

## FREQUENTLY ASKED QUESTIONS

### Electronic Filing in the Appellate Division, First Department

Q: How do I e-file in the Appellate Division?

A: E-filing in the Appellate Division is through the New York State Courts Electronic Filing (NYSCEF) system (<https://iapps.courts.state.ny.us/nyscef/HomePage>)

Q: What type of cases will be required to be electronically filed in the First Department?

A: Currently, mandatory e-filing is required in appeals in all commercial matters originating in the Supreme Court, Bronx and New York Counties.

Beginning on July 15, 2019, mandatory e-filing will be required in all appeals in malpractice matters (medical, dental and podiatric malpractice and all other professional malpractice) originating in the Supreme Court, Bronx and New York Counties.

Q: Must all malpractice appeals be e-filed as of July 15, 2019?

A: E-filing requirements apply to (1) all malpractice matters in which notices of appeal are dated on or after July 15, 2019 and (2) those malpractice matters in which a notice of appeal is dated prior to July 15, 2019 and the appeal will be perfected on or after September 1, 2019.

E-filing is not required in matters in which the notice of appeal is dated prior to July 15, 2019 and the appeal is perfected prior to September 1, 2019.

Q: May I e-file in a non-commercial or non-malpractice matter?

A: The court will permit voluntary e-filing in non-commercial and non-malpractice matters only when all the parties involved consent to e-filing by written stipulation, which must be filed with the court.

Q: What are the initial documents that must be e-filed with the Court?

A: Counsel for appellant or a self-represented litigant who voluntarily participates in e-filing is required to enter the contact and other information requested, and e-file:

- a. A copy of the notice of appeal;
- b. A copy of the order or judgment appealed from; and
- c. A copy of the informational statement.

Q: When should the initial information and documents be electronically filed?

A: Within 14 days of the filing of a notice of appeal.

In malpractice matters in which the notice of appeal is dated prior to July 15, 2019 and the appeal will be perfected on or after September 1, 2019, the 14-day period within which to file the initial information and documents will be measured from July 15, 2019.

Q: What is the next step after I complete the initial entry of information?

A: Counsel for appellant or a self-represented litigant who voluntarily participates in e-filing will receive a case number from the Court. Within seven (7) days of receipt of the case number, counsel for appellant or a self-represented litigant who voluntarily participates in e-filing must complete and serve in hard copy the Notification of Case Number and Other Pertinent Information form on all the other parties and e-file proof of service of this notification.

Q: What am I required to do if I am served with a Notification of Case Number and Other Pertinent Information?

A: Within 20 days of service, counsel for a party served with a Notification of Case Number and Other Pertinent Information form is required to register or confirm registration as an e-filer in NYSCEF and enter the contact information requested.

Q: What will happen if counsel for a respondent does not enter the initial information required under Section 1245.3(d)?

A: After the 20-day period, an attorney who has not entered the information required under Section 1245.3 will be deemed served with any e-filed documents.

Q: What will happen if counsel for appellant does not enter the initial information required under Section 1245.3(a)?

A: Counsel will not be able to perfect an appeal or file a motion without entering the initial information and obtaining a case number. The court will NOT accept hard filing of an appeal or motion which is mandated to be electronically filed.

Q: Why does the Court require the entry of initial information for e-filing?

A: All authorized e-filers who have entered information for a matter as required under 22 NYCRR 1245.3 will be able to e-file and be served electronically in that matter.

Q: I am a self-represented litigant; I do not have an attorney. Do I have to participate in e-filing?

A: A self-represented litigant is exempt from and is not required to participate in e-filing. He or she must be served in hard copy.

A self-represented litigant may voluntarily participate in e-filing.

Q: If I am a self-represented litigant and want to participate in e-filing in a matter, what must I do?

A: A self-represented litigant may voluntarily participate in e-filing by electronically recording his or her consent at the NYSCEF site, registering as an authorized e-filer with NYSCEF, entering the case and contact information about the matter, and e-filing a copy of the notice of appeal, the judgment or order appealed from and the informational statement as required by the rules.

Q: May an attorney be exempt from e-filing?

A: An attorney who certifies in good faith, on the form provided by the Court, that he or she lacks either (1) the computer hardware and/or connection to the internet and/or scanner or other device by which documents may be converted to a digital format; or (2) the requisite knowledge in the operation of such computers and/or scanners necessary to participate, will be exempt. The certification must be served on all parties and filed with the Court in hard copy.

Q: Does the Court require hard copies of e-filed records, appendices and briefs?

A: Yes. Hard copies must be filed within two (2) business days of the e-mail NYSCEF notification that an electronic version of a document has been reviewed, approved and processed.

Q: How many hard copies of the record or appendix and brief must be filed with the Court?

A. The parties must file one original and five copies of a record or appendix and brief.

## MOTIONS

Q: Do motions have to be electronically filed?

A. Yes. Motions in mandatory or voluntary/consensual e-filed matters have to be electronically filed.

Q: Is there a required format for the motion papers filed electronically?

A: Yes. Motion papers should be filed together in one bookmarked PDF, linking to each separate supporting document/exhibit. A brief description of the bookmarked document should be included. For example – “Exhibit A- Notice of Appeal.”

Q: Does the Court require hard copies of e-filed motions?

A: Yes. One hard copy of an e-filed motion must be filed with the Court within two business days of receipt of email notification that the clerk has reviewed and processed the electronic version of the motion.

Q: I want to file an interim relief application. Will the Court permit the initial submission to be filed and served in hard copy?

A: The general rule is that applications for interim relief and the underlying motion papers must be e-filed. In the limited circumstance where a party seeking emergency relief is unable to comply with the e-filing requirements without being adversely affected, the Court will permit an interim relief application to be initially filed in hard copy and e-filed thereafter. If an interim application is initially filed in hard copy, it must be accompanied by a notice of hard copy submission on the form provided by the Court.