission - E-Filed Case (EF 20), seeking a sealing order and a TRO restricting access to the file pending the hearing on the application. The papers should be presented to the Ex Parte Office or the Commercial Division Support Office, which will refer the TRO to an Ex Parte Justice. If the Justice signs the TRO, the attorney should inform County Clerk staff (Phyllis Mingione, Counsel) by calling 646-386-5956. The attorney should then e-file the documents as directed by the County Clerk, who will restrict access to the e-file. An RJI should be submitted and the matter will then be referred to an IAS Justice for action on the full application. The same process should be followed if the applicant wishes an anonymous caption and a sealing order. Counsel must promptly inform the County Clerk staff by calling the number listed above if, upon presentation of the proposed order to show cause and TRO, the court refuses to issue the TRO and after the court acts upon the order to show cause regardless of the outcome. If the relief sought is denied, the applying counsel must, within three business days after the sealing issue is determined, e-file all documents not yet e-filed.

(b) **Application for Sealing Order in a Pending E-Filed Case**: To seal a document or the case file in a pending e-filed case, counsel must move for a sealing order. Counsel may file a motion to seal in hard copy form, with Notice of Hard Copy Submission (EF 20) annexed. If necessary, counsel should consult the Counsel to the County Clerk. Any opposition or reply papers shall likewise be submitted in hard copy form, with said Notice attached. If the court issues an order directing the sealing of a complete existing NYSCEF case file or a document or documents previously filed with NYSCEF, the applicant shall contact the Counsel to the County Clerk at 646-386-5956 and shall file with NYSCEF a Notification for Sealing (NYSCEF Form EF 7) to effectuate the order. The County Clerk will, during regular business hours, seal the file or the document(s) in question as directed by the court, both in the NYSCEF system and, if any covered documents are found therein, in a hard copy file. If the court issues an order directing the sealing of a document that has not yet been e-filed, counsel should contact the Counsel to the County Clerk at the number listed above and by Notice for Sealing prior to e-filing the document. The County Clerk will e-file the document under seal. All documents presented in connection with the sealing issue that have not yet been e-filed must be e-filed within three business days after the County Clerk seals the file if the entire file is sealed or after the sealing issue is determined adversely to the applicant.

4) **Previously Sealed File; Hard Copy Case**: If a hard copy case in which a sealing order was previously issued is converted to NYSCEF status, counsel for the parties should promptly inform the Counsel to the County Clerk of the existence of the sealing order.

L. ENTRY AND NOTICE OF ENTRY

The County Clerk shall file decisions and orders, long form orders, and judgments electronically, which shall constitute entry thereof (Uniform Rule 202.5-b (h)(1)), as will be reflected in a legend on the document. Upon e-filing, an e-mail message will be transmitted immediately to all filing users on the case notifying that the order/judgment has been entered and a copy thereof will be accessible via a link in the message. Such notice does not constitute service of notice of entry by any party. Notice of entry shall be served by a party by serving a copy of the order/judgment and written notice of its entry in the manner set forth in Uniform Rule 202.5-b (h) (3).

M. JUDGMENTS AND THE JUDGMENT ROLL

In the past, attorneys were required to submit to the County Clerk via NYSCEF a Certificate Requesting Entry of Judgment. This filing is no longer required since NYSCEF has been streamlined to allow counsel to initiate the process simply by submitting proposed judgments, as explained hereafter.

1) **Submission of Proposed Judgment to Clerk or the Court (the Assigned Justice):** Whenever an order of the court directs the County Clerk to enter judgment, or the court requires the presentation of a proposed judgment directly to the Justice after a decision or trial, counsel seeking entry shall submit a proposed judgment. The filer should enter the file for the case in question (select “File to Existing Case”) and a screen will appear that presents options for the filing of (i) documents on a motion or (ii) non-motion documents. Although a motion may have elicited the court’s directive, the motion itself has been concluded and so the filer should choose the selection under “Non-Motion Documents” labeled “Proposed Judgment to Clerk or Court.” On the next page an “Add Documents” screen will open. From a drop-down menu the filer should select either “Judgment to County Clerk (Proposed)” or “Judgment to Court (Proposed),” whichever is apposite. Next, the filer should attach the proposed judgment in PDF-A format. It is requested that a legal back be included since the County Clerk uses space on the back to affix stamps upon entry and docketing. Then, on the following page, the filer should add any documents that he or she may wish to submit as accompaniments to the proposed judgment, such as an affirmation providing information regarding calculation of interest. A proposed bill of costs should be submitted when costs and disbursements are sought. The next screen is the “Assemble Judgment Roll” screen (see CPLR 5017). Here, all the documents previously filed in the case will be displayed and the filer can designate any of these for inclusion in the judgment roll simply by clicking in the box next to the document. A “Sort By” drop-down can assist the filer to search for certain documents. See 5017 (b) as to the content of the judgment roll. The documents ready for submission should be reviewed, edits should be made if needed, and the documents should then be submitted. The proposed judgment will be transmitted by NYSCEF to the assigned Justice or to the County Clerk’s Judgment Clerk depending upon which kind of judgment the filer submitted. If the proposed judgment is to be presented to the Justice in a working-copy Part, it should also be submitted to that Part in working-copy form after e-filing.

If the filer has submitted a “Judgment to County Clerk (Proposed),” the Judgment Clerk will review the submission and, if needed, will communicate with the attorney as to any issues, including with regard to the judgment roll as created by counsel. The Clerk will tax costs and disbursements and calculate interest as required, will add those figures to the judgment, and will have the judgment signed by the County Clerk and entered. The judgment will bear a stamp indicating the date of entry.

Absent any problems, a “Judgment to Court (Proposed)” will be signed by the assigned Justice and forwarded by staff to the County Clerk for processing and entry. In the past, the County Clerk posted judgments signed by the Justice, but not yet processed by the County Clerk as “unfiled judgments” and required counsel to request entry thereof, but such a request is no longer required. Now, such a judgment may be forwarded to the County Clerk via NYSCEF, in which case it will be listed on NYSCEF but will be marked “Pending.” The County Clerk will review the judgment roll previously created by counsel and will tax costs and disbursements and calculate interest as required, and will add those figures to the judgment. The County Clerk will then enter the judgment and notification of entry will be transmitted to participating counsel and parties.

2) **Default Judgments by the County Clerk; Judgment by Confession:** If counsel seeks entry of a default judgment by the County Clerk (CPLR 3215) or a confession of judgment (CPLR 3218), the attorney should select from the drop-down document menu referred to above “Clerk Default Judgment (Proposed)” or “Judgment by Confession (Proposed),” respectively. Counsel should follow the process described above, submitting affirmations in support or a bill of costs and disbursements as needed. After the attorney has confirmed and finalized the submission, in the case of an application for a default judgment, a payment screen will open since entry of a default judgment by the County Clerk requires the payment of the \$ 45 motion fee. The submission will be routed automatically to the County Clerk’s Judgment Clerk for action and entry.

3) **Entry; Notification Upon Entry of a Judgment; Notice of Entry:** See Section L.

4) **Change of Name Cases:** Because of the necessity to complete certain procedures in such matters, once an order has been issued authorizing a change of name, the applicant should come to the Judgment Clerk, who will assist with finalization.

N. NOTICES OF APPEAL AND APPEAL PAPERS

1) **Notice of Appeal; Procedures:** A notice of appeal shall be filed with NYSCEF in an e-filed case, together with a pre-argument statement, a copy of proof of service on any party who has opted out, and a copy of the judgment or order appealed from. All of these documents shall be e-filed as a single PDF-A document. No hard copy should be delivered to the County Clerk's Office. The other participating parties to the case will be served via NYSCEF, except where a party chooses to serve by another method authorized by the CPLR, in which case proof of such service shall be e-filed.

2) **NYSCEF on Appeal; Appellate Division:** The Appellate Division, First Department does not yet fully handle appeals in NYSCEF cases by electronic means. The Court, however, has announced its intention to move toward that goal in the near future. As an initial step toward the use of NYSCEF on appeals to that court, a hard copy of the e-filed Notice of Appeal and attachments no longer needs to be transmitted to the Appellate Division in e-filed cases. Procedures in hard copy cases remain unaltered. For further information, counsel are advised to consult the rules of that court and to confer with the County Clerk.

ANY ATTORNEY WHO REQUIRES ASSISTANCE IN A NYSCEF CASE IN THIS COURT IS ENCOURAGED TO CONTACT THE NEW YORK COUNTY E-FILING OFFICE OR THE NEW YORK COUNTY CLERK E-FILE DEPARTMENT. COMPUTER EQUIPMENT IS AVAILABLE AT THE COURTHOUSE FOR THE USE OF ATTORNEYS WHO MAY NEED TO MAKE FILINGS IN NYSCEF CASES AND WHO FROM TIME TO TIME ARE UNABLE TO MAKE THE FILINGS FROM THEIR OWN OFFICES.

Dated: March 17, 2014

**SUPREME COURT, CIVIL BRANCH
NEW YORK COUNTY**

**HON. NORMAN GOODMAN
COUNTY CLERK OF
NEW YORK COUNTY**

**For Questions About New York County
E-Filed Cases, Consult:**

**HON. NORMAN GOODMAN
COUNTY CLERK OF
NEW YORK COUNTY
60 Centre Street, Room 161
New York, New York 10007**

**ELECTRONIC FILING OFFICE
SUPREME COURT, CIVIL BRANCH
NEW YORK COUNTY
60 Centre Street, Room 119 A
New York, New York 10007
Phone: 646-386-3610
E-Mail: newyorkef@nycourts.gov**

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**COUNTY CLERK E-FILE DEPARTMENT
60 Centre Street, Room 141 B
ERLON HODGE
MICHAEL BACCELLERI
646-386-3737, -3997, -3998
(as of 4/1/14)**

**For Information About the NYSCEF Software Generally
and To Schedule Training, Consult:**

**NEW YORK STATE COURTS
ELECTRONIC FILING
RESOURCE CENTER (STATEWIDE)
60 Centre Street, Room 119 M
New York, New York 10007
Phone: 646-386-3033
E-Mail: efile@nycourts.gov**

**JEFFREY CARUCCI
Statewide Coordinator of
Electronic Filing**

**CHRISTOPHER GIBSON
Deputy Coordinator**

**KAREN MACKIN
Resource Center Supervisor**

No. 23: 3/17/14

EXPERIMENTAL PROGRAM

STATEMENT OF PROCEDURES GOVERNING BRIEFS AND CERTAIN OTHER DOCUMENTS IN HYPERLINKED AND BOOKMARKED FORMAT IN ELECTRONICALLY FILED CASES

Commercial Division Part 39 (Hon. Saliann Scarpulla) and Commercial Division Part 48 (Hon. Jeffrey K. Oing) of the Supreme Court, Civil Branch, New York County strongly encourage counsel to submit, in any appropriate case assigned to either Part and filed in the New York State Courts Electronic Filing System (“NYSCEF”), affidavits, affirmations, exhibits, and memoranda of law containing hyperlinks and bookmarks.

1) **Application.** Unless otherwise ordered by the court, documents containing hyperlinks and bookmarks shall be filed only as provided in this Statement of Procedures. Any party to an e-filed case assigned to either of the designated Parts may file documents containing hyperlinks and bookmarks. Bookmarking and hyperlinking in documents shall be permitted only in affidavits and affirmations, exhibits thereto, and memoranda of law that are filed electronically with NYSCEF pursuant to the procedures thereof in connection with motions brought on by notice of motion, notice of petition, or order to show cause, as well as in pre-trial and post-trial briefs and related submissions.

2) **NYSCEF Format Requirements.** Documents in NYSCEF cases must be filed electronically in accordance with NYSCEF requirements. Pursuant to those requirements, all documents filed with NYSCEF must be in PDF-A format and be text-searchable (i.e., shall be created by a word processing or other program that effectuates the conversion of documents into word-searchable PDF-A format or processed through an optical character recognition software program).

3) **Bookmarks and Hyperlinks Defined.** Bookmarks are an electronic functionality built into a document that provides, adjacent to the body of the displayed document or otherwise readily accessible, a listing of the contents of the document and facilitates easy navigation by the reader within the document and exhibits thereto. Hyperlinks are an electronic functionality built into a memorandum of law, for instance, that permits the reader, by clicking on the name of a case, statute, etc. in a table of authorities or in the body of the brief to be immediately connected or “linked” to a copy of the authority, which automatically opens up for viewing. Material made accessible by hyperlinking does not constitute a part of the formal record. Hyperlinks merely provide efficiency and convenience in the accessing of cited material. Certain software programs permit the user to create bookmarks and hyperlinks automatically.

4) Requirements for Bookmarking and Hyperlinking.

(a) Memoranda of law to which this Statement applies shall contain hyperlinks to listings or citations of cases and other legal authorities in the brief’s table of authorities and in the body of

the brief, and to citations in the body of the brief to affirmations, affidavits, and exhibits submitted in connection with the application to which the brief relates. Hyperlinks shall be made to every such listing, citation, or reference, or at least to the most important thereof.

(b) Briefs and other documents to which this Statement applies may be self-contained and static, including the linked material as part of the file submitted. In such documents, PDF-A files of the texts of cited cases, statutes, and other legal authorities shall be aggregated as attachments to the text of the brief in PDF-A format and copies of exhibits shall be aggregated to the affirmation or affidavit to which they are annexed in the same format. Links in such a brief shall be to the full text of a case or law review article, the relevant section of a statute or rule cited, and, if the authority is a treatise or other lengthy work, the full text of the relevant portion thereof. If counsel prefers, links may be inserted to authorities on Westlaw and websites of state or Federal courts. Links may also be made to other documents filed with NYSCEF. Exhibits to affirmations/affidavits shall be text-searchable unless that is impossible (e.g., because of the presence of handwriting). Authorities cited in the brief shall appear in standard citation form. Affirmations and affidavits governed by this Statement shall contain exhibits in documentary form only, not copies of video depositions, audio clips, animations, or the like.

5) **Manner of submission of electronic material; working hard copy.** Bookmarked and hyperlinked material permitted hereby shall be submitted in electronic form by filing with NYSCEF in PDF-A format pursuant to the regular procedures of that system. Notwithstanding the requirements set forth in this *Protocol*, unless otherwise directed by the court under unusual circumstances, a working copy of the bookmarked or hyperlinked brief or other document shall not be submitted.

6) **Deadline for filing.** A bookmarked or hyperlinked document shall be filed electronically with the court by the final return date of the motion or application on notice or order to show cause or other deadline fixed by the court, or by no later than the close of business on the third business day after the final filing date provided that by the final filing date the document shall be filed without the bookmarkings or links.

7) **Size limitations of briefs and other documents.** A bookmarked or hyperlinked brief or other document submitted pursuant to this Statement of Procedures shall not exceed 15 megabytes. If the document is larger than that, it shall be submitted in sections, consecutively numbered, no one of which shall exceed that limit.

8) **Disclaimer.** The court does not endorse any organization, application or product that provides services for the incorporation of bookmarks and hyperlinks in documents.

Dated: New York, New York
March 17, 2014

3/17/14