

## ONONDAGA COUNTY PROTOCOL FOR CASE FILINGS NEW YORK STATE ELECTRONIC FILING (NYSCEF)

Attorneys seeking general information about the New York State Unified Court System's electronic filing program (NYSCEF) are advised to consult the *User's Manual* and *FAQs*, which may be found on the NYSCEF website: <https://iapps.courts.state.ny.us/nyscef/HomePage>. All e-filed cases are subject to the same practices, laws and rules as cases that are filed by paper.

Onondaga County cases which may be commenced electronically include:

- Tort
- Commercial cases
- Commercial Division cases under 22 NYCRR 202.70
- Contract (Non-Commercial)
- Consumer Credit Transactions
- Tax Certiorari

Any category not listed above is not included in Onondaga County's voluntary e-filing program. Further, Small Claims Assessment Review (SCAR) petitions cannot be e-filed in Onondaga County.

Cases previously filed in hard copy prior to February 28, 2012 may be converted to electronic filing pursuant to procedure set forth in NYSCEF Manual Section IX regarding Stipulation and Consent. The County Clerk will assign an electronic filing ("EF") index number and will post a document list/index of previously filed paper documents in the case. The parties need not electronically file previous documents unless specifically directed by the Court to do so.

1. **Index Numbers.** The index number must be referenced on all e-filed documents and correspondence. All e-filed case index numbers will contain the letters "EF" between the year and the file number (for example, 2012EF9999)
2. **Court fees.** Court fees in e-filed cases may be paid online with the NYSCEF system using a credit card. The paper is not considered to have been filed until payment of the fee has been tendered (see CPLR 304).
3. **Requests for Judicial Intervention (RJI).** The RJI in an e-filed case will be submitted via the NYSCEF system along with any required RJI addendum forms (such as UCS 840C for Commercial Division filings). When the RJI is filed and the fee paid online, the Onondaga County Clerk's Office will forward the RJI and any accompanying documents to the Onondaga Supreme Court Clerk's Office for assignment and processing. Notification of judge assignment and the return date will be sent to all consenting parties via e-mail.

4. **Papers Required to be E-filed.**

- a. All papers in an e-filed case shall be filed online with the NYSCEF system except where a special exemption has been granted, e.g., oversized maps, photographs, or as directed by the court. If an exemption is granted, the *Notice of Hard Copy Filing Submission - E-filed Case*, must be filed online.
- b. Correspondence will be filed and transmitted to other parties via the NYSCEF system. However, any papers or correspondence that the court or attorneys would not ordinarily file with the Onondaga County Clerk in a hard-copy case need not be filed on the NYSCEF system.
- c. If there is an error or an additional document is required, the system will notify the filing party, who will make the corrections/additions and submit them online.

5. **Courtesy Copies of E-filed Documents.**

- a. Please see the Onondaga County Individual E-filing Rules to see the list of Justices who require courtesy copies of documents and for which filing types or circumstances courtesy copies may be required. The Supreme Court Clerk's Office and the Onondaga County Clerk's Office will NOT accept courtesy copies. *Courtesy copies must be sent directly to the assigned justice's chambers.*
- b. Any courtesy copy must have attached to it a *Confirmation Notice* generated by the NYSCEF system as a cover page or it will not be accepted.
- c. Courtesy copies do not become part of the official court record as maintained by the Onondaga County Clerk's Office and will be destroyed by chambers at the disposition of the case. In the event that counsel fails to file a document via NYSCEF, the document will not be part of the court record.

6. **Technical Failures.** When filing by electronic means is hindered by a technical failure (as set forth in Uniform Rule §202.5-b(h)(3)(i)), a party may file with the County Clerk in hard copy. With the exception of deadlines that by law cannot be extended (e.g., a statute of limitations or the deadline for filing a Notice of Appeal), the time for filing of any document that is delayed due to technical failure of the NYSCEF system will be extended for one day for each day on which such failure occurs, unless otherwise ordered by the court.

7. **Motions on Notice.** With the exception of asbestos cases, appearances are required on all motions unless otherwise directed by the Court. All motions on asbestos cases are deemed submitted unless otherwise directed by the Court.

- a. All exhibits in e-filed cases must be e-filed individually as *separate attachments*.

- b. If the motion is the first filing in an action, the case will be assigned and counsel will be notified by the Supreme Court Clerk's Office of the assigned justice and return date via e-mail.
- c. If the motion is on a previously assigned case, counsel may choose a return date from the assigned justice's motion term schedule. If the date is unavailable for any reason, the Supreme Court Clerk's Office will notify counsel by e-mail.
- d. Cross motions, opposition and reply papers must be submitted online. Any courtesy or working copies, if required, must be provided to the assigned justice. Fees must be paid on all cross motions. *Onondaga County local court rules require that any additional papers relating to motions must be e-filed at least two business days prior to the return date, excluding the return date.*
- e. Motions and Orders to show Cause are assigned a sequence number by the system. Counsel must be sure that cross motions and other filings correspond with the correct sequence number, so that a cross motion will not be associated with the wrong original motion.
- f. Requests for adjournments will be handled as they are for hard-copy cases.
- g. Decisions and/or orders on motions in an e-filed case will be signed in hard copy by the assigned justice and forwarded to the Onondaga County Clerk's Office for filing and scanning into the NYSCEF system. The system will transmit notice of this event via e-mail to all parties.
- h. Any additional papers or documents on any motions in an e-filed case which are presented directly to the assigned justice must be filed online in NYSCEF as soon as possible following the motion or Order to Show Cause.

**8. Orders to Show Cause**

- a. Proposed Orders to Show Cause and supporting papers generally must be filed online. In instances where a party because of exigent circumstance does not wish to provide advance notice to an adversary of a proposed OSC by filing the OSC with supporting papers on NYSCEF (which generates an e-mail message to the parties), the proposed Order to Show Cause and supporting documents may be submitted in hard copy. In such instances, the applicant must file the proposed order and supporting papers with NYSCEF after signature.
- b. Any additional papers or documents on an e-filed case which are presented directly to the assigned justice on any Order to Show Cause must be filed online in

NYSCEF as soon as possible following the motion or Order to Show Cause.

**9. Procedures Regarding Service**

Please see NYSCEF User Manual Section IV(M) “Service of Commencement Papers” and VIII “Service through the NYSCEF System.”

**10. Sealing of Documents**

- a. As with hard copy files, if a party wishes to have a paper or file sealed in an e-filed case, the party must proceed in accordance with Part 216 of the Uniform Rules for the Trial Courts (NYCRR).
- b. Documents may be designated as “secure” by the filing party without an order of the court. The effect of such designation is that the document may be viewed outside of court in NYSCEF only by the consenting parties of record and by the court. *Please note that the electronic file remains open for public inspection in the County Clerk’s Office and via computer within the courthouse, unless otherwise sealed in accordance with Part 216.* An attorney or party filing a document via NYSCEF must comply with General Business Law 399-dd with respect to redactions of Social Security numbers.
- c. To obtain a sealing order, a motion or stipulation for such an order filed with NYSCEF will be open to the public unless the motion/stipulation is filed as a “secure” document.
- d. Once a sealing order is granted, any documents filed in hard copy must be uploaded to the sealed NYSCEF file. Additionally, the party seeking the sealing shall file with NYSCEF a Certificate Requesting Sealing of a Document in an Electronically Filed Case, together with a copy of the court’s order granting the sealing. If such a request is properly made, the Onondaga County Clerk will seal the file or the documents directed sealed by the court, both in the NYSCEF system and if any covered documents are filed in hard copy, the paper file.

**11. Notice to the County Clerk**

If an order in a NYSCEF case requires that the Onondaga County Clerk take action, including but not limited to the sealing of the record, a copy of the order must be e-mailed by the attorney to the Onondaga County Clerk’s Office at [ccefile@ongov.net](mailto:ccefile@ongov.net).

**12. Entry of Orders and Notice of Entry**

- a. The Onondaga County Clerk will file orders electronically and such filing will

constitute entry of the order. The County Clerk will transmit an e-mail message to all filing users on the case notifying them that the order has been entered. Such notice does not constitute service of Notice of Entry by any party.

- b. Notice of Entry is served by a party as follows: the party transmits electronically to all the parties to be served the notification received from the County Clerk, along with an express statement that the transmittal constitutes Notice of Entry.

### 13. **Judgments and the Judgment Roll**

#### a. **Entry of Judgment; Procedures**

1. If the court in an order directs entry of judgment by the Onondaga County Clerk, the party seeking entry will submit a proposed judgment with a bill of costs, interest calculations and supporting information to the Onondaga County Clerk, together with a Certificate Requesting Entry of Judgment. If the judgment is in proper form, it will be printed out by the Deputy Clerk. The Deputy Clerk will scan the judgment once signed and post it to the system, along with the supporting information, at which time notification will be sent via e-mail to all consenting users.

2. The fee for filing a default judgment is \$45.00. If the plaintiff in an E-filed case seeks entry of a default judgment by the County Clerk pursuant to CPLR 3215, the attorney shall transmit to NYSEF a Clerk's Default Judgment with bill of costs, etc. and the Certificate Requesting Entry of Judgment. The Deputy Clerk shall promptly enter the judgment or shall communicate with the filer by phone or e-mail if a problem is detected. To enter the judgment the Clerk shall print out the judgment from the NYSEF, have it signed, and scan it to the system.

#### b. **Judgment Roll**

1. Counsel shall submit the Certificate Requesting Entry of Judgment and shall identify therein, by title of the paper, number of the paper on the NYSEF List of Papers Filed, and the date filed, all e-filed documents that form part of the judgment roll. Any documents that were filed in hard-copy form that are to be included in the judgment roll should be scanned into the system by counsel and included in the Certificate. Once approved, the Deputy County Clerk shall post the Certificate online and this shall constitute the judgment roll.

c. **Entry of Judgment:**

1. Once the County Clerk has taxed costs and disbursements and has in hand a signed judgment, the Clerk will stamp the judgment with the County Clerk file stamp and scan the judgment to the system. This constitutes entry. The Clerk will then transmit an e-mail message to all filing users on the case notifying them that the judgment has been entered. This notice does not constitute service of notice of entry by any party (see Notice of Entry 11(b)).

14. **Notices of Appeal and Appeal Papers**

1. Party(ies) wishing to file a Notice of Appeal must file online with NYSCEF.
2. The other parties to the case may be served online in the manner described above. Proof of service must also be filed online.
3. The New York State Appellate Division, Fourth Department, *does not have electronic filing at this time*. For further information, counsel is advised to consult the rules of that court. The appellant is responsible for any conversion of e-filed documents to hard copies for the purposes of appeal.