

SUPREME COURT, CIVIL BRANCH NEW YORK COUNTY

PROTOCOL ON COURTHOUSE PROCEDURES FOR ELECTRONICALLY FILED CASES (REVISED 5/19/10)

[NOTICE TO THE BAR: MANDATORY E-FILING BEGINS IN NEW YORK COUNTY SUPREME COURT IN CERTAIN COMMERCIAL CASES - - 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 outline of the steps that will be used in e-filed cases to satisfy traditional courthouse requirements for the processing of cases.

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; specifically, court staff will change the action-type notation in CCIS to reflect the NYSCEF status of the matter (e.g., from "Contract" to "E Contract"). This will also add a suffix to the index number in CCIS (e.g., 600136/2005 E). This suffix serves only as an identification and is not formally a part of the index number that will be assigned by the County Clerk. Attorneys must, however, use the suffix in the form illustrated here on all documents filed with the court in electronically-filed matters as hereinafter provided.

3) **Mandatory E-Filing**: Effective May 24, 2010, 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 NYSCEF website (at www.nycourts.gov/efile)). 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. The attorney must file 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/supctmanh). 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, Hon. Jacqueline W. Silbermann, 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.) and 61 (Sherwood, J.)). If parties fail to consent to e-filing in these Commercial Division cases within a reasonable time, the court may convert them back to hard copy cases.

5) **Partially E-Filed Cases:** If at least one party declines to consent to e-filing in a consensual case, that case will be treated as a hard copy case by the court. In a mandatory e-filed case, however, if an attorney or self-represented party is exempt from participating in e-filing, the case will be treated as an e-filed matter with respect to other parties and attorneys. In such a case, 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.

B. Filing of Papers Generally

1) **Mandatory E-Filed Cases; Paper Documents Not Accepted:** All mandatory e-filed cases must be commenced electronically beginning on May 24, 2010. Unless otherwise provided by the E-Filing Rules or this Protocol, the County Clerk will not accept commencement documents in paper form in these cases nor will the court accept subsequent documents in such matters in paper form. If a party wishes to commence a case and seek an order to seal the file or to allow the matter to proceed under an anonymous caption, the party should contact James Rossetti, Chief Deputy County Clerk, Joseph Antonelli, Clerk in Charge of Law and Equity of the County Clerk's Office, or Stephen Kubinec, Deputy Clerk in Charge, 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:** If an attorney or self-represented party opts out of participation in e-filing in accordance with the Mandatory E-Filing Rules, any document filed with the court in hard copy form by that person must bear a completed Cover Sheet for Hard Copy Submission - E-Filed Case indicating that the document is exempt from mandatory e-filing. The Cover Sheet is accessible on the "E-Filing" page of the court's website. Any emergency filing made in hard copy in accordance with the Rules must likewise bear a completed Cover Sheet for Hard Copy Submission - E-Filed Case. Under the Rules, the filer must electronically file the documents initially filed in hard copy form within three business days of the 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. 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 expeditiously as possible.

5) **Fees:** Court fees in NYSCEF cases may be paid on-line by a credit or debit 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. Counsel so paying 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 on-line 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 cases in the court's NYSCEF system in which an RJ has been filed, the court requires that working copies of e-filed documents that are intended for judicial review be submitted. Working copies of documents that are filed in hard copy form as emergency or exempt filings in mandatory cases need not be submitted. 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. **In addition, the filer of a working copy of an e-filed document must firmly bind thereto as the front page 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 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 document filed on-line. Working copies are intended only for the use of the Justice. The court will discard all working copies after the Justice has finished with them. Thus, in the event that counsel fails to file a document with NYSCEF, the document 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 on-line 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 Section F regarding proposed long form orders or counter-orders.

10) **Working Copies Not Required of E-Filed Documents That Are 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 and notes of issue) will, after payment of any fee on-line, be processed by the relevant back office. These papers must be e-filed, not submitted in hard copy form. No working copies are required. No appearance by counsel is required.

11) **Authorization Form - Filing Agent:** A firm acting as filing agent for an attorney or party to a case must file a form whereby the attorney or party authorizes the agent to file on the attorney or party's behalf (the form is accessible on the NYSCEF website (at www.nycourts.gov/efile)). Only one such form need be filed in any 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 NYSCEF 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, in some instances, 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:** In any commercial case, special proceeding involving arbitration, or proceeding seeking dissolution of a business, the party filing an RJI in hard copy form shall 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 on-line, 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 RJIs seeking assignment to the Commercial Division, the filer must submit therewith a statement in support of the assignment and a copy of the pleadings (see Uniform Rule 202.70 (d) (2)), 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 on-line and the motion fee paid for either on-line by credit/debit 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 on-line. 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, which are explained in the “Motions” section of the “Courthouse Procedures” link on the website of this court. An adjournment that complies with the rules may be obtained by filing a stipulation of all parties with NYSCEF (when filed the document should be designated in the filing menu as a “Stipulation to Adjourn Motion”). The Motion Support Office will effectuate the adjournment in that situation without the need for an appearance or any other action by the parties to the case.

4) (a) **Working Copies on Motions in Room 130:** After papers on motions have been e-filed, working copies thereof (with tabs and backs) must be submitted. **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.** As noted above, a copy of the NYSCEF Confirmation Notice must be securely bound as the front page of every working copy. (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, including of the moving papers, will not be accepted in the Motion Support Office (Room 119). Rather, all working copies should 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. Attorneys who maintain their office outside the County of New York may submit working copies on motions by mail or overnight delivery, but must do so in a timely manner. Any such package shall be conspicuously marked on the outside “NYSCEF Matter.” Failure to do so 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 be sure to file each document with NYSCEF and thereafter submit a working copy bearing firmly affixed thereto as the cover page 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 the court issues a decision and order on a motion in a NYSCEF case, it will forward the decision to the E-Filing Office, which will promptly process it, with County Clerk entry stamp, into the NYSCEF system. The 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 is required. After an order/counter-order has been signed, the Clerk will scan it, 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) **Submission 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 a party seeks to submit documents in an emergency in a mandatory e-filed case in accordance with the Rules, 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 a completed Cover Sheet for 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, 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 in non-Division cases. 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 must be submitted to the Justice and shall be in the form required by Section E (4) (a). 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. G (2) and where no party is served electronically, the filing attorney or party shall, no later than two business days after service, e-file the order to show cause and the supporting papers, together with proof of hard copy service. Failure to do so will cause the County Clerk file to be incomplete.

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 shall file the supporting documents with NYSCEF no later than two business days after the filing by the clerk. Failure to do so will cause the County Clerk file to be incomplete.

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 on-line.

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@courts.state.ny.us

J. Secure Documents and Sealing of Documents

1) **Social Security Numbers; Redaction:** An attorney or self-represented party filing a document with NYSCEF shall before doing so redact therefrom any social security number that appears in the original document. See GBL 399-dd (6).

2) **Secure Documents:** Pursuant to the Rules, documents may be designated “secure” by the filing user without an order of the court. 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. 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 directing the Clerk to seal the file. The court will conduct a Part 216 analysis in deciding whether to issue such an order. If the motion/stipulation is filed with the NYSCEF system, it will be open to the public until a sealing order is issued. If this creates concern for the parties about the release of confidential information while the application is pending, they may wish to consider filing the motion/stipulation as a “secure” document if that is appropriate and sufficient, or the parties may make a motion or submit a stipulation without filing it to the system until after the court rules on the sealing issue. Any such motion or stipulation submitted in hard copy form must bear a Cover Sheet for Hard Copy Submission - E-Filed Case and must be accompanied by a computer disk containing the papers in PDF format. Any opposition or reply papers shall likewise be submitted in hard copy form, with Cover Sheet, and be accompanied by a disk containing the documents in PDF format. Each disk shall bear a label containing the name of the case, the index number, and the name and e-mail address of the attorney submitting it.

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. 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 bearing the document in PDF format. The disk shall be labeled as indicated above.

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 (jdmt-nyef@courts.state.ny.us or 646-386-5943) that an order sealing the file was issued.

K. Entry and Notice of Entry

1) **Entry:** Pursuant to the NYSCEF Rules, the Clerk shall file orders electronically and such filing shall constitute entry of the order. The Clerk will transmit an e-mail message 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.

2) **Notice of Entry:** Notice of entry is served by a party as follows: the 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, together with a Certificate Requesting Entry of Judgment (available on the NYSCEF website). 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: jdmt-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. Once 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 consenting users.

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. and the Certificate Requesting Entry of Judgment, or forward these documents to the Clerk outside the NYSCEF system (to the e-mail box jdmt-nyef@courts.state.ny.us). Where the submissions are made to NYSCEF, the Judgment Clerk will promptly enter the judgment or will communicate with the filer by phone or e-mail if a problem is detected. If the submission is made to the e-mail box outside NYSCEF, the Judgment Clerk will promptly communicate with counsel by e-mail or phone if any questions or issues arise. Once the submission is in final form, the attorney must file on the NYSCEF system the proposed Clerk's default judgment 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:** The court itself may sign the judgment. Calculation of disbursements, costs and interest will be left to the County Clerk by the court. Papers supporting such calculation may be submitted to the County Clerk in the same manner as described above.

4) **Judgment Roll:** Whenever a judgment is to be entered, a judgment roll must be created by counsel or the clerk (CPLR 5017 (a)). Counsel shall submit the Certificate Requesting Entry of Judgment and shall identify therein, by title of the paper, number of the paper on the NYSCEF List of Documents Filed, and date filed, all e-filed documents that should form part of the judgment roll. Any documents that were filed in hard-copy form only prior to the conversion of the case to e-filed status and that are to be included in the judgment roll shall be scanned into

the system by counsel and included in the Certificate. The County Clerk will post the final Certificate on-line and this will constitute the judgment roll.

5) **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 debit card on-line or by means of the "Pay at the County Clerk's Office" option. It is important to note in light of the appeal deadline that 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. 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 on-line. 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: May 14, 2010

**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**

No. 11: 5/19/10

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).

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.