

SUPREME COURT, CIVIL BRANCH NEW YORK COUNTY

PROTOCOL ON COURTHOUSE PROCEDURES FOR ELECTRONICALLY FILED CASES (REVISED 1/31/11)

[NOTICE TO THE BAR: MANDATORY E-FILING BEGAN IN NEW YORK COUNTY SUPREME COURT IN CERTAIN COMMERCIAL CASES ON MAY 24, 2010]

Attorneys seeking information about how the New York State Courts Electronic Filing System (“NYSCEF”) works are advised to consult the *User’s Manual* and *FAQ’s*, both available at the NYSCEF website (www.nycourts.gov/efile). What follows is an explanation of how traditional courthouse requirements for the processing of cases are applied in e-filed cases. These procedures seek to minimize the need for trips to the courthouse by counsel and inconvenience generally.

A. E-Filed Cases Generally

- 1) **Cases Commenced via NYSCEF**: Cases that are commenced by filing of the initial papers with the NYSCEF system are identified as e-filed cases by assignment of a special index number (i.e., cases beginning with 650,000 (commercial matters), 250,000 (tax certiorari matters), and 150,000 (tort cases)).
- 2) **Cases Converted to NYSCEF**: Cases originally commenced in hard-copy form but later converted to NYSCEF status will bear a regular index number initially. However, when a case is converted to that status, court staff will change the case indicator in the court’s Civil Case Information System (“CCIS”) computer to identify the matter as a NYSCEF case. This action will also add a suffix to the index number in CCIS (e.g., 600136/2005 E). This suffix should be used on all documents filed with the court in e-filed matters.
- 3) **Mandatory E-Filing**: Certain commercial cases must be commenced by filing with the County Clerk electronically through NYSCEF and all subsequent documents in such cases must be e-filed. Mandatory commercial cases consist of commercial matters of the types set forth in the rules governing mandatory e-filing (Uniform Rule 202.5-bb). See also Chapter 416 of the Laws of 2009 (posted on the “E-Filing” page of this court’s website (at www.nycourts.gov/suptctmanh)). A summary of the definition is attached hereto. Section 202.5-bb provides for limited exceptions to the mandatory e-filing requirement: commencement in a defined emergency, filing of subsequent documents in a defined emergency, and exemptions from e-filing. An attorney who states in writing in good faith that he or she lacks the equipment or knowledge needed to e-file and who has no staff member or employee under his or her direction who has such knowledge and equipment may opt out of participation in e-filing in a mandatory case by filing a form with the Clerk. A self-represented party may choose to opt out by filing the same form. The form is posted on the “E-Filing” page on this court’s website (at www.nycourts.gov/suptctmanh). An attorney may also seek an exemption from the Justice assigned to a mandatory case upon a showing of good cause.
- 4) **Presumptive E-Filing - - Commercial Division Cases and Certain Other Parts**: Commercial Division cases commenced between June 15, 2008 and May 24, 2010 in New York County have been designated as presumptively e-filed matters. All such cases that have not been commenced electronically have been converted by court staff upon filing of the Request for Judicial Intervention (“RJI”). See Notice to the Commercial Division Bar of the Administrative Judge, May 20, 2008 (posted on the “E-Filing” page of this court’s website). (The same procedure is followed in commercial and tort cases in General Assignment Parts 12 (Feinman, J.), 35 (Edmead, J.), and 61 (Sherwood, J.)). If parties fail to consent to e-filing in these cases within a reasonable time, the court may convert them back to hard copy cases.
- 5) **Partially E-Filed Cases**: If one party or more than one but fewer than all consent to e-filing in a consensual case, or if, in a mandatory e-filed case, an attorney or self-represented party obtains an exemption from participating in

e-filing, each participating attorney or party shall e-file all interlocutory documents to be filed with the court and such attorneys or parties shall serve one another electronically as provided in the E-Filing Rules. Non-participating parties shall file and serve and be served in hard copy format.

B. Filing of Papers Generally

1) **Mandatory E-Filed Cases; Paper Documents Not Accepted**: All mandatory e-filed cases must be commenced electronically. Unless otherwise provided by the E-Filing Rules or this Protocol, in these cases, the County Clerk will not accept commencement documents in paper form nor will the court accept subsequent documents in that form. If a party wishes to commence a case under seal or to proceed under an anonymous caption, the party should contact the Chief Deputy County Clerk or the Clerk in Charge of Law and Equity of the County Clerk's Office before filing any documents. See "Commencement of Cases" under the "Courthouse Procedures" link on this court's website.

2) **Mandatory E-Filed Cases; Exempt and Emergency Filers**: Any emergency filing made in hard copy in accordance with the Mandatory E-Filing Rules and any document filed with the court in hard copy form by an attorney or self-represented party who has opted out of participation in e-filing in accordance with the Rules must bear, as the back page facing out, a completed Notice of Hard Copy Submission - E-Filed Case (accessible on the "E-Filing" page of the court's website). Under the Rules, a filer must electronically file the documents initially filed in hard copy form within three business days of an emergency filing. The originals will be discarded after the documents have been processed; failure to e-file as required will therefore lead to an incomplete record.

3) **Consensual E-Filing; Paper Documents Not Accepted**: Unless otherwise provided by the E-Filing Rules or this Protocol, in any case that is subject to e-filing by consent of the parties, all documents required to be filed with the court must be e-filed by consenting parties. Any such document that is submitted in hard copy form will not be accepted by the Clerk.

4) **Index Numbers**: In cases commenced electronically, the County Clerk will issue an index number as soon as possible. In the event that counsel faces exigent circumstances that require the accelerated assignment of an index number, counsel may send a request for such assignment by e-mail to the County Clerk at ccnyef@courts.state.ny.us.

5) **Fees**: Court fees in NYSCEF cases may be paid via NYSCEF by a credit or bank card (Mastercard or Visa). Documents may also be filed with the NYSCEF system and the fee paid at the County Clerk's Office. In the latter case, the document is not considered to have been filed until payment of the fee has been tendered (see CPLR 304). Whenever an attorney uses the latter option, payment must be submitted within three business days. If it is not, the County Clerk will return the document to the filer. When so paying, counsel should alert the County Clerk Cashier (646-386-5932 or 5949) that the case is a NYSCEF matter.

6) **Papers Must Be Filed to the System**: Unless otherwise provided in the Rules or herein, all documents to be filed with the court in a NYSCEF case, including all documents on motions and all letters, must be filed with the NYSCEF system (except where a special exemption is granted (e.g., oversized maps)). Documents that attorneys would not ordinarily file with the court in a hard-copy case need not be filed in a NYSCEF matter.

7) **Working Copies of Documents for Judicial Review**: Unless otherwise directed by the court or as described herein, in all NYSCEF cases in which an RJI has been filed, working copies of e-filed documents that are intended for judicial review must be submitted (except with respect to hard copy emergency or exempt filings in mandatory cases). With the possible exceptions of proposed orders to show cause and supporting documents (see Section G), documents must be filed with the NYSCEF system and any required working copy must be delivered to the court thereafter. The working copies shall include exhibit tabs and backs and, for motion papers, the Motion Sequence Number. **In addition, the filer of a working copy of an e-filed document must firmly bind thereto, as the back page facing out, a copy of the Confirmation Notice that was generated by NYSCEF when that document was e-filed. Working copies that are submitted without the related Confirmation Notice will not be accepted.**

Notwithstanding any references in this Protocol to required working copies, such copies shall not be submitted in e-filed cases in Part 12 (Feinman, J.), Part 35 (Edmead, J.), Part 52 (Kern, J.), and Part 6 (Lobis, J.) unless requested by the court in a particular case.

8) **Discarding of Working Copies:** The official record of a document in an e-filed case is the electronic record of the document stored by the Clerk (Uniform Rule 202.5-b (d) (4)). Working copies are intended only for the use of the Justice and will be discarded after the Justice has finished with them. Thus, in the event that counsel fails to e-file a document, it will not be part of the court record.

9) **Court Will Print Out and Deliver Certain Non-Voluminous Papers for Judicial Review:** To assist counsel, the relevant back office of the court will (after payment via NYSCEF of any related filing fee) print out from the NYSCEF system hard copies of certain non-voluminous documents (i.e., those up to 25 pages long) that are intended for review by a Justice and will deliver them to the relevant back office for processing and transmission to the Justice. No working copy need be delivered by counsel. See, e.g., Section F (proposed long form orders).

10) **Working Copies Not Required of E-Filed Documents Not Intended for Judicial Review:** E-filed documents intended for processing by a back office but not for review by a Justice (e.g., preliminary conference requests, notes of issue) will, after payment of any fee via NYSCEF, be processed by the relevant back office. These papers must be e-filed. Counsel does not need to appear or to submit working copies.

11) **Authorization Form - Filing Agent:** The Rules require that a firm acting as filing agent for an attorney or party to a case must file a form (accessible on the NYSCEF website) whereby the attorney or party authorizes the agent to file on the attorney or party's behalf. Only one such form need be filed for an attorney or party in any specific NYSCEF case.

C. Requests for So-Ordered Stipulations

If an attorney wishes to submit a stipulation to be "so ordered," he or she should file the document with NYSCEF, designating it on the filing menu as a "Proposed Stipulation to be So Ordered." The Clerk will print out a hard copy and forward it to the Justice assigned or transmit the document to the Justice electronically. No appearance by counsel is needed.

D. Requests for Judicial Intervention

1) **Supplement to RJI Required in Certain Hard Copy Cases:** To assist in identification of cases, in any commercial case or special proceeding involving commercial arbitration or seeking dissolution of a business, the filer of an RJI in hard copy form must file with it a completed Supplement to Request for Judicial Intervention (form available on the "E-Filing" page of this court's website). The papers will not be accepted without the Supplement.

2) **RJI in NYSCEF Cases:** An RJI in a NYSCEF case shall be submitted via NYSCEF. Once filed and paid for via NYSCEF, the RJI and any accompanying document will be forwarded to the relevant back office for random assignment of the case and processing of the document. Counsel need not appear. In the case of RJI's seeking assignment to the Commercial Division, pursuant to Uniform Rule 202.70 (d) (2), the filer must submit therewith a statement in support of the assignment and a copy of the pleadings, which will be forwarded to the assigned Justice for review. If the RJI seeks intervention with regard to a document that is intended for review by a Justice, such as a motion, a working copy of the RJI must be submitted with the working copy of the motion and the NYSCEF Confirmation Notice.

E. Motions on Notice

1) **Motions/Petitions Returnable in Room 130:** A motion on notice or a notice of petition in a NYSCEF case,

as in others, shall be made returnable in the Motion Support Office Courtroom (Room 130). The motion must be filed with NYSCEF and the motion fee paid for either via NYSCEF by credit/bank card or by the “Pay at the County Clerk’s Office” option. The moving documents must be e-filed **no later than eight days prior to the return date**.

2) **Calendaring of Motion/Petition and Notice by Court Staff**: After a motion/petition and notice are filed with the NYSCEF system, the Motion Support Office will automatically place the motion/proceeding on the calendar of the Motion Support Office Courtroom (Room 130) for the date fixed; no appearance or other action by the filing attorney is required in order for the motion to be calendared if the motion fee is paid for via NYSCEF. Motions in e-filed cases appear on a separate calendar in the Courtroom.

3) **Adjournments on Motions/Petitions in Room 130; Appearance Can Be Avoided**: Motions that have been e-filed may be adjourned in Room 130 if an adjournment complies with any directives of the assigned Justice and the procedures of the Motion Support Office Courtroom (explained in the “Motions” section of the “Courthouse Procedures” link on the website of this court). An adjournment that so complies may be obtained by filing a stipulation of all parties with NYSCEF (designated in the filing menu as a “Stipulation to Adjourn Motion”). The Office will effectuate the adjournment without need for an appearance or any other action by the parties.

4) (a) **Working Copies on Motions in Room 130**: After papers on motions have been e-filed, working copies thereof, with Confirmation Notice firmly attached as the back page facing out, must be submitted. (Each document or group of documents that is separately bound shall bear a Confirmation Notice.) Working copies lacking the Notice will not be accepted. **WORKING COPIES OF MOTION PAPERS MUST BE SUBMITTED IN THE MOTION SUPPORT OFFICE COURTROOM (ROOM 130) AS EXPLAINED HEREIN. THEY MUST NOT BE DELIVERED TO THE PART OR CHAMBERS; DOING SO WILL CAUSE ADMINISTRATIVE CONFUSION AND POSSIBLE MISPLACEMENT OF PAPERS.** Working copies, including copies of the moving papers, will not be accepted in the Motion Support Office (Room 119), but shall be handed up at or before the “call” of the E-Filed Calendar in the Motion Support Office Courtroom (Room 130) on the **final return date**. Counsel should confer with one another regarding adjournments so that all parties are aware of what the final return date will be. **Working copies should not be submitted before that date.** Counsel may submit their own working copies on the final return date or agree that one party may submit the copies of all parties at that time. If the Clerk becomes aware that an attorney has failed to submit required working copies on the final return date, the motion may be placed, for one time only, on the three-day calendar to permit submission of those copies. The court will not provide direct notice to the attorney that this has occurred; attorneys should consult the listing in the Law Journal regarding disposition of the Room 130 calendar. If the working copies are not submitted on the three-day calendar, the motion will be transmitted as is to the Justice for such action as the Justice finds appropriate. Attorneys who maintain their office outside the County of New York may submit working copies on motions by mail or overnight delivery. Any such submission shall be sent in a timely manner to the Motion Support Office (Room 119) and be conspicuously marked on the outside “NYSCEF Matter;” lack of such marking may delay processing.

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

5) **Exhibits**: Whenever possible, attorneys submitting exhibits in NYSCEF cases should make each exhibit a separate attachment to an affidavit/affirmation in the system (i.e., they should not be filed as a single PDF).

6) **Notification of Decisions and Orders**: After issuance of a decision and order on a motion in a NYSCEF case, the document will be processed into the NYSCEF system, which constitutes entry (Uniform Rule 202.5-b (h)), as

will be reflected in a legend on the document. The NYSCEF system will immediately transmit notice of this event via e-mail, including a link to the entered document, to all participating attorneys and self-represented parties. Such transmittal does not constitute notice of entry. See Section K.

F. Long Form Orders on Motions

If the court directs that an order be settled or submitted on a motion in a NYSCEF case, the proposed order, with notice of settlement where required, and any proposed counter-order shall be filed with the court via NYSCEF. The relevant back office (the Motion Support Office Order Section (Room 119) or the Commercial Division Support Office (Room 148)) will process the documents in the customary manner. The Clerk of the back office will print out a copy of the documents and, as appropriate, may make changes on the proposed order/counter-order by hand or may contact the submitting attorney by e-mail or telephone. Once a proposed order/counter-order in final form has been arrived at, the Clerk of the back office will forward it in hard copy to the Justice. No appearance by counsel nor working copy is required. After an order/counter-order has been signed, it will be scanned, with County Clerk entry stamp, into the NYSCEF system, which will immediately transmit notice of this event via e-mail, including a link to the entered document, to all participating attorneys and self-represented parties in the case. Such transmittal does not constitute notice of entry. See Section K.

G. Orders to Show Cause

1) **Proposed Orders to Show Cause and Supporting Documents to be Filed On-Line:** Except as provided in the following paragraph, proposed orders to show cause and supporting documents in all NYSCEF cases must be submitted by filing with the NYSCEF system; original documents will not be accepted by the Clerk. Counsel must comply with Uniform Rule 202.7 (f) regarding notice of the application. See also Commercial Division Rule 20 (Uniform Rule 202.70).

2) **Permissible Submissions in Hard Copy:** If a party seeking a TRO submits an affirmation/affidavit demonstrating significant prejudice from the giving of notice (see Rules 202.7 (f) and Commercial Division Rule 20) or if in accordance with the Rules a party to a mandatory e-filed case is exempt from participation or seeks to submit documents in an emergency, the proposed order to show cause and supporting documents may be presented to the Commercial Division Support Office or the Ex Parte Office in hard copy form. The papers must be accompanied by, as the back page facing out, a completed Notice of Hard Copy Submission - E-Filed Case. A proposed order to show cause and supporting documents that must be presented to a Justice outside normal court hours shall be presented in hard copy. In all situations described in this paragraph (other than that of an exempt party), documents submitted in hard copy form must thereafter be e-filed, as set forth below.

3) **Office Review of Submissions Will be Done On-Line:** Absent unusual practical difficulties, a proposed order to show cause and supporting documents that have been filed with NYSCEF will be reviewed on-line by the Commercial Division Support Office or by the Ex Parte Office. If there are problems with the documents, the submitting attorney will be promptly contacted by the back office by e-mail or telephone.

4) **Working Copies:** Except for instances covered by Par. (2) of this section, a working copy of a proposed order to show cause and the supporting documents with Confirmation Notice(s) must be submitted to the Commercial Division Support Office or the Ex Parte Office. A second working copy of the proposed order only, to which a Confirmation Notice shall not be attached, shall be submitted simultaneously.

5) **Hard Copy Service:** In cases in which hard copy service is made of documents that were submitted in hard copy form pursuant to Par. (2) of this section and where no party is served electronically, the filing attorney or party shall, no later than three business days after service, e-file the supporting papers (designating them in the NYSCEF document type drop-down menu on the filing screen as “Supporting Papers to OSC (After Service),” together with proof of hard copy service. Failure to do so will cause the County Clerk file to be incomplete. The Clerk will e-file the signed order to show cause after the deadline for service has passed.

6) **Declination**: If the Justice declines to sign the order to show cause, the Clerk will electronically file the declined order. If the proposed order to show cause and supporting documents were filed with the court in hard copy form, the filing attorney or party (other than an exempt party) shall file the supporting documents with NYSCEF no later than three business days after the filing by the clerk. Failure to do so will cause the County Clerk file to be incomplete.

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

H. Procedures Regarding Service On-Line

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

I. Service of Orders on the County Clerk and Back Offices

If an order in a NYSCEF case requires that the County Clerk or a back office of the court take action, a copy of the order must be served on the County Clerk or the back office. This may be done by transmitting a copy of the order by e-mail to the appropriate e-mail box. The e-mail addresses are as follows:

County Clerk: cc-nyef@courts.state.ny.us Trial Support Office: trialsupport-nyef@courts.state.ny.us
Motion Support Office: mso-nyef@courts.state.ny.us Special Referee: spref-nyef@courts.state.ny.us

J. Secure Documents and Sealing of Documents

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

2) **Secure Documents**: Pursuant to the Rules, documents may be designated “secure” by the filing user. The effect of such designation is that the document may be viewed in the NYSCEF system only by counsel and self-represented parties to the case who have consented to NYSCEF and by the court and the County Clerk. The electronic file, however, remains open for public inspection via computer at the courthouse (unless sealed in accordance with Part 216 of the Uniform Rules for the Trial Courts).

3) Sealing; Compliance with Part 216; Procedures:

(a) **Application for Sealing Order**: In order to seal a document in a NYSCEF case, a party must proceed in accordance with Part 216 of the Uniform Rules. If a party wishes to file and maintain papers under seal and no sealing order has been issued in the case, the party must, either by motion or on submission to the court of a stipulation, obtain a court order pursuant to Part 216 directing the Clerk to seal the file in whole or in part. If the motion/stipulation is filed with the NYSCEF system, it will be open to the public until a sealing order is issued. Should this create difficulty, the applicant may wish to consider filing the motion/stipulation as a “secure” document if that is appropriate and sufficient. Or counsel may make a motion or submit a stipulation without filing it to the system until after the court has ruled on the sealing issue or has issued an order temporarily sealing the papers in question. Any such motion or stipulation submitted in hard copy form must bear, as the back page facing out, a Notice of Hard Copy Submission - E-Filed Case and be accompanied by a computer disk containing the papers in PDF format, which the County Clerk will use to e-file the documents after effectuating sealing if directed by the court. Any opposition or reply papers shall likewise be submitted in hard copy form, with said Notice, and

be accompanied by a disk containing the documents in PDF format. Each disk shall be identified by the name of the case, the index number, and the name and e-mail address of the attorney submitting it. An attorney or party exempted from e-filing in a mandatory case need not submit a PDF copy.

b) Implementing Sealing Order:

(i) **Sealing Existing E-File in Whole or in Part:** If the court issues an order directing the sealing of a complete existing NYSCEF file or a document or documents already filed with NYSCEF, the applicant shall file with the NYSCEF system a Notification for Sealing in Electronically-Filed Case (form available on the NYSCEF website), together with a copy of the court's order. No further action by counsel is required. The County Clerk will seal the file or the document(s) in question as directed by the court, both in the NYSCEF system and, if any of the covered documents are found therein, in the hard copy file.

(ii) **Sealing Document or Documents Not Yet E-Filed:** If the court issues an order directing the sealing of a document that has not yet been e-filed, the document should be presented (unless the court directs otherwise) to the County Clerk in hard copy form with a copy of the court's sealing order and a disk, labeled as indicated above, bearing the document in PDF format.

4) **Previously Sealed File:** If a case that was previously sealed pursuant to court order is converted to NYSCEF status, counsel for the parties should promptly alert the County Clerk's Office (cc-nyef@courts.state.ny.us or 646-386-5943) that an order sealing the file was issued.

K. Entry and Notice of Entry

Pursuant to the NYSCEF Rules, the Clerk shall file orders electronically and such filing shall constitute entry of the order. An e-mail message will be transmitted to all filing users on the case notifying that the order has been entered. Such notice does not constitute service of notice of entry by any party. Notice of entry is served as follows: a party shall transmit electronically to the parties to be served a notice of entry, a copy of the notification received from the court, and a copy of the order or judgment.

L. Judgments and the Judgment Roll

1) **Entry of Judgment; Procedures:** If the court in an order directs entry of judgment by the County Clerk, the party seeking entry shall submit to the County Clerk a proposed judgment with bill of costs (both of which shall be in one PDF file), and interest calculations and supporting information. It is requested that a legal back be included with these documents since the County Clerk uses the back as the location for stamps affixed upon entry. These documents should be e-filed or may be sent by e-mail outside the NYSCEF system to the following e-mail box: cc-nyef@courts.state.ny.us. The Judgment Clerk will promptly communicate with counsel by e-mail or phone in the event of any difficulties with the submission. Once the judgment is in final form, it will be printed out by the Judgment Clerk and submitted to the County Clerk for signature. When the judgment is signed, the Judgment Clerk will post it to the system, along with the supporting information, at which time notification will be sent via e-mail to all participating parties.

2) **Default Judgment; Entry by Clerk:** If the plaintiff in a NYSCEF case seeks entry of a default judgment by the Clerk pursuant to CPLR 3215, the attorney shall pay the \$ 45 motion fee and either transmit to the NYSCEF system a proposed Clerk's default judgment with bill of costs, etc. , or forward these documents to the Clerk outside the NYSCEF system (to the e-mail box cc-nyef@courts.state.ny.us). The Clerk will communicate with counsel if any questions or issues arise. Where the submissions are made to NYSCEF, the Judgment Clerk will promptly enter the judgment. If the submission is made to the e-mail box outside NYSCEF, the attorney must file on the NYSCEF system the proposed Clerk's default judgment in final form with bill of costs, etc. To enter the judgment the Clerk will print out the judgment from NYSCEF, have it signed, and scan it to the system.

3) **Judgments Signed by Court:** Where the court signs the judgment, calculation of disbursements, costs and

interest will be left to the County Clerk. Papers supporting such calculation may be submitted to the County Clerk in the manner described above.

4) **Entry of Judgment:** Once the County Clerk has taxed costs and disbursements and calculated interest and has in hand a signed judgment, the Clerk will stamp the judgment with the County Clerk file stamp and post the judgment to NYSCEF. This constitutes entry. The Clerk will transmit an e-mail message to all filing users notifying that the judgment has been entered. This notice does not constitute service of notice of entry by any party.

M. Notices of Appeal and Appeal Papers

1) **Notice of Appeal; Payment of Fee:** A notice of appeal shall be filed on-line in a NYSCEF case. The fee therefor must be paid by credit or bank card via NYSCEF or by means of the “Pay at the County Clerk’s Office” option. Pursuant to the Rules, in the latter situation the notice will not be considered “filed” until payment of the fee is tendered to the County Clerk at the office. When paying at the Office, the filer must inform the Clerk that the case in question is an e-filed matter. No hard copy should be delivered to the County Clerk’s Office.

2) **Notice of Appeal; Procedures:** The notice shall be filed together with a pre-argument statement and a copy of the judgment or order appealed from. The other participating parties to the case may be served via NYSCEF. The County Clerk will print a hard copy of any e-filed notice of appeal and include it in the County Clerk file.

3) **NYSCEF; Appellate Division:** The Appellate Division, First Department does yet not handle appeals in NYSCEF cases by electronic means, although the Court has announced its intention to move toward that goal in the near future. Counsel are advised to consult the rules of that court and to confer with the County Clerk.

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

Dated: January 31, 2011

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

**NEW YORK STATE COURTS
ELECTRONIC FILING
RESOURCE CENTER
60 Centre Street, Room 119 M
New York, New York 10007
646-386-3033
efile@courts.state.ny.us**

**JEFFREY CARUCCI
STATEWIDE COORDINATOR OF
ELECTRONIC FILING**

**EDWARD KVARANTAN
CHRISTOPHER GIBSON
DEPUTY COORDINATORS**

SUMMARY: MANDATORY E-FILING COMMERCIAL CASE DEFINED¹

Mandatory e-filing applies to certain commercial cases (not limited to Commercial Division cases). Mandatory cases are:

(a) Cases in which over \$ 100,000 is in controversy (not counting punitive damages, interest, costs, disbursements, and attorney's fees), and

(b) Which are or assert the following:

(i) breach of contract, breach of fiduciary duty, fraud, misrepresentation, business tort, statutory or common law claims arising out of business dealings;

(ii) UCC cases;

(iii) commercial real estate cases;

(iv) shareholder derivative and commercial class actions;

(v) cases involving business transactions with banks or other financial entities;

(vi) internal affairs of business organizations;

(vii) accounting, actuarial or commercial legal malpractice;

(viii) environmental or commercial insurance coverage;

(ix) proceedings to dissolve corporations or other businesses; or

(x) commercial arbitration proceedings (Art. 75).

No. 15: 1/31/11

¹ The full definition is available in Section 202.5-bb (a) (2) of the Uniform Rules. See also Chapter 416 of the Laws of 2009.