
From: Neil Flynn <neil@ajlounyinjurylaw.com>
Sent: Thursday, February 11, 2016 5:24 PM
To: eFiling Comments
Subject: expansion of eFiling

Expand, expand, expand, expand! Great system. Keep it up. Spread it around.

Regards,
Neil Flynn
Ajlouny Injury Law
1-800-535-5029

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From: Bryce Jones <bryce@sagacitylaw.com>
Sent: Friday, February 12, 2016 2:47 PM
To: eFiling Comments
Subject: EFiling Support

I am a newly admitted attorney in New York and am shocked to find that in 2016 some courts in New York actually require paper filing. I would encourage every decision maker involved to help expand ECF to all state courts as soon as possible.

Regards,

T. Bryce Jones

Atty Reg # 5364013

From: Michael B. Oliver <oliver1465@gmail.com>
Sent: Wednesday, February 24, 2016 12:48 PM
To: eFiling Comments
Subject: Clinton County

I currently have five cases (pro se) and over a dozen respondents. The paperwork and process serving is overwhelming. How to I request eFiling for my cases in Clinton county.

ATTORNEYS AT LAW

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March 9, 2016

Jeffrey Carucci
Statewide Coordinator for Electronic Filing
60 Centre Street, Room 119M
New York, NY 10007

RE: NYS E-Filing Program Comments

Dear Mr. Carucci:

I hope you are well, and perhaps you might remember me from past dealings.

As you may or may not know, I am the managing partner of Smith Carroad Levy & Wan. I am also the President of the Commercial Lawyers Conference of New York, NYS Creditor's Bar Association, since January 2011, and the immediate Past Chair of the Eastern Region of the Commercial Law League of America, a Past Chair of the CLLA Young Member's Section, and currently serves on the Board of Governors, as well as the Chair of the National Education Committee.

It is the overwhelming opinion of myself, my firm, and those that practice in this field, that New York's E-Filing system is efficient, timely, user-friendly, and excellent. We believe wholeheartedly that it should be implemented for all courts, statewide.

The only flaw is that once a matter reaches individually assigned Justices, the rules change. Different Justices require different things. Some want a "working copy" filed with the motion support office. Others want them walked in on the return date. The rules are often difficult to anticipate, and the lack of uniformity is difficult to navigate. Moreover, we find it puzzling that the failure to provide the "working copy" in hard copy format, somehow then derails the matter.

If this could be addressed, the system could be near flawless.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Smith Carroad Levy & Wan, P.C.

TIMOTHY WAN, ESQ.

From: Adam Paul <buymyapartment@yahoo.com>
Sent: Thursday, March 10, 2016 1:35 AM
To: eFiling Comments
Subject: NYSCEF comment

The E-filing system is extraordinarily convenient in many, many ways. But it is extraordinarily inconvenient, and, indeed, downright prejudicial, to non-attorneys.

Under the E-Courts / E-Track / E-Civil Supreme system, anyone (attorney or 'civilian') can create an account and automatically 'track' developments in cases. The system then emails the user anytime something new has transpired in the case. For non-attorneys who are parties to multiple lawsuits, this feature is an enormously convenient way to keep track of all of one's cases, without having to rely on updates from one's attorney.

Unfortunately, no such option exists for non-attorneys on NYSCEF. Unlike E-courts, which allows anyone to open a *single* account and receive updates on as many cases as one chooses, NYSCEF requires a non-attorney to open a separate account for each case. There is thus no easy way to log into the system and see all of the cases that one is involved in. The registration process is cumbersome and time-consuming, requiring the user to fill out of separate form for each account, which then has to be faxed or mailed into court. I've given up on trying to figure out a way to get automatic updates on cases emailed to me from NYSCEF, the way I get from E-Courts.

There is no justification for the disparity in the way attorneys and non-attorneys are treated. A non-attorney should be able to open a single NYSCEF account, gather all of the cases he wants to be updated on in one place, and receive such updates in his inbox -- exactly as attorneys can, and exactly as anyone can do on E-Courts. Because E-courts does not send out updates on E-filed cases, and because every court is shifting to e-filing now, non-lawyers' inability to get updates on their cases is unfair and prejudicial.

Please fix the system.

--Adam

From: eFiling Comments
Sent: Friday, March 11, 2016 7:30 AM
To: eFilingComments-DG
Subject: FW: E-FILING COMMENT

From: Desi Parasol
Sent: Friday, March 11, 2016 7:29:37 AM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: E-FILING COMMENT

Dear Hon. Justice McConnell:

There is that cliché behind every good man is a good woman. In this instance, a slight modification – behind every good attorney there is a fabulous beyond measure secretary.

As such, I make the suggestion below on behalf of those secretaries* who end up doing most of the e-filing. Please, please, stop that stupid pop-up EVERY TIME an exhibit is attached indicating it must be described.

Alternative:

Reject the filing without naming it. The latter would make the e-filer as well reload the document, sufficient punishment, or incentive, depending on how you look at it, to make an e-filer not forget to name their exhibit, and accomplishing the goal of having it named with the maddening pop-up.

When there are a lot of exhibits its very, very irritating.

Thanks for your consideration of my suggestion!

*I do understand that sole-practitioners often do their own e-fling. I am sure they hate the pop-up as well.

-Desi Parasol

Asst. to the Managing Partner,

Jonathan Wilkofsky

WILKOFSKY, FRIEDMAN, KAREL & CUMMINS

299 Broadway, Suite 1700

New York, NY 10007

Phone: 212-285-0510

Fax: 212-285-0531

From: eFiling Comments
Sent: Friday, March 11, 2016 3:02 PM
To: eFilingComments-DG
Subject: FW: Efilng Suggestions for Improvement

From: Avram Frisch
Sent: Friday, March 11, 2016 3:02:10 PM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: Efilng Suggestions for Improvement

I have two minor complaints about the efilng system which should be rectified. One, the system should allow you to save a filing and continue working at a later time. Second, the case management database for appearances should be integrated so that you get all the notices from the efilng system.

Avram Frisch



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Avram E. Frisch, Esq.
Frischa@avifrschlaw.com

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Fax: 866-883-9690

From: eFiling Comments
Sent: Friday, March 11, 2016 7:43 PM
To: eFilingComments-DG
Subject: FW: eFiling public comment

From: Richard Boatti
Sent: Friday, March 11, 2016 7:43:16 PM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: eFiling public comment

Dear Mr. McConnell,

I think e-filing could be improved if it were possible to download multiple documents as one PDF- if NYSCEF could make it possible to select multiple documents and then download them as one PDF, it would make things like printing courtesy copies much easier and less time-consuming.

Thanks,

Rich

Richard Stephen Boatti, Esq.
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From: Justin F. Pane <jpane@younglawgroup.org>
Sent: Saturday, March 12, 2016 2:26 AM
To: eFiling Comments
Subject: Commentary on the Unified Court System's e-filing system

Categories: Green category

Dear Honorable Chief Judge Janet DiFiore:

First, allow me to congratulate you on your recent confirmation by the New York State Senate. I pray that your hard work and brilliant legal mind work in concert towards the betterment of the New York State Judiciary. If I may, one area in which the New York State Judiciary has absolutely excelled in is the technological arena—more particularly, the advent, implementation, and utilization of the New York State Courts Electronic Filing System ("NYSCEF").

By way of background, my employer is Young Law Group, PLLC, a boutique law firm providing foreclosure defense representation to approximately 500 clients spanning throughout nearly all 62 counties of the State of New York. In my opinion, NYSCEF is "hands down" the best thing to happen to the prosecution and defense of foreclosure actions. Rather than specifically go into all those reasons why NYSCEF is preferred and how the system has simplified the nuances of New York's Civil Practice Law & Rules ("CPLR"); I will limit my commentary to one specific statement--***PLEASE MAKE ELECTRONIC FILING MANDATORY FOR EVERY FORECLOSURE ACTION (RESIDENTIAL & COMMERCIAL) COMMENCED IN NASSAU COUNTY.***

More than astonishing, it is terribly troublesome that Nassau County is the ONLY county in the southern and eastern areas of New York which does NOT mandate electronic filing in foreclosure actions (*i.e.*, Suffolk, Kings, Queens, Bronx, New York, Richmond, and Westchester county ALL mandate electronic filing in foreclosure actions). I thank you in advance for any consideration you may give to my commentary.

Justin F. Pane
Chief Paralegal



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From: kemmaesq63@aol.com
Sent: Monday, March 14, 2016 2:57 PM
To: Jeffrey Carucci
Subject: E Filing

Dear Mr. Carucci,

The E-Filing System offers many conveniences, such as having all documents filed in the case in one location. It also makes it easy to decipher which motion is before the Court on a particular day.

I have one suggestion. When filing the Note of Issue, is it possible to be able to file the Note of Issue and Jury Demand at one time with the \$95.00 fee? I had a problem filing a Note of Issue in Suffolk County because I didn't realize you needed to file the document twice and pay the \$65 and \$30 fee separately. I think one filing would be simpler.

Thank you.

Karen M. Emma, Esq.

From: Robert Sternbach <ras@sternbach.com>
Sent: Monday, March 14, 2016 3:43 PM
To: eFiling Comments
Subject: NYSCEF - request for public comment

Categories: Green category

I think this is an excellent system – very well designed.

Robert A. Sternbach
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From: sceffler@optonline.net
Sent: Monday, March 14, 2016 5:30 PM
To: Jeffrey Carucci
Subject: E-file

Categories: Green category

Dear Mr. Carucci,

I think that the e-file system is tremendously convenient. I have filed pleadings at all times of day and on weekends.

When I have had an issue, the people at the help number were fast and helpful.

It is actually easier to re-read a pleading in a bulky file on the e-file system than in the paper file.

Eliminating the need for a separate service is also very good.

Stephen Corry Effler
Rye Brook, NY

From: Gregory Antollino <gantollino@nyc.rr.com>
Sent: Tuesday, March 15, 2016 8:59 AM
To: eFiling Comments
Subject: E-filing should be mandatory and judges should not ask for "working" copies

Categories: Green category

E-filing is a dream for a solo practitioner. The process of putting together motion papers is now simple and direct, and I don't have to deal with clerks who exert authority that they don't have (sometimes).

Additionally, I believe judges should not expect "working copies," but read them online and print (themselves) what they deem necessary. Many litigants attach repetitive nonsense to their briefs, and working copies defeat the goal of saving paper.

Gregory Antollino, Esq.
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New York, NY 10001
(212) 334-7397
www.antollino.com

From: Brett Kimmel <bk@brettkimmel.com>
Sent: Tuesday, March 15, 2016 10:49 AM
To: eFiling Comments

Categories: Green category

Love, love, love eFiling. It would be great if divorce filing was expanded to all counties. One problem, however, is the almost uniform policy of individual judges requiring additional filing of hard copies. Sort of defeats the purpose and creates a lot of otherwise unnecessary busy work for law offices.

Brett Kimmel, Esq.
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From: Michael A. Markowitz <attorney@mampc.net>
Sent: Tuesday, March 15, 2016 5:03 PM
To: eFiling Comments
Subject: Comments concerning use of NYSCEF

Categories: Green category

Mr. McConnell,

For years I have been using the eFiling system. Generally, the system performs well and gives attorneys and litigants transparency and greater access to the courts.

I have a problem concerning meaningful dialogue between the attorney and clerk. In particular, the system does not allow email communication when there is a question concerning a filed document. The system "hides" the identity of the clerk as "Court User".

For example, I filed an undertaking pursuant to CPLR 2501. The law allows the surety to be a natural person (CPLR 2502). The clerk rejected my undertaking (even though I used the McKinney's form), claiming that an undertaking may only be filed by an insurance company. I was unable to explain compliance with the law. The identity of the clerk was hidden by the system. The clerk then deleted my filing. I have since re-filed. The clerk has taken no position and the document has been marked "pending" for the past 2 weeks. For your review, Nassau County Supreme Court index number 605437/2015, Document number 44 (deleted) and document number 45. See, https://iapps.courts.state.ny.us/nyscef/DocumentList?docketId=iohred3Lq1PLff_PLUS_G6j6ckg==&display=all

I do not think a clerk should have the right to delete any document. Instead, the document should be marked "rejected" with the identity and contact information of the clerk who rejected the filing. This will allow me to explain to the clerk why the document was properly filed, or obtain additional information to correct a misfiled document, or to appeal the clerk's decision to a supervisor.

Michael A. Markowitz, Esq.
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**Also Member of the Florida Bar

March 15, 2016

John W. McConnell, Esq.
Counsel; Office of Court Administration
25 Beaver Street, 11th Floor
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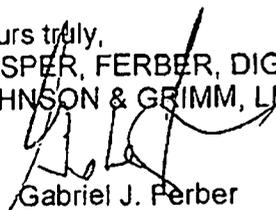
Re: Comment on NYSCEF

Dear Mr. O'Connell:

Overall, I am very pleased with the operation of NYSCEF. The process of e-filing is easy. The support staff, available by telephone, has been great. I especially appreciate the fact that persons are available until 6:00 p.m.

On occasion, large pdf documents do not load or take a long time to do so. However, other than that I am very favorably impressed with the system.

Yours truly,
NESPER, FERBER, DIGIACOMO,
JOHNSON & GRIMM, LLP


By: Gabriel J. Ferber

From: Robert J. Miletsky <RJMiletsky@RJMiletskyLaw.com>
Sent: Wednesday, March 16, 2016 11:53 AM
To: eFiling Comments
Subject: Comments on E-filing

Good Morning:

The system has gotten much better. The categories and types of documents are much clearer. It's better than the Federal system. There seems to be better coordination on the system between the Courts and the County Clerk. Two suggestions:

1. Prior to filing a document, I would like to see exactly what I am filing, to ensure the correct document is being filed. As the system now stands, in order to check the document being filed, I have to upload the document, click what I uploaded, download it as a pdf and then open it. That is cumbersome and time consuming, especially if there are numerous documents, as with a motion for summary judgment. I would like to be able to see what I uploaded without the need to click it from the e-system site, download it, click again and see the actual pdf.

2. Our Judges need to stop asking for hard-copies. It's "challenging" setting the filing up to file on the e-system, only to have to make a hardcopy from scratch. I thought the whole idea was to make this system more fluid and save on paper. If we have to make a hardcopy, it only makes the process longer and more involved (annoying?)

Thank you

Robert J. Miletsky, Esq.
Fmr Editor and Writer:
Contractors Business Management Report

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From: Toby M Cohen <tcohen@lotmc.com>
Sent: Wednesday, March 16, 2016 12:38 PM
To: eFiling Comments
Subject: Efiling Comments

Categories: Orange category

NYSECF is excellent. One of my few suggestions is that a text search for party names at the top of the "my cases" screen would be incredibly helpful and save a lot of time. The ability to locate the case I'm looking for in a few seconds, rather than having to scroll through the multiple screens where they're listed, would save a lot of time.

Alternatively, a choice of how many cases to list per page (25, 50, 100, etc) would be useful.

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From: eFiling Comments
Sent: Wednesday, March 16, 2016 3:35 PM
To: eFilingComments-DG
Subject: FW: Comments on eFiling

From: Marianne N
Sent: Wednesday, March 16, 2016 3:35:02 PM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: Comments on eFiling

I am finding eFiling a total waste of energy and time. It is far more work than before. It has not alleviated any work at all. You must still send hard copies of everything out in the mail and in addition take the time to efile most documents. Summary judgment motions are a total disaster. Due to the redaction rules that now apply it is more difficult than ever to efile stuff at times. You have to be a computer genius at times when it comes to this stuff regarding sizing, redacting, etc.

What is the benefit of eFiling??

From: jack@mevorach.com
Sent: Wednesday, March 16, 2016 3:38 PM
To: eFiling Comments
Subject: comments - NYSCEF - Jack Mevorach, Esq.

Dear Sir/Madam:

The system is great. Extremely well organized. A pleasure!

Two comments:

(1) A very useful feature enables the filer to further describe the document being uploaded. Keep this feature. I'm a Defendant in a case with multiple Defendants. I uploaded an Answer. There will be many Answers uploaded. Using the feature for additional description of the document, I added: "Answer of Jack Mevorach." If the other Defendants follow suit (pardon the pun), all the Answers will be easily identified in the list.

Similarly, many affidavits of service are being uploaded. If that filer would have used the feature and added "Affidavit of Service of Summons and Complaint upon ?" (perhaps abbreviated for space limitation), each particular affidavit is more easily identified in the list.

(2) The NYSUCS needs to be able to function in the event a cyberattack takes the system down. We should ALWAYS have in place - and be ready to use - a filing system that requires NO ELECTRICITY and NO ELECTRONICS. If and when necessary, we should be able to function using paper alone.

Jack Mevorach, Esq.

From: Nealon, Elizabeth A. <ENealon@woodsoviatt.com>
Sent: Thursday, March 17, 2016 10:15 AM
To: eFiling Comments
Subject: In regards to RJI filing

Categories: Orange category

Good Morning,

It has been my experience the new RJI filing system has been fraught with problems. There is no longer an option to upload our own RJI's until after tediously entering the information that we have already entered on our own RJI. The RJI template on the NYSCEF website is not as accurate as using our own form and takes up valuable time every time we need to upload.

It would be beneficial to add an option to skip entering all the information if we are uploading our own RJI.

Thank you.

Elizabeth A. Nealon
Clerk

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From: jberg@jaffeandasher.com
Sent: Friday, March 18, 2016 10:41 AM
To: eFiling Comments
Subject: Comments on NYSCEF

My suggestion to improve NYSCEF is to have eTrack features merged into NYSCEF. When a case is filed on NYSCEF, attorneys and participants should be able to receive eTrack notices of hearings, without having to separately add the case to eTrack.

Jonathan D. Berg, Esq.
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From: KENNEDE1@nationwide.com
Sent: Friday, March 18, 2016 11:38 AM
To: eFiling Comments
Subject: Request for Public Comment

Categories: Orange category

I have the task of filing Petitions to Stay UM/SUM Arbitrations (article 75) and usually get the assignment the last minute...the ability to efile the Petition (even sometimes in the 11th hour) has taken a great deal of stress and anxiety out of my job. Now please get Supreme Court, Suffolk County on board. Why do they not accept efiled Petitions on Article 75 matters? Yikes..

I have yet to convince attorneys that once all parties have consented to efile in a matter that paper copies need not served on adverse parties... old dogs sometimes do not want to learn new tricks :)

But in my humble opinion as non-attorney user, I fully support e-filing... Who knows how many trees will be saved in the future?

Eileen Kennedy-Jebrane, Paralegal Specialist
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From: Molly O'Brien <mobrien@wongfleming.com>
Sent: Friday, March 18, 2016 11:52 AM
To: eFiling Comments
Subject: public comment

Categories: Orange category

Personally, I think this is the best e-filing system in the country considering state and district courts! We work in many courts across the nation.

NYSCEF is by far the most user-friendly. I love the preview feature, the "My Cases" section, and the re-file feature.



Molly O'Brien | Paralegal | Wong Fleming

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From: Harper Law Office <jrharperlaw@verizon.net>
Sent: Friday, March 18, 2016 3:44 PM
To: Jeffrey Carucci
Subject: Re: EFiled Comments

Hello Mr. Carucci,
Actually, I sent the email (I hope that wasn't inappropriate). Jeff could certainly elaborate more eloquently than I did.
Thank you for responding.

Sandy

HARPER LAW OFFICE
Jeffrey R. Harper, Esq.
Sandy Harper, secretary
12066 E. Main Street
P.O. Box 7
Wolcott, NY 14590
T: 315-594-9488
F: 1468

From: Jeffrey Carucci
Sent: Friday, March 18, 2016 12:22 PM
To: jrharperlaw@verizon.net
Subject: EFiled.Comments

Mr. Harper,
Thank you for taking the time to comment on the NYSCEF System.
We would appreciate any further information you could provide us about your comment so that we can properly address any concerns you have.

Jeffrey Carucci
Statewide Coordinator for E-Filing
Office of Court Administration
60 Centre Street
NY NY 10007
JCarucci@NYCourts.gov
(212) 256-7778

We are most definitely not fond of electronic filing!

HARPER LAW OFFICE
Jeffrey R. Harper, Esq.

From: Maggie Leary <mleary@joneshacker.com>
Sent: Friday, March 18, 2016 2:56 PM
To: eFiling Comments
Subject: E filing comments

Categories: Orange category

Hi. Love NYS ECF. My only complaint, however, is that each individual exhibit must be filed separately. This becomes a problem when you have, say, 15 one page exhibits and you have 15 separate entries rather than Exhibits 1-15 as one document.

Would also like to see more counties using it.

Thank you.

Maggie Leary
Paralegal
E. Stewart Jones Hacker Murphy, LLP
28 Second Street
Troy, NY 12180
Direct Dial: (518) 213-0123
Fax: (518) 274-5875
www.joneshacker.com

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From: Molly O'Brien <mobrien@wongfleming.com>
Sent: Friday, March 18, 2016 4:45 PM
To: eFiling Comments
Subject: What could be even more intuitive

As I stated in my previous email, I think your system is the best. One suggestion I thought of was to link the specific Judge's rules (and any other local rules) to the specific case detail. I think that would make the NYSCEF online system even more intuitive.

But again, I think your site is the best in the nation (speaking from 2 years of paralegal experience...)



Molly O'Brien | Paralegal | Wong Fleming

821 Alexander Rd Suite 200 | Princeton, NJ 08540
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www.wongfleming.com

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From: Victor M. Serby <serbyv@optimum.net>
Sent: Friday, March 18, 2016 11:51 PM
To: eFiling Comments
Subject: Comments on NYSCEF

Categories: Green category

Dear Mr. McConnell:

OCA has done a crack-up job with its e-filing system. In my opinion, it is better than the federal ECF system.

E-filing should be expanded to all courts in New York. It saves gas, time, and no one can claim that they didn't get the papers due to loss in the mail.

A nice feature that isn't present would be to have the ability to download the whole case file at once. This would be useful for appellate printers (and the appellate courts) to get the whole record, instead of subpoenaing the record from the individual court/county clerks. The federal courts have a similar feature on their ECF system whereby the district court can upload the whole docket to the circuit court.

Victor M. Serby, Esq.
Patent Attorney
Licensed Professional Engineer
255 Hewlett Neck Road
Woodmere, NY 11598
Tel. 516-374-2455
Fax: 516-557-0088

From: Jeff Shepro <jshepro@sheprolaw.com>
Sent: Monday, March 21, 2016 10:12 AM
To: eFiling Comments
Subject: Comments

Hello,

Thanks for all the hard work that you put into the NYSCEF!

A few comments/suggestions:

1) Future and past Court dates / appearances should be visible on the system. They should be visible when viewing a case and also by attorney and/or law firm. Attorneys should have the option to receive an email notification one or more days in advance of a hearing. This is critical and will help reduce missed court appearances.

2) Users should be able to click a button to file documents to that case when viewing a case. Currently users who are viewing documents have to click out of the file, back on to "My Cases" and then click "File Document" next to the case.

3) There really should be an ability to mark off a case electronically rather than having to appear in Court to request an adjournment (especially when the Court or Judge specifically allows one or two adjournments). This is also useful if parties engage in settlement discussions after the motion is filed.

4) Motion filers should also have the option to have the motion heard "On the papers" to avoid unnecessary court appearances.

Points 1, 3 and 4 above would eliminate a tremendous amount of wasted time for attorneys, Courts and judges. (Points 3 and 4 (and I think 1 and 2 as well) above are available in Connecticut -- very efficient. See Connecticut eServices for more information.)

Thanks again!

Jeffrey Shepro

--
Jeffrey Shepro, P.C.
817 Broadway 10th Fl. Ste 1028
New York N.Y 10003

Tel: 212-575-2683
Fax: 212-575-2684

March 22, 2016

jcarucci@nycourts.gov

Mr. Jeffrey Carucci
Statewide Coordinator for Electronic Filing
NYS Unified Court System
New York County Courthouse
60 Centre Street, Room 119M
New York, New York 10007

Re: March 7, 2016 Request for Comments About Implementation of E-Filing Program

Dear Mr. Carucci:

Thank you for the opportunity to comment about the implementation of e-filing by the New York State Courts. I respectfully submit these comments, in response to your March 7, 2017 Request for Comments, on behalf of the undersigned New York City providers of free civil legal services to low and moderate-income New Yorkers working with defendants in foreclosure cases.

We appreciate the ongoing dialogue we have had with your office concerning the impact of e-filing on homeowners attempting to navigate the judicial foreclosure process, especially the large number of unrepresented homeowners, many of whom are elderly or of limited English proficiency ("LEP"). We are pleased that with the enactment of amendments to Section 212 of the Judiciary Law as of August 31, 2015, e-filing is an "opt-in" process for unrepresented parties, and that residential foreclosure and consumer credit actions are to be excluded from new mandatory e-filing pilot projects. We submit these comments concerning our observations about implementation of the new law, with the caveat that the most significant impact of e-filing is felt not by our advocates, who utilize the e-filing system in cases where we appear as counsel of record, but by the many thousands of unrepresented litigants across the state for whom e-filing can present significant access-to-justice barriers.

1. While the law is now clear that e-filing is an opt-in system for unrepresented parties, we have observed that some county clerks' offices have expressed hostility to those not opting in to e-filing, and have suggested that legal services providers who assist homeowner

defendants with the preparation of *pro se* answers should be responsible for persuading such unrepresented parties to opt in to e-filing. Indeed, shortly after the amendments to Section 212 of the Judiciary Law, advocates observed personnel at the Bronx county clerk's office refuse to accept non-e-filed answers from *pro se* foreclosure defendants who received assistance with the preparation of their *pro se* answers from the foreclosure clinic staffed by legal services providers in the courthouse, refuse to provide file-stamped copies of such *pro se* answers, and/or substantially delay the filing of such answers, leaving homeowner defendants without proof of timely filing of their answers. While we understand that this problem has abated recently, for the very reasons that mandatory e-filing is problematic for elderly and low and moderate income parties without access to broadband, computers, or scanning equipment at home, or with limited English proficiency, many foreclosure defendants will not and should not opt in to e-filing. The clerk's offices should therefore not be pressuring advocates to encourage unrepresented parties to opt in to e-filing when it may not be in the litigant's best interest.

2. Advocates working with clients who represented themselves in the Bronx and in New York counties have reported that clerk's office personnel have advised unrepresented parties that they could not opt out of e-filing, even though current law contemplates e-filing only for unrepresented parties who opt in, and even though even before the recent amendments to the law, it was always permissible for litigants to opt out of e-filing.
3. Some advocates in Queens have observed that plaintiffs have continued to e-file documents, without serving hard copies on unrepresented parties who have opted out of e-filing in the mandatory e-filing pilot project for residential foreclosure cases implemented in Queens County prior to the enactment of the law excluding residential foreclosure cases from mandatory e-filing. While the amendment to the law did provide a two-year grace period for such pilot projects to wind down, we respectfully suggest that it is appropriate to terminate such pilot projects sooner rather than later, given the problems experienced with e-filing by foreclosure defendants, and the legislature's expressed desire to exclude residential foreclosure cases from mandatory e-filing.

4. Advocates practicing in Kings County have observed that some plaintiffs are not filing documents in pdf-A (searchable) format as required by Rule 202.5-b(d)(1)(i), and are instead filing grainy, sometimes nearly illegible scans of pleadings. The pleadings and RPAPL 1303 notices (Help for Homeowners in Foreclosure notices, which are required to accompany foreclosure complaints) are often reduced in the scanning process to the point that they do not comply with the law's very explicit size and typeface requirements. Compliance with these requirements is especially important for seniors; we respectfully suggest that plaintiffs should not be permitted to file scans of pleadings in which the pleadings have been reduced to illegibility or in which required accompanying notices, which are statutory conditions precedent, have been reduced to fonts smaller than the 14 point type required by the statute.
5. Advocates have observed that hard copy documents filed for *pro se* litigants sometimes do not appear on the e-file docket, and when they do, it sometimes takes several weeks.
6. Some courts are actually discouraging use of the e-filing system by *pro se* litigants who might otherwise opt in by making it impossible to pay motion filing fees in cash; cash is permitted in Kings County, for example, only for *pro se* litigants who have not opted in to e-filing. Many *pro se* litigants without credit cards effectively are barred from utilizing the e-filing system because there is no mechanism for payment of filing fees with cash. This can be highly problematic for *pro se* litigants who did opt in to e-filing with the filing of an answer, who may later discover they are unable to file motion papers because there is no mechanism for payment of the required filing fee without use of a credit card.
7. The Notice of Commencement of Action Subject to Mandatory Electronic Filing (EFM-1) is confusing to litigants in foreclosure actions and to *pro se* litigants, because it creates the misleading impression that foreclosure actions are subject to mandatory electronic filing, requiring the reader to read through 6 paragraphs of text before reaching the paragraph explaining that unrepresented litigants are exempt from e-filing. Additionally, we have observed plaintiffs use outdated versions of this notice, incorrectly advising defendants that they are required to opt out of e-filing. Given that foreclosure actions (among others) are statutorily excluded from mandatory e-filing, except for commencement of the action by e-

filing, we suggest that a separate form be devised for excluded categories of cases which do not refer to mandatory e-filing and which more prominently make clear that *pro se* parties are automatically excluded from e-filing unless they choose to opt in.

8. As you are aware, civil legal services foreclosure prevention advocates routinely represent homeowners in foreclosure settlement conferences pursuant to limited retainers, and file notices of limited appearance for purposes of the settlement conference phase of foreclosure actions, which representation terminates when foreclosure actions are released from settlement conference parts. A mechanism is needed to reflect the termination of the representation and the associated consent to e-filing in such circumstances, so that legal services providers in such circumstances are no longer treated as counsel of record and so that the newly-*pro se* parties revert to non-e-filing status, unless they opt in. As we have discussed, a form proposed for this purpose by Queens County was unacceptable, as it would have required recitations about attorney-client communications and would have imposed obligations on attorneys to provide information about e-filing options to former clients. We have proposed a form which, we believe, would be effective to terminate the e-filing status and the notice of limited appearance simultaneously. We have submitted the enclosed form for consideration to Queens County, but have not had any reply; we request that you consider adopting such a form for use for this purpose statewide in foreclosure actions in which legal representation terminates upon release of cases from settlement conference parts.

9. A recent issue came to our attention in a case pending in Bronx Supreme Court concerning the e-filing of motion papers which improperly disclosed a defendant's social security number instead of redacting such information, as required by section 202.5(e) of the Uniform Civil Rules of the Supreme and County Courts. Instead of rejecting the improperly-filed motion papers, the clerk accepted them and deemed the papers "sealed," removing it from the public record and making it impossible for an advocate taking over the case to retrieve the papers from the public record. Efforts to correct this problem with the clerk's office and with the E-File Resource Center have not been successful. If this issue has presented itself in a case in which an advocate is now working with the homeowner defendant, we can only imagine that other unrepresented homeowners can be harmed by

improper filing of motions with un-redacted personal identifying information, and the ensuing sealing of such papers.

10. Many of the problems encountered, both by advocates and unrepresented parties, result from the e-filing system's complex drop-down menu, requiring a series of choices that can lead to human error, especially when such filings are made in volume by foreclosure plaintiffs' firms making multiple filings simultaneously. One example that came to our attention involved an 86-year old homeowner defendant being marked as represented by the plaintiff's law firm, which caused the clerk's office to treat him as represented and therefore barred from filing a hard copy answer to the complaint. We would suggest that a user-friendly system be implemented at each courthouse to trouble-shoot these kinds of issues. As of now, there is a lack of clarity around how these problems are resolved—whether such issues are the responsibility of the e-file center, the County Clerk's office or the Supreme Court Clerk's office. Unrepresented parties who are lucky enough to find their way to a legal services agency may be able to ultimately get these types of problems resolved, but many *pro se* parties likely will not obtain such assistance and, instead, may have a default taken against them.

Thank you for presenting this opportunity to comment on our experiences with e-filing since the 2015 amendments went into effect. We look forward to continue working with you and your colleagues to address the ongoing issues around e-filing and its impact on the unrepresented and homeowner defendants navigating the judicial foreclosure process. For more information about these comments, please contact Jacob Inwald, Director of Foreclosure Prevention, Legal Services NYC, at jinwald@ls-nyc.org or 646-442-3634.

Respectfully submitted,

Legal Services NYC
Brooklyn Legal Services
Queens Legal Services
Legal Services NYC-Bronx

Staten Island Legal Services
JASA/Legal Services for the Elderly in Queens
City Bar Justice Center
Queens Volunteer Lawyers Project
New York Legal Assistance Group
MFY Legal Services, Inc.
The Legal Aid Society

Enclosure (Notice of Termination of Notice of Limited
Appearance and Termination of Electronic Filing)

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF

-----X

Index No. _____

Plaintiff,

v.

Defendant(s).

-----X

**NOTICE OF TERMINATION OF
NOTICE OF LIMITED
APPEARANCE AND
TERMINATION OF
ELECTRONIC FILING**

The undersigned _____, Esq., of

_____ (firm/organization) having entered a limited appearance as
counsel for Defendant(s) _____ in the above-
referenced action for purposes of the Foreclosure Settlement Conference Part only;

And this case having been released from the Foreclosure Settlement Conference Part,
thereby terminating the undersigned's representation of the Defendant(s) herein;

The undersigned now, does hereby withdraw as counsel for Defendant(s) as a result of
the termination of the limited representation of Defendant(s) herein.

Upon the filing of this Notice with the Court, all legal representation of the Defendant(s)
in this action by _____ (firm/organization) is terminated
by operation of the terms by which the undersigned was retained;

And Defendant(s) are now proceeding *pro se* and shall not be deemed to have opted in to

electronic filing unless and until Defendant(s) affirmatively file a request to participate in electronic filing.

All counsel of record are now required to serve any and all pleadings filed in this matter upon Defendant(s) *Pro Se* at their last known mailing address,

Dated: _____
Staten Island, New York

By: _____, Esq.
[NAME, ADDRESS AND PHONE
NUMBER OF LEGAL SERVICES
AGENCY]

TO: (All Counsel of Record)

From: x <nylaw@live.com>
Sent: Wednesday, March 23, 2016 9:46 AM
To: Jeffrey Carucci
Subject: comment on electronic filing

Dear Mr. Carucci;

I am an attorney practicing in New York and I am writing to you, at the invitation of the appellate division, with my comments.

I am greatly in favor of electronic filing. While the law currently allows service on other attorneys by e-mail, we must first seek out that attorney's permission, which is usually difficult. You want to serve process and not have to wait for an attorney to get around to checking e-mails. Therefore, I'm hoping that the state law will change to allow for service by e-mail to an e-mail address registered annually with the local court, without the additional burden of having to seek opposing counsel's permission each time papers are mailed.

I have no idea whether your topic includes the e-filing of vouchers in the attorney for the child program, but that is NOT working. The electronic voucher template was created, but now that we have tried to use it, it needs to be reassessed - it takes four times as long to fill out the voucher as it should. It usually takes me two hours to fill out a voucher - time for which I cannot bill. To access the template, you go to the 3rd dept webpage, and you actually have to choose e-voucher FOUR TIMES in four successive windows that open before you are taken to the e-voucher page. Now why is that? Why not just select e-voucher and have it appear in the window? Then, when we enter an activity, such as a court appearance, we have to make four separate and time-consuming entries: travel to court, mileage to court, court appearance, travel back from court. Why on earth isn't there the ability to type in the date, the court appearance, the travel time and mileage all in one window?

Thank you for your time.

Sincerely;

Lisa Miller, Esq.

From: Bernie Kleinman <attrnylwyr@yahoo.com>
Sent: Wednesday, March 23, 2016 9:59 AM
To: eFiling Comments
Subject: Comment on Efiling in NY Courts

Categories: Green category

This is an excellent innovation. However, one comment:
1. Not enough courts are participating (e.g., S. Ct., Ulster Co., S. Ct. Orange Co.).

TY

E. Kleinman

Bernard V. Kleinman
Attorney-at-Law
Law Office of Bernard V. Kleinman, PLLC
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From: Joseph Cavallo <joe@zooksearch.com>
Sent: Wednesday, March 23, 2016 10:33 AM
To: eFiling Comments
Subject: CPLR § 8019(c) and NYSCEF

Categories: Green category

Good morning,

I am contacting you regarding CPLR § 8019(c) when used to amend or change a case caption. We have been informed by the County Clerk and the e-file office that when a case caption is amended the parties are removed from the NYSCEF index. As per CPLR § 8019(c), a docket entry is to be made. Removing the parties from the record makes finding this case impossible when conducting a name search. This is crucial when conducting a Due Diligence search of the NY County Supreme Court records to return results showing any and all cases, active or terminated or dismissed against an individual or party.

On 06/24/15 this notice to the count clerk was filed in case# 651734/2014, and an entry on the docket was to be made. Several defendants were dismissed from this case thus amending the case caption. At the same time, the County Clerk's office deleted the dismissed parties from the NYSCEF record, subsequently causing those parties to not be associated with this case on the NYSCEF index.

I respectfully request that the NYSCEF index be corrected to show all the removed parties from this case# 651734/2014 and that this procedure of changing the NYSCEF record be stopped.

Please contact me to further discuss this matter. Thank you very much for you time and consideration.

Joseph Cavallo
Zook Search, Inc.
Partner
718-369-3879

www.zooksearch.com

New York - San Francisco - Los Angeles

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From: eFiling Comments
Sent: Wednesday, March 23, 2016 10:59 AM
To: eFilingComments-DG
Subject: FW: Comments on E-Filing Experience

From: David Arpino
Sent: Wednesday, March 23, 2016 10:58:30 AM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: Comments on E-Filing Experience

Good morning,

I am submitting the below in response to the prompt on the homepage of NYSCEF "Request for Public Comment" that is due on or before March 25, 2016.

I am speaking on behalf of the law firm of Arnold A. Arpino & Associates, P.C. and the three paralegals who utilize the NYSCEF system daily. We are high volume filers in Westchester and Kings Counties, but we also file in Nassau, Suffolk, and Bronx counties as well. We are a general practice firm that mainly handles civil and commercial litigation.

Our experience with NYSCEF has been overwhelmingly positive, and we welcome further expansion as the Counties allow.

A few recommendations to make the experience better: Add the functionality of being able to upload in bulk for more case types.

Currently, only consumer credit actions and certain real property actions have the ability to bulk e-file. Efficiency would be greatly improved if more case types were supported this way. Specifically contract-non commercial, residential & commercial foreclosure, and tort claims.

I know that I may not be aware of certain limitations, nor am I aware if it is already on the horizon or even feasible, but the NYSCEF has been such a great success in our opinion that expansion to the New York City Civil Courts, 9th and 10th judicial dist. district courts, and local city courts seems like a logical next step. In an age where many law firms are turning to a paperless environment, these courts not having e-filing capabilities causes inefficiencies and creates difficulties in work flow processing.

Thank you for considering our comments.

Best regards,
David Arpino, Paralegal

Arnold A. Arpino & Associates, P.C.
155 East Main Street Suite 190
Smithtown, New York 11787

From: eFiling Comments
Sent: Wednesday, March 23, 2016 11:19 AM
To: eFilingComments-DG
Subject: FW: NY E-File Comments

From: Tarpey, Colleen
Sent: Wednesday, March 23, 2016 11:19:15 AM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: NY E-File Comments

Dear Mr. McConnell,

As a practicing commercial litigator, I am generally pleased with the NYCEF system as a whole. It is very easy to use, very intuitive, and I've never had an issue where it didn't work as intended.

Here's the problem: the Courts don't seem to use it. Ever. I have filed various documents on the e-File system that require judicial review/action. When the document goes ignored for lengthy periods, I have called the Court only to be told "we don't look at that, you have to send it to" some unknown, unpublished fax number or in some other hard copy form. While I applaud the Courts for trying to move in the right direction, it seems strange to me that the system is mandatory for attorneys and litigants, but that the Courts completely ignore its existence.

This is not an issue isolated to just one Justice, or even just one County - this is my experience (and I suspect that of many other attorneys) nearly across the board. In fact, I can't think of a single instance where I have e-filed something and the Court took action on it without further prompting or follow up. I can understand requesting courtesy, hard copies - to the extent that Justices have individual practices that require the provision of courtesy copies to chambers, and those practices are published somewhere that they can be found (another problem, but not the focus of your inquiry, so I won't go there), it's no problem to provide them.

The genuine issue is that when the individual Justice has no such requirement published anywhere, their clerks or Court staff are not monitoring the electronic dockets and various requests are simply ignored. Of course, we've adapted, and now we call right after filing to understand what will prompt the Court to take action, but that renders e-filing a waste of time.

Just my two cents - if its trying to be the Federal ECF system, it is not, but not because of any technical flaw. Rather, its downfall is in the manner in which it is (not) used by Court staff.

Regards,

Colleen M. Tarpey
Garfunkel Wild, P.C.
111 Great Neck Rd., Suite 600
Great Neck, New York 11021
Main: (516) 393-2200
Direct: (516) 393-2536

From: Rogers, Susan (Law) <srogers@law.nyc.gov>
Sent: Wednesday, March 23, 2016 3:38 PM
To: eFiling Comments
Subject: NYSCEF

In the beginning, it was confusing to utilize the system. Now with some adjustments, the system has become more user friendly. It's now a pleasure to use.

From: ROBERT J. ZYSK <bobzysk@gmail.com>
Sent: Wednesday, March 23, 2016 11:54 AM
To: eFiling Comments
Subject: COMMENTS ON E FILING SCREEN DEFICIENCIES

Categories: Orange category

Dear Mr. McConnell:

Having filed my first e filing case, I have the following suggestions to you:

1. The on screen instructions for payment are improper and confusing.

a: The main payment screen gives you 2 options. Pay by credit card, or enter a "receipt number if Index# already obtained" (presumably by the County Clerk, as Clerk of the Supreme Court).

b:, relying upon the above, I traveled to the Clerk at the Central Islip Courthouse on Long Island, only to be told by the Window Clerk of the County Clerk's office that: " no, that can't be done". I asked her to please go on to her computer and read the payment screen options.

In true civil service fashion, she was: " too busy to do that" and acted indignant that I even suggested she should issue an index number to me.

c: Being considerably miffed I called the deputy County Clerk in Suffolk County, Mr. Grier -- he was out of the office, so the phone call was handled by a Ms. Booker, who was very courteous. I explained the problem and she told me 2 things:

[1] The window clerks are "not trained" properly and basically cannot be relied upon. (no kidding, Dick Tracy!)

[2] That the option to obtain in Index number at the Clerk's office and enter the receipt on the payment screen: " does not happen in all counties. Every county is different. We don't do that!"

While very courteous, I, frankly, found this response to be ingenuous and incredible.

d. I thereafter went back to the e filing screen, the payment screen, and clicked on "help". In the help window it **specifically sets forth an option that you can obtain an index number at the COURT, and then enter the filing receipt.**

2. I therefore ask you, Mr. McConnell, what the heck is going on in the State of New York that the Office of Court Administration can't get this program right? If there is no option to get an index number from the Court and put the receipt number in the screen, **WHY DOES THE PROGRAM MAKE THAT AN OPTION???**

3. My further suggestion to you is that you should make a "check payment by phone" option on your payment screen and set that up. Why should an attorney have to use a credit card to pay for an index number? Didn't anybody think this out?

4. Another observation, on the document filing screen, the initial option menu for type of comments does not list a simple **complaint. It only list Summons and Summons and Complaint. But if you enter summons and complaint, you can only enter one of those documents..**

If you just select and file SUMMONS, then the document 2 screen **will** then present a solitary **COMPLAINT** option. In short the absence of a solitary **COMPLAINT** option on the first screen is a deficiency in this program which should be corrected. The option "summons and complaint", should be deleted as it does not present the ability to enter two separate documents---unless, of course, you present the summons, together with the Complaint as **ONE FILE** copied to PDF. I would submit that the average law office considers the Summons to be a separate document from the Complaint.

5. When my filing was completed, the receipt issued does not list the Index # ---I had to call to determine that it would be sent by

e mail to me later. You should enter that information on the Screen so first time users will know.

6. Your list of Type of Documents should allow the user to enter a document which you have NOT listed. I don't believe your list of documents is fully complete.

7. A big deficiency is that your program does not allow a partially completed filing application to be **SAVED TO A FILE WHICH CAN THEN BE RETRIEVED LATER FOR COMPLETION.**

This is a failing which could be easily corrected.

In fact, a competent computer certified engineer should be able to fix all of the above perceived deficiencies.

I feel that your program designer did not give adequate thought to this program. I find the Federal E Filing program much more usable.

Hopefully you can and will improve it. You should also insure that County Clerk window Clerks are properly trained and they ditch the often surly tactic of getting belligerent when they are presented with information from an attorney and a request for an index number. We practicing attorneys are tired of being confronted with such attitudes at filing windows.

Respectfully,
ROBERT J. ZYSK, ESQ. bobzysk@gmail.com

From: Schlesinger, Alan (Law) <aschlesi@law.nyc.gov>
Sent: Wednesday, March 23, 2016 3:51 PM
To: eFiling Comments
Subject: NYSCEF Request for Public Comment

Categories: Green category

The State should be proud of its ECF system
it should be extended to more cases and counties
Perhaps permitting larger size downloads would allow extension to more special proceedings
Congratulations

ALAN M. SCHLESINGER

100 Church Street, Room 2-187
New York, NY 10007-2601
(212) 356-2528
aschlesi@law.nyc.gov

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From: eFiling Comments
Sent: Wednesday, March 23, 2016 4:12 PM
To: eFilingComments-DG
Subject: FW: Comments on E-Filing

From: Cheryl Riley
Sent: Wednesday, March 23, 2016 4:11:30 PM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: Comments on E-Filing

Dear Mr. McConnell:

With all due respect, and working in a law firm in Long Island, NY, I am quite disgusted with this E-filing business. My workload has **doubled** since we have to print and save each and every E-file document that comes into this office (as well as documents that we have to E-file). Not only that, we continue to serve every legal document by mail (USPS or FedEx). And, most of the judges require a "working copy" to be sent to the Court.

Last week, I had a summary judgment motion to e-file in Kings County. The medical records had to be redacted and were quite voluminous. Redacting is difficult in and of itself because dates of birth can be written several different ways. Needless to say, I had a most difficult time filing the medical record exhibits. The exhibits could not be e-filed due to the fact that they apparently were not compatible with the E-File system. I called for assistance to the helpline but was told that it had to be in a **pdf.a** format, whatever that is. Not only that, I was bumped off E-filing **several times** and had to go back in each time and **start over**. I was here late, after hours, and **stressed** to the max. **E-filing makes me want to quit this job**. This aggravation is not worth it and also, I don't get paid for working late to E-file. I am **not** an attorney but a legal secretary. I have been working in the legal field for a long time, and I have never encountered such a difficult program.

My vote is to get rid of it. Like I said, everyone in this firm's workload has doubled, down to the file department. It is an albatross around my neck, and not productive in the least bit.

You wanted my comments, I am being truthful with you. **What is the point of E-Filing?**

Sincerely,

Cheryl Riley

From: eFiling Comments
Sent: Wednesday, March 23, 2016 6:10 PM
To: eFilingComments-DG
Subject: FW: Efiling pdf documents

From: JDolan@fureylaw.com
Sent: Wednesday, March 23, 2016 6:09:29 PM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: Efiling pdf documents

Does not always work

John Dolan
Furey
600 Front Street
Hempstead NY 11550
516 7690813

From: Finkelstein, Barbara <bfinkelstein@lshv.org>
Sent: Thursday, March 24, 2016 11:36 AM
To: Jeffrey Carucci
Subject: FW: E-filing recap

Hi Jeffrey:

Here are some comments from Legal Services of the Hudson Valley.

- 1) Some Supreme Court judges require courtesy copies of papers and until the case is calendared we don't know which judges require that extra trip to court. If Family Court is going to move to this process, we think it advisable to eliminate the need for courtesy copies.
- 2) The advantages of such a program could include having an organized system where every filing is easily accessed. In addition, sometimes when something is filed in court, it is lost or the date of filing is not correct. E-filing would ensure that items are properly recorded and date-stamped. It would help with situation where other attorneys fail to serve us papers – we could easily check the file and find out what has been filed in court.
- 3) E-filing could help reduce time spent filing papers where the attorney's office is a distance away from the courthouse and the document does not contain multiple exhibits which could be reduced to a single upload. In some cases e-filing is not necessarily a timesaver because of the considerable administrative burden involved in uploading the documents. Each exhibit needs to be uploaded separately which could be an administrative burden with a long, multi-exhibit document.
- 4) If an e-filing system were in place, we would need the Family Court to change its' practice of requiring original signatures on court filings.
- 5) Some courts charge an uploading fee to make documents available and we would not recommend a fee in family court.
- 6) We need to discuss issues of confidentiality. In Supreme Court filings the cases are searchable by the parties names. That is not the case in Family Court ecourts. In ecourts for Family Court matters one can search by the attorney's name, Court Calendar, Docket number or Family File number only but the parties' names are never revealed. We need to research if this is statutory or administrative policy and if it exists because of confidentiality concerns. Depending on the authority, the Family Court may need to issue pin numbers to litigants to access their documents or change their policies/practices around confidentiality. We should also take a look at how these issues are handled in divorce filings. Many divorce matters include sensitive factual allegations as well as forensic evaluations. Knowing how this is handled in Supreme would be helpful. Also, Article 81 matters can be filed in Supreme Court and they also contain highly sensitive information. We should try to find out how the Supreme Court handles e-filing for those matters.
- 7) As noted above because each exhibit to a motion etc. needs to be uploaded separately, the uploading is time-consuming and can be administratively burdensome. Non-profits and sole practitioners are the primary service providers in Family Court, at least in our practice areas. These organizations may not have the resources to

provide the administrative staff to take care of this level of uploading. One solution would be to allow an opt-out provision for non-profits and sole practitioners. Another possible solution would be to eliminate the need for each exhibit to be uploaded in Family Court proceedings and instead allow the entire document to be uploaded all at once, reducing the administrative time.

Thanks, Barbara
Barbara Finkelstein, Esq.
CEO
Legal Services of the Hudson Valley
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From: Daniel Coffey <coffey@bcalbany.com>
Sent: Thursday, March 24, 2016 12:16 PM
To: Jeffrey Carucci
Subject: Comments on implementation of electronic filing

Jeff-

Per your memorandum of March 7, 2016, please consider the following comments on behalf of the Albany County Bar Association on e-filing as you prepare your annual report.

Albany County has had consensual e-filing available since 2004. Despite the same, we have found a small percentage of matters are electronically filed here.

I have found, quite frankly, many practitioners did not know that e-filing was in existence.

I personally e-filed my first Albany County Summons and Complaint a few weeks ago and was amazed at how easy it was. It took 10 minutes and a few minutes later, I received an email with the Index Number.

Gone are the days of having to mail a summons and complaint to the clerk with a check for \$210 and a copy with a self-addressed stamped envelope.

I wrote about e-filing in our bar association's newsletter this month and am working to educate our members, and others who practice here, that e-filing is quick, easy to use and will save lawyers and their clients time and money.

We have met with the Administrative Judge, Thomas Breslin, to explore whether e-filing should be made mandatory.

I am advised that Albany Surrogate's Court has applied to get permission to have all their matters e-filed and hopes to have it implemented later this year.

I am exploring whether e-filing could be made mandatory for tax certiorari matters in Albany County.

If so, both Surrogate Court and tax cert matters could be our "guinea pigs" and could report back a few months after implementation as to how the programs are working.

If those programs are successful, perhaps consideration could be given to having all Albany County matters (except those exempted by statute) subject to mandatory e-filing.

I have invited you to participate in a one-hour CLE May 5 in Albany in the hopes we can educate and demonstrate how easy e-filing is (easier than federal Pacer filing) so hopefully more practitioners will avail themselves of e-filing.

Thank you for providing me the opportunity to comment.

Dan

Daniel W. Coffey, Esq.
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From: eFiling Comments
Sent: Thursday, March 24, 2016 10:20 AM
To: eFilingComments-DG
Subject: FW: Comments re efilng

From: Christine Nadelman
Sent: Thursday, March 24, 2016 10:16:41 AM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: Comments re efilng

Way back when E-filing started I wondered how in the heck law firm types of businesses could ever go paperless! I've been a legal secretary/assistant since 1979.... the days of the typewriter, carbon paper and no computers. E-filing is a complete waste of time, law firms can never go "paperless", if that was the idea it's totally ridiculous. Everything gets served in the mail anyway, filing exhibits is a complete joke, (each separately), the e-filing people don't care when we call for their help, and it seems when we call the Judges or their law clerks, that they really don't pay any mind to e-filing documents either, as they still require "working copies", which in reality is the original document that we always filed with the Court anyway! When I hear the word "e-file", I cringe...Per new HIPAA laws, personal information has to redacted, exhibits which contain this information, i.e. medical records, etc., have to be converted in another PDF version due to the size of the document after redaction, sometimes for no reason at all exhibits file in duplicate, and others cannot be filed at all, and best of all you get bumped off the system. Each law firm does e-filing differently. We have to come up with our own plan of how to get around all the quirks in order to file documents, we are not computer technologists. Obviously, whoever thought of this did not anticipate any of the problems nor research it completely to make sure this would apply to this field of work, as it doesn't coordinate with what is required by the Court rules, Judge's requirements, HIPAA laws, and many other detailed required filing/serving aspects of a law firm business. Forget about productivity, we need to hire e-filing people to keep up with the emails, reviewing and printing of documents. All of this seems to fall upon the lowly legal secretary! Attorneys direct us to just "go e-file" like it's a snap of a finger! Please make it go away, like speed cameras in front of schools...BAD IDEA!

NEW YORK CITY BAR

COMMITTEE ON STATE COURTS OF SUPERIOR JURISDICTION

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March 24, 2016

VIA EMAIL

Mr. Jeffrey Carucci
Statewide Coordinator for Electronic Filing
NYS Unified Court System
New York County Courthouse
60 Centre Street, Room 119M
New York, New York 10007
jcarucci@nycourts.gov

Dear Mr. Carucci:

The New York City Bar Association (the "City Bar") is grateful for the opportunity to provide comments to the Supreme Court (Civil) Advisory Committee on Electronic Filing, in connection with that Committee's report to the Chief Administrative Judge on the state's experience with electronic filing for the commencement of actions and proceedings and the service and filing of papers. These comments reflect the input of the City Bar's Council on Judicial Administration (the "CJA") and its Committee on State Courts of Superior Jurisdiction (the "State Courts Committee").¹

The use of electronic filing has been a tremendous boon to the court system, judges and attorneys in facilitating communication and the filing and service of papers. We applaud the personnel responsible for the system's implementation and its oversight; as a result of their hard work, patience and dedication, the experience of the bench and bar has been largely positive.

¹ The State Courts Committee and the CJA include practitioners, academics and judges; the CJA also includes chairs of other court-related committees of the City Bar.

Unfortunately, however, there have been glitches along the way, particularly when electronic filing is first initiated in a new county or expanded into an area of law for which electronic filing was not previously available. Attorneys need to be trained in the use of the system. Some counties (notably Kings County Supreme Court) have deployed a dedicated clerk for electronic filing who is available, within the court system, to judges and other court personnel, as well as to attorneys and *pro se* litigants. We urge the creation of the position of E-Filing Clerk in every county in which e-filing is available, at least simultaneously with the implementation of e-filing, if not two to three months in advance, to assist judges, court staff and the public in learning how to use of the system.²

A second area related to electronic filing that we believe requires immediate attention is the creation of software capable of simultaneously inputting the county clerks' records, the court's records and other entries into the electronic filing system. The current procedures require duplication, often by hand, of the entries related to various filings, including motions and responses to motions and the calendaring of court appearances. As well, although the electronic filing system notifies parties of all filings, it does *not* notify them of court appearances – such notifications are given only through the separate “e-courts” system. All of this has resulted in delays and generated confusion among attorneys and court personnel, including judges, as to what has been timely filed, what papers are properly before the court and even what date the case is scheduled to be heard. The cost of the time expended by all parties and court staff in correcting misunderstandings and responding to inquiries from counsel is significant. We urge the immediate investment required to remedy this problem, which has been repeatedly raised and discussed in recent years.³

Although we realize that it is beyond the purview of this request for comments (which we understand is focused on the experience with existing procedures), we make one additional observation. While e-filing in most civil cases has been a positive innovation, the same cannot be said in criminal, matrimonial and family court cases, where issues of privacy may outweigh convenience. In these types of cases, highly sensitive personal information must be protected from the general public. Among other things, we are concerned that in the areas of matrimonial and family law, parties in the midst of personal family crises may try to use e-filing as a sword, threatening to embarrass the other side by e-filing private and personal information. Children's personal and private information may be made public as well. In criminal cases, where information about arrests and complaints is sealed when the cases end in dismissal or acquittal, damage from having such information made public pending resolution may be irreparable. If e-filing in criminal, family and matrimonial cases is contemplated, we urge the appointment of task forces of judges, criminal defense lawyers, family law practitioners and prosecutors to assess

² Anecdotally, we understand that there have been instances where lawyers attempted improperly to file legal papers by sending them directly to the assigned judge using the judge's email address.

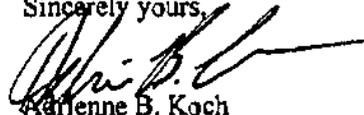
³ The Chairs of the Advisory Council of the Commercial Division have been apprised of this issue and we understand that they may be undertaking to find or recommend a remedy, including private funding of the cost of hiring an outside vendor to assist in this regard.

Mr. Jeffrey Carucci
March 24, 2016
Page 3

whether e-filing should be implemented in such cases and if so, to establish appropriate protocols to safeguard the information and/or other issues.

We hope our observations prove to be helpful. We stand ready to provide further comments upon request or to assist in any other way we can.

Sincerely yours,



Catherine B. Koch
Chair, Committee on State Courts
of Superior Jurisdiction

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March 25, 2016

VIA EMAIL

Mr. Jeffrey Carucci
Statewide Coordinator for E-Filing
Office of Court Administration
60 Centre Street
New York, New York 10007

Re: NYSCEF Experiences And Comments

Dear Jeff:

In response to your March 14, 2016, e-mail seeking comment on user experiences with NYSCEF, the Board of the Managing Attorneys and Clerks Association submits the following, which aligns with previous comments MACA has submitted over the course of the past few years. We asked our members for feedback and comments with respect to their experiences with, and their thoughts on the further expansion of NYSCEF. Below is a brief synopsis of the responses we received.

The members of MACA tend to be heavy users of NYSCEF. The feedback we received overwhelmingly supports expansion of the e-filing system, not only to more counties statewide, but also to the Appellate Divisions, and the Court of Appeals. Also, our members would like to see an expansion of the categories of cases subject to e-filing. For example, Article 78 proceedings should be subject to NYSCEF, in addition to Surrogates Court filings, matrimonial filings, and Guardianship filings, subject of course to the Court's ability to limit access to the respective files to parties, counsel of record, and Court personnel.

Additionally, our members expressed a desire for NYSCEF to either show appearance dates or have a direct case link to the future court appearances web site so that anyone seeking case information can essentially have one point of access. Also, some attorneys, for varying reasons, monitor cases on which the attorney has not actually appeared or consented to represent a party. Currently, the only way to monitor a case is to pay a third-party vendor or manually log

into NYSCEF on a regular basis. It would be a welcome change if attorneys were able to set up such monitors on the NYSCEF system through their respective login and password.

With respect to filing documents, filers would like the ability to combine motion sequence numbers when filing responsive papers to more than one motion. Currently, a filer must file the same papers twice when responding to more than one motion with the same papers. Also, sometimes a filer must submit a document that does not fit squarely into any available category. A miscellaneous notice or other category would be useful for filing such documents. The current list of document types is rather expansive, so this option should be used sparingly. But there are times when it would be useful. The new RJI creation system has been well received. Some members have asked, however, if the automatic question of whether an RJI will be filed with a given document can be linked to specific filing types, such as a motion or Request for a Preliminary Conference.

As I mentioned above, the members of MACA are staunch supporters of NYSCEF in general, and are eager to see its expansion throughout the State. Please let me, or any member of the Board of Directors of MACA, know if we can be of further assistance with respect to your committee's report and presentation to the State Legislature.

Respectfully,

s/Owen G. Wallace

Owen G. Wallace
Member of MACA
Board of Directors

cc: Board of Directors of the Managing Attorneys and Clerks Association

From: Jeff Bodoff <jbodoff@dsalaw.net>
Sent: Friday, March 25, 2016 6:00 AM
To: eFiling Comments
Subject: My experience/comments

Categories: Orange category

Good morning. My name is Jeff Bodoff. My experience with NYSCEF until recently has been minimal but uneventful and problem-free. However, the last case I e-filed under index number is 651106/16 has been the exact opposite. When I first read your request for comments of the e-filing system, I considered emailing my comments. Now, on the deadline for responses, I feel I MUST respond.

On March 3, 2016, I filed a summons, notice of motion for summary judgment in lieu of a complaint and RJI with its supporting papers. I selected a return date of May 16 to allow ample time for processing and for service of process.

When I filed the papers, I scanned each of the documents in the same manner. Notwithstanding same, I received 3 separate notifications that 2 of the documents I filed (the RJI and the notice of motion) were filed in a lopsided manner and after each notification I re-scanned and re-filed the documents. The third notice was on March 9.

After the third notice, I sent an email to the NYSCEF resource center explaining that I was at a loss as to what to do since when I clicked the links on my computer, the documents appeared perfectly straight. Ms. Medina suggested that I re-scan the document and re-create my PDF, and then follow the re-file link to file the documents.

Since I was going out of town that night, I updated my associate Adam Goodman on the matter and I asked him to follow up. On March 10, he rescanned and refiled the documents again and he confirmed to me that the documents looked straight on his computer screen.

So I waited and followed up online with the progress. As of March 16, when online the two re-filed documents still were listed as "pending" and I had not yet heard anything, I asked Mr. Goodman to call the Court and ask for a status update. He was told that the documents were fine and that the status would be changed shortly.

On March 20, the two re-filed documents still were listed as "pending" and I still had not been notified by email of an update. On March 21, Mr. Goodman called and spoke to the same clerk as he did 5 days earlier. She said that the papers were marked "approved and completed" and should be changed in the system. She said that if there were something wrong with the papers, they would have been sent back to me to be corrected. She was not sure how long it would take to be processed so she transferred Mr. Goodman to a different department. The person he spoke to in that department said that it can take a week or two.

It is now March 25 and the documents are still "pending". Quite frankly, I find it hard to believe that this delay is acceptable. I now have to be concerned about whether the papers will be able to be served timely without my client incurring unnecessary expense, after I purposely selected a return date more than 2 months in advance when I filed the papers.

I hope that these comments are useful. Just as importantly, I hope you are able to assist me in processing my papers expediently. Thank you in advance for your time and consideration.



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Deputy Director

March 25, 2016

Jeffrey Carucci
Statewide Coordinator for
Electronic Filing
NYS Unified Court System
New York County Courthouse
60 Centre Street, Room 119 M
New York, New York 10007

VIA ELECTRONIC MAIL

Re: Requested Comments re Electronic Filing

Dear Mr. Carucci:

Thank you for requesting comments with respect to our experience with electronic filing.

The attorneys who supplied comments have not themselves used electronic filing. In one instance, this is because the attorney commenting practices in Clinton, Franklin, and Essex Counties. Electronic filing is not available in Clinton or Franklin County, and it is only available for limited purposes in Essex County. However, given that these are some of the most rural counties in the state, it is this attorney's opinion that electronic filing would be particularly helpful in that region.

Other attorneys raised concerns about the effects of electronic filing on pro se litigants. One foreclosure practitioner noted that clients who do not yet have an attorney and who have complaints e-filed against them generally opt out of electronic filing. It is her belief that the process is difficult if not actually dangerous for pro se litigants and that it might be a good idea to require paper filing when a defendant is unrepresented.

Another attorney raised similar concerns with respect to pro se clients. She pointed out that many pro se clients do not have access to computers or the Internet; additionally, they may have other barriers such as limited English proficiency. This attorney would also like to know what the timeline is for mandatory e-filing statewide and how (if at all) that will affect the city courts where many of our staff members practice.

We very much appreciate the opportunity to comment on this initiative and hope this is helpful to you. I may be reached at (518) 375-3468 if you have any questions.

Very sincerely yours,



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(518) 462-6765 • (800) 462-2922 • Fax (518) 427-8352





Victoria M. Esposito
Advocacy Coordinator

From: DiSanti, JoAnn <jdisanti@whitecase.com>
Sent: Friday, March 25, 2016 10:32 AM
To: eFiling Comments
Subject: National Docketing Association Submission Regarding User Experience With NYSCEF

Categories: Green category

John W. McConnell, Esq.
Counsel
Office of Court Administration
25 Beaver Street, 11th Fl.
New York, New York 10004

Dear Mr. McConnell:

Thank you for the opportunity to comment on the users experience with NYSCEF. I write on behalf of the National Docketing Association ("NDA"). The NDA is an organization that not only has e-filing users from large and medium New York law firms, but includes e-filing users from outside New York that uses NYSCEF to file and retrieve papers for their New York offices. Aside from being the President of the NDA, I am also the Managing Clerk for White & Case LLP.

A number of NDA e-filing users from New York have been filing on NYSCEF since the very first day it was a voluntary system. It goes without saying, this e-filing system has continued to get better each year. Our members file documents electronically throughout the country in both federal and state courts. Each year at the annual NDA conference the topic of e-filing is raised and the challenges we face with filing in various courts that have different procedures and rules. A number of courts are discussed as to the difficulty having to file in those courts, but one of the courts that never seems to be discussed as to its difficulty is NYSCEF. After receiving the invitation to offer user comments I asked our members what seems to make filing on NYSCEF less difficult compared to others. I have listed below a few topics that seems to make NYSCEF stand out from other courts.

Reliability

NYSCEF is rarely unavailable.

User Feedback

NYSCEF instructions found on the New York County Supreme Court web site are just an example of how the NYSCEF Resource Center reaches out to the e-filing community for their feedback so that other filing users can benefit from this information in order to reduce the number of calls to the court.

NYSCEF Resource Center

The NYSCEF Resource Center has done everything that it can to train law firm employees along with making sure no phone call to their office goes unanswered.

Document Size

Just about every court in the country will have a PDF size restriction, but NYSCEF continues to remain one of the few courts that allows a larger size requirement, which makes large filings take a lot less time.

No Fees

The ability to serve, file and retrieve without being sent a monthly invoice each month is one the unique qualities that makes using NYSCEF more manageable than to others who will send you an invoice from the vendor they hire to manage their e-filing system.

Training System

Most courts throughout the country offer training classes, but few offer a training system that allows law firms to make sure their staff are prepared to do a real filing.

If there is one request we could make is that additional staffing be provided to the NYSCEF Resource Center. This group of dedicated clerks goes beyond the call of duty. Adding more courts to NYSCEF each year places more of a demand on this staff. Thank you again for the opportunity to not only hear from users from New York, but from a community of e-filing users from across the country.

JcAnn Disanti
President
National Docketing Association
<http://www.nationaldocketing.org/>