

Sent: Thursday, December 21, 2017 11:25 AM

To: eFiling Comments

Subject: matrimonial e-filing

Thank you for allowing us the opportunity to provide some comments, particularly regarding matrimonial matters. I trust these comments will be held confidential.

Overall, I am very happy with the option! We have seen uncontested divorces turned around at an extremely quick pace.

I have heard some attorneys be concerned with the payment feature. For example, they did not have a business credit card, so they have had to put filing fees on a personal credit card. That caused some concern for her.

We have also noticed that some judges also require a "working copy" to be submitted to chambers as well. Then, I have heard that the Judge also requires you to serve opposing counsel with the hard copy as well. Maybe they are just getting used to the new system, but it seems like that has created the opposite of the benefit of e-filing.

Thank you for your consideration of this information.

Reply all | Delete | Junk | ...

Experience with NYSCEF

RM

Robert Miletsky <rjmiletsky@rjmiletskylaw.com>

Fri 12/22/2017, 11:30 AM

eFiling Comments

Reply all |

Inbox

The message sender has requested a read receipt. To send a receipt, click here.

Good morning Mr. Carucci:

I respectfully advise that my experience is that the system works fine (knock wood.) It is much easier to use than the Federal Court's electronic filing system - which almost seems purposely hard to navigate or figure which category applies. Your system eliminated the kinks and really is User Friendly. (I was going to say that the system is virtually "idiot proof" but I would never put that in writing.)

My only request would be to tie the system to the Court's tracking system which sends notices and reminders for each case. I always forget to sign onto the tracking system for a new case that I file on the Court's electronic filing system. If that can be done automatically, that would be a great convenience. But the filing system itself is very easy to use. When an issue or question arises, the staff is very quick to respond.

Thank you and Happy Holidays and New Year.

Robert J. Miletsky, Esq.

Contributor: Expert Commentary - Construction Law:

International Risk Management Institute, Inc. (IRMI.com)

Fmr Editor and Writer: Contractors Business Management Report

Law Office of Robert J. Miletsky

[Affiliated: Miletsky & Miller, P.C.*]

53 Legend Circle, Suite 2

White Plains, New York 10603

914.946.7000

[*Merrick, Long Island]

This message is to be read only by the individual or entity to whom it is intended (notwithstanding the name of the addressee). If you are not the intended recipient, you are on notice that any review, disclosure, copying, distribution or use of the contents of this message is strictly prohibited. If you have received this message in error, please notify the sender immediately and delete or destroy any copy of this message.

Comment re mandatory e-filing of matrimonial cases

MB Marcy Blake <MBlake@joneslawllp.com>
Fri 12/22/2017, 3:51 PM
eFiling Comments ▾

↻ Reply all | ▾

Inbox

I am not in favor of mandatory e-filing of matrimonial cases, though I do support voluntary, consensual e-filing. The redaction required in some matrimonial cases, which often involve numerous financial documents with personal information, as well as personal information about minors, can be highly burdensome. Also, notwithstanding the good intentions and efforts of the New York State Courts to protect electronically filed information, there may come a time when those efforts are not enough to prevent hacking/ unauthorized access to electronically filed documents.

Thank you in advance for your consideration of comments.

Marcy Blake
Associate

↻ Reply all | ▾ 🗑 Delete Junk | ▾ ...
JONES, LLP

670 White Plains Road, PH
Scarsdale, NY 10583
Phone 914-472-2300, Ext. 315
Direct 914-713-9315
Fax 914-472-2312
Email: mblake@joneslawllp.com
Website: <http://www.joneslawllp.com>

Offices in Scarsdale | Stamford | Manhattan

This communication is intended solely for the party named above. This communication as well as any attached documents contain confidential and legally privileged information exempt from disclosure under applicable law and belonging to the sender and/or the intended party. If you are not the intended party, be advised that any action taken in reliance on the contents of the information contained in this communication is prohibited and that any unauthorized use, dissemination or distribution of the communication or its contents, may be subject to legal action under applicable law. If you have received this communication in error, it is requested that you delete this communication and all attached documents from your electronic storage files and notify the sender immediately at the above E-mail address, or call (914) 472-2300.

Be further advised that pursuant to United States Treasury Department Circular 230 any discussion of a federal tax issue in this communication as well as any attached documents is not intended or written to be used, and cannot be used, by any recipient, for the purpose of avoiding penalties that may be imposed on the recipient under United States federal tax laws.

Electronic Practice

Reply Richard R. Pertz <rpertrp@gmail.com>

Reply all | v

Sat 12/23/2017, 10:33 AM

eFiling Comments v

Inbox

To help protect your privacy, some content in this message has been blocked. To re-enable the blocked features, [click here](#).

To always show content from this sender, [click here](#).

The question is not whether electronic filing should be expanded to all proceedings, but, rather, whether there shouldn't be much a broader expansion of the use of electronic communication to make litigation far more efficient. Electronic communication --whether in the form of video conferencing, email, document/calendar sharing-- should be implemented in the place of the cursory show-ups for "preliminary conferences" or "scheduling conferences", which consume vast quantities of lawyer time to do things that could be accomplished in a few minutes, and at one's desk; personal appearances at court should be the exception, not the rule, in a world where the real addresses are in cyberspace. Appearances for live fact finding (trials, hearings) and dispositive motions are appropriate. Appearances to set discovery deadlines are virtually defeating: we are constantly admonished to get things done in a timely way, while having our time whittled away and wasted to schedule getting things done. The e-filing system should be expressly recognized as performing the function of serving filed papers on all counsel. Filing is service. Affidavits of service for e-filed papers should be eliminated: the filing is self-authenticating and the service is *ipso facto*. At the same time, paper service of filed papers should be eliminated; not 1/100th of what is printed should be. All filed papers are there to be seen. If someone needs a print copy, they can hit "print". The burden of paper has become an absurdity, and frequently simply the most inefficient possible way to get material from the computer from which it is printed out and shipped to the recipient, who takes it apart and scans it to get it into his computer. The burden of how many tons of paper daily does our present inefficient system impose on the court system itself, on the delivery systems and manpower of all concerned? While you're at it, end faxing. Faxing requires scanning a document which is then transmitted over the phone lines to a printer, which will spit out the document, and generally whether the recipient wants it or not; that will only be known after it's printed out. Emailing attachments requires scanning a document and attaching it to an email to the recipient, who can do what he likes with it, including printing it if wishes.

law practice much as Westlaw/Lexis revolutionized and simplified legal research. Thousands and Tens of Thousands of legal hours (and hundreds of millions of insurance premium-payers dollars) could be saved by the simple switch to electronic scheduling, argument of non-dispositive motions, and much else. Appearances are very, very expensive, and we're all paying for it.

Richard Pertz, Esq.
12280 Rt. 365
Remsen NY 13438
315 723 6949

This is a confidential communication. If you received it in error, you may not use it for any purpose. Please notify sender by returning it, and delete from your server.

Comments on Electronic Filing Program

IN

ILDIKO NYARI <ildiko.nyari@outlook.com>

Mon 12/25/2017, 9:40 PM

eFiling Comments ▼

📧 Reply all | ▼

Inbox

This message was sent with high importance.

Comments on Electronic Filing Program

Users' experience with NYSCEF

To: efilingcomments@nycourts.gov

Jeffrey Carucci, Statewide Coordinator for E-Filing

60 Centre Street, Room 119M - New York, New York 10007

I have open cases, as a party to all those cases, at four different courts, and I am not an attorney:

- One is at the *Appellate Term*, at the Civil Court, Kings county, 111 Livingston street with manual filing mechanism.
- Two cases at the *Supreme Court* of NY, Kings county, 360 Adams street where I had the opportunity to experience the e-filing mechanism.
- One of the above cases is now open at the *Appellate Division*, Kings county, 360 Adams street, therefore it has a leg at the Supreme Court above. Therefore, this one case is open at two courts at the same time, and using e-filing.
- And another case, which is a consolidated case of two cases, is running at the *Civil Court*, New York county, 111 Centre street, New York.

And my observation to case management at court is as follows:

1. First, it is excellent to have e-filing, and a must have as oppose to manual paper filing. Because:
 - a. The e-filing system could save me about 60% of my time. No doubt. Here is why:
 - b. In the paper system if I prepare a paper in 2 days, then the paper production, binding, notarization, filing, serving and travelling requires another 3 days at best, sometimes even four days, which would make it to be 60% time consuming. Sometimes the filing clerk is closed, or I am arriving 2 minutes late to the clerk and they will not let me file it, so I will have to return another day. And the notarization also sometimes has scheduling difficulty. At some places notaries are only open to the public at certain times of the day, or I need to spend my time travelling to another place, which also have certain limits. And serving the paper on the other party can also be another time consuming and expensive procedure. If I, a party, can mail it with certification, then that's another trip to the post office, then I need to produce an Affidavit of Service and notarize it. If I cannot mail it with certification, then I need to hire a process server, which is \$75 cost, plus another two trips to the process server, and then one more trip back to the court filing it. It is an unbelievable time-consuming paper work procedure in today's world of technology.
 - c. When there is an electronic filing possibility, it is such a breath to escape all above steps, and to save an incredible amount time. It is just incomparable to the paper world. After the paper work is done, let's say in 2 days, I can 'produce-file-serve-travel' in that instant moment of e-filing and save 3 days.

when e-filing as a person from the public, not as an attorney, certain questions arise, that over time through practice more-or-less clears up, but by leaving those footprints behind. Here is a list:

- a. When selecting the type of document, I wish to e-file, it would be great to have a link to the list of type of papers can be filed with a short description. Because at the end I decided to make this list for myself out of the options provided in the e-filing system.
- b. The document-type list is different for papers filed to a motion, versus filed individually, with certain consequences to both - the link called Display Document List with Motion Folders can display the motion related documents. So, how I file a paper can make a huge difference. The same type of paper, could be assigned to a motion, or as I learned it wrongly, some papers I believed to be for the whole case, therefore I did not assign it to a single motion, and was treated differently. This is something like using an analogy, coding in accounting. A person who is not a lawyer, or not an accountant, may not know how to 'code' certain legal papers, but the solution or help would be to provide some kind of feedback or question, or a pop-up window asking questions where and how do I want to assign it. And if that is not answerable to me or my answer seems to be detrimental to the case, the court clerk could send a feedback of confirmation to my assignment, whether I really meant that.
- c. In an electronic system lots of information can be transparent, it would be great to have a link to the appropriate CPLR(s) once a document is selected. And in general, the main site could have a link to the library of laws already published on the internet.
- d. Another experience is with exhibits. If I have a video record to use as an exhibit in a document. However, I cannot upload the video into the court system (only pdf), so perhaps as an alternative the court could offer an URL option. However, the problem with the URL is the host company's full access to it, unless certain host companies are admissible (only). Therefore, there should be some kind of option for video record to be admissible into court evidence. Because right now only papers, and paper formats are admissible in pdf.
- e. And perhaps, the main site could offer links to forms of papers and the standards of those papers, which can aid people of non-lawyers writing their own papers.
- f. A designated contact page would be useful to have, where people can raise questions directed to the county clerk or court clerk, instead of visiting the court to ask my question, I could raise it on a page designed for such (link on main page). An example of question is that when I filed the appeal to the Division I had to know that in terms of serving the other party is the e-filing of the Notice of Appeal is a sufficient service because I am moving to another court or do I need to provide the service in both e-filing and in paper. The Appeal Division referred the answer back to the original court's clerk, who answered that if all parties participate in an e-filing, then e-filing is sufficient service, otherwise it has to be done in paper as well.
- g. Or I have one case at the Supreme Court, King county, where the court did not file the judge's Order ever since November 1st, 2017, for two months by now. It is unbelievable. I had to visit the court several times to figure out why the order is not filed yet, to be able to move ahead, but everybody is pointing to someone or something else for reason. And it is still not solved. For such clerical issues and errors, it would be great to have a contact page too.
- h. And one more thing. As a person who has several cases at courts, it would be great to have one single user login to manage all cases under one arm. Especially because I am also an eTrack member for information on paper filed cases.

And this would conclude, I believe I did not leave out any of my concerns, my observation of the e-filing mechanism at the courts of New York. I am truly glad it is available. It is a tremendous help. It is a time and money saver to the filers. Thank you.

Sincerely,

ILDIKO NYARI
244 Fifth Ave, Suite E233
New York, NY 10001-7604
212-802-7322, leave message
[Linked in](#) and [YouTube](#)

Phyllis Mingione

From: eFiling Comments
Sent: Tuesday, December 26, 2017 10:59 AM
To: eFilingComments-DG
Subject: FW: e-filing feedback

From: David Tolchin
Sent: Tuesday, December 26, 2017 10:58:45 AM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: e-filing feedback

The efile system is GREAT and only getting better. Here are some of our suggestions to make NYSCEF system EVEN BETTER:

- 1) A way to download all the files on a given motion at once—like with Pacer in federal court.**
- 2) An option to download files where the page is reduced in size, so that the marginal headings will not be obscured if the document is refiled. (For example, take a notice of entry of an order: the order's heading is obscured by the notice of entry's heading; or even more common, take a motion: if an efiled complaint is re-filed as an exhibit to a motion, the headings will be superimposed and obscured).**
- 3) An option to print the Doc # on the lower left or right of a page. When papers are bound at the top (as usually they are with working copies prepared for the Court), the bindings at the top of the page cover the Doc numbers, etc. It is also hard to refer to doc numbers in motion papers where the numbers are covered over.**
- 4) On Confirmation Notices the Filing User info now only lists the Name of attorney, phone, email, and office address (without the firm's name or the name of the party being represented). The Confirmation Notice should list the name of the FIRM or the LITIGANT, or both. Since this information is in the data already associated with the filing user, we imagine that it can be easily populated on the Notice.**

David Tolchin, Esq. | Jaroslawicz & Jaros PLLC
225 Broadway | 24th Floor. | New York, NY 10007
212-227-2780 | dtolchin@lawjaros.com

*This message comes from a law firm and may contain **confidential** or **privileged** information. If you are not the intended recipient, please **advise sender** and **destroy** this message.*

COUNTY CLERK'S OFFICE – CORTLAND COUNTY

ELIZABETH LARKIN
County Clerk

TAMMY L BARRIGER
Deputy County Clerk

BROOKE KEMAK
Deputy County Clerk

Sonia Ganoung
Director, Motor Vehicles

Courthouse
46 Greenbush Street, Suite 105
Cortland NY 13045
(607) 753-5021
Fax (607) 753-5378

Motor Vehicle (607) 753-5023
Fax(607) 758-5500

elarkin@cortland-co.org



December 26, 2017

Jeffrey Carucci, State Wide Coordinator for E-filing
Office of Court Administration
60 Centre Street
New York, NY 10007

Dear Mr. Carucci:

Thank you for inviting me to comment on NY State's e-filing system, NYSCEF. The Cortland County Clerk's Office began consensual e-filing in January of 2014. Steadily, over the last four years, the number of cases that are electronically filed have increased. Today more than 50 % of our civil cases are electronically filed. We are anticipating mandatory e-filing to commence in January of 2018. I received an e-mail last week from a local attorney who thanked me for offering e-filing and e-recording. She stated that there is nothing better than working from her warm cozy office without having to go out on a blustery, snowy winter day.

The NYSCEF resource center continues to be an invaluable resource for both the county clerk's office and e-filing submitters. They are professional and helpful when the occasional help is needed.

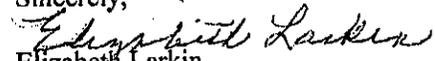
E-filing has no effect on pro se litigants in Cortland County. If a case is commenced by e-filing and the Defendant brings us their hard copy papers to file, my staff files these in NYSCEF. Once this is filed in NYSCEF the Plaintiff is notified that the Defendant is not e-filing and that hard copy communication and notices must be sent or delivered. My staff continues to enter the Defendant's submissions into NYSCEF and the Plaintiff continues to e-file their documents until the case is closed. All filings are pulled from the NYSCEF site into the County Clerk's electronic document management system every half hour. Any public civil case, whether it is e-filed or hard copy filed, is available on the internet on the Cortland County Clerk's website within 8 hours of submission and can be viewed or printed at no fee. Public documents are viewable at the County Clerk's Office within minutes of receiving them.

E-filing has made my office more efficient. Not only has e-filing saved a tremendous amount of staff time for submitted hard copy records and the time spent requesting From OCA that these duplicate records be destroyed.

I strongly support legislation that would allow the Chief Administrative Judge to expand the mandatory e-filing program. As explained above, provisions are made in all "mandatory" e-filed cases for those who are unable to e-file or who do not have legal representation and do not wish to e-file.

In Cortland County we look forward to working with the NYSCEF staff to further civil e-filing and to commence criminal e-filing.

Sincerely,


Elizabeth Larkin
Cortland County Clerk

 Reply all |   Delete Junk |  ...

mandfatory efileing in surrogate court

FA

Frank Apicella <fjaesq@aol.com>

Wed 12/27/2017, 6:07 PM

eFiling Comments 

 Reply all | 

Inbox

we should have the option to efile in surrogate court; it should not be mandatory for senior attorneys

(No subject)

MS Reply Marie Smith <msmith@npslaw.com>

Reply all | v

Thu 12/28/2017, 12:30 PM

eFiling Comments v

Inbox

The program is great. I just wish we did not have to still mail in courtesy copies. It kind of defeats the purpose of saving on paperwork.

Marie Smith

Legal Secretary to John R. Ferretti, Esq.
Nicolini, Paradise, Ferretti & Sabella
114 Old Country Road #500
Mineola, NY 11501
516-741-6355

Suggestion

SW

Steven A. Weg <saw@grlawpllc.com>

Thu 12/28/2017, 1:33 PM

eFiling Comments

Reply all |

Inbox

To Whom It May Concern:

In response to the Notice Seeking Comments on Electronic Filing Program, a suggestion is to add a link within the emailed confirmation of e-filing that permits users to view all documents filed within that particular case (as opposed to only the document that was just filed).

Steven A. Weg
Goldberg Weg & Markus PLLC
122 West 27th Street, 11th Floor
New York, NY 10001
T: (212) 697-3250 ext. 311
F: (212) 227-4533

Admitted in New York and New Jersey

This message is intended to be confidential and may be privileged. If you are not the intended recipient, please delete this e-mail from your system immediately and notify me of the erroneous transmission to you. Any disclosure, use, copying or distribution is prohibited and may be unlawful. Receipt by anyone other than the intended recipient is not a waiver of any attorney/client or other privilege.

IRS Circular 230 disclosure: Any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of avoiding tax-related penalties under federal, state or local tax law or promoting, marketing or recommending to another party any transaction or matter addressed herein.

New York State Courts Electronic Filing System

Reply all | Delete | Junk |

LG

Liz Gavin <liz.gavin@gmail.com>

Thu 12/28/2017, 4:37 PM

eFiling Comments

Reply all |

Inbox

Good Afternoon:

I am an attorney, and I use the NYS Courts' eFiling system regularly in my practice.

My concerns deal with the self affirmation regarding confidential documents. This system does not appear to be working at all. It is with horrifying regularity that I encounter attorneys publicly filing medical and mental health records.

This is not limited to attorneys who are waiving their own clients' privacy, but it also includes attorneys representing union members in litigation related to their employment with the Office of Mental Health and the Office for People with Developmental Disabilities. I have also seen this in cases related to the NYS Justice Center.

In federal court, there are court clerks who review uploaded documents for confidential information. That system is highly effective. I have not seen any evidence of this happening in state court.

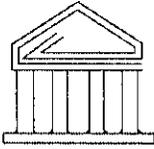
I am very concerned with the lack of review of efiled documents, and I cannot support the expansion of this program until a time when it is clear that there are safeguards in place to protect the public from the actions of inattentive and/or lazy attorneys who cannot be bothered to follow the filing guidelines.

I would also like to see a place where an NYSCEF user can flag confidential documents for review by NYSCEF clerks, so these documents can be removed or sealed if necessary.

Thank you for your time and consideration of my comments.

Sincerely,

Elizabeth Gavin



B. SHAMUS O'DONNILEY, ESQ., P.C.

23-15 Steinway Street
Astoria, New York 11105
Shamus@lawyer.com

☎ +1(718) 310-3051

VIA Email to efilingcomments@nycourts.gov

December 28, 2017

To: Mr. 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

RE: COMMENTS ON ELECTRONIC FILING PROGRAM

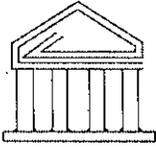
Mr. Carucci:

This letter is a response to your public call for comments on electronic filing (hereinafter "efiling"). I would like to make it clear to you that my belief that more efilng is better. Please eliminate all restrictions that keep cases out of efilng. We should expand Efilng to each and every court in this state at all levels. Efilng promotes more transparency and also saves huge sums of money by eliminating commutes to file documents. We need efilng in the Civil Court of the City of New York for each and every portion of that court including Housing Court and Small Claims Court. We need efilng for all aspects of the Court of Claims. We need efilng for the Appellate Division. We need efilng for the Court of Appeals.

AREAS TO EXPAND EFILING & IMPROVE EFILING

(Private Filing Option for Discovery Documents that contain SSN or DOBs)

In the current climate, I cannot tell you how often attorney argue over when a document was or was not disclosed. The beauty of the current efilng system is that option to efile responses. I very much adore this feature because it affirmative destroys gutter lawyering by those who would claim "I never received that" or "you missed the deadline disclosing that." One clear area of improvement would be the creation of the ability to privately efile documents that contain Social Security Numbers, Dates of Birth, and other private medical information.



B. SHAMUS O'DONNILEY, ESQ., P.C.

23-15 Steinway Street
Astoria, New York 11105
Shamus@lawyer.com

☎ +1(718) 310-3051

Such a system would include a privacy selection that makes it only visible to the opposing attorney and the judge. Those that would argue against the inclusion of such a feature because of storage space required; should remember the amount of motion practice eliminated by having each and every document efiled on NYSCEF. I would bet that you would see a fifty percent drop in the number of motions filed.

(Electronic Dropbox for Subpoena Responses)

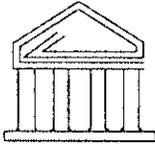
In lieu of making Subpoenas returnable to the Court House for hardcopy submission of documents, we should have an efile tab on NYSCEF for subpoena responses for each county. This tab should include the ability to efile X-Rays in JPEG or other file formats by hospitals, and it should also include some kind of standard business records certification form that the subpoena responder could complete (similar to how RJIs were eliminated with a form in NYSCEF).

(Trial Notebooks)

We should have a trial notebook submission area on NYSCEF that is not public, but is viewable to only the judge and opposing counsel. This would further eliminate the wasteful creation of "trial notebooks" that litter chambers and courtrooms before and after trials. Most of the time, the judges probably just throw those away. So you will eliminate the wasteful creation of the notebooks and the costs of trash removal.

NO MORE HARD COPY SUBMISSIONS – WHY?

Someone needs to affirmatively pass a law or make a rule that forbids submission of hard copies of electronic filings in cases. These submissions are what they call "courtesy copies" or "working copies." We currently have a situation where certain courts and certain judges are stifling efile by requiring the continued filing of hard copies. This is a ridiculous and absurd state of affairs. Why do we have efile if we continue submitting hard copies? These people



B. SHAMUS O'DONNILEY, ESQ., P.C.

23-15 Steinway Street
Astoria, New York 11105
Shamus@lawyer.com

☎ +1(718) 310-3051

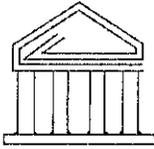
must be forced to understand that the future is now. Stop the waste. The existence of submission parts in general are a disgraceful waste. Why are we generating extra traffic by communiting to waste an entire morning or an entire afternoon? If you want a submission part why not make it remote submission?

CLERK DANGERS TO THE EFILING SYSTEM

I am a familiar efiler in NYSCEF, the eastern and southern district federal district courts and the eastern and southern district bankruptcy courts. I think that it is helpful to use those courts to compare and contrast NYSCEF. The biggest danger I see that currently is happening (without identifying any specific court) is the insertion of clerks as adjudicators into the efling process. Less clerks who interfere with the efling of documents is better. One example that I notice is for some counties the document shows "pending" status after it is filed for at least a day or two. While in other counties, the document is processed immediately unless it is a motion.

Thus far, I have only expereinced having a document bounced on NYSCEF a couple of times. The feature that allows the attorney to re-file the document in a manner that relates back to the original filing date is a very good feature that is vastly superior to the Federal ECF system. So I do not have a huge gripe with the current system so long as it relates back with the corrected filing, but I do see a danger there. However, this is a very great danger to the administration of justice because by inserting the clerks into the process as a gatekeeper to the courthouse, the clerks are essentially acting as if they are the adjudicator or judge by bouncing documents or rejecting documents from the system.

With that said, the clerks should stay out of the sufficiency of documents filed because that often times crosses over into impacting and adjudicating substantive rights. That is more properly the providence of attorneys and judges to resolve the sufficiency of a document in motion practice. There is also a clear provision for an opposing counsel to reject a defective



B. SHAMUS O'DONNILEY, ESQ., P.C.

23-15 Steinway Street
Astoria, New York 11105
Shamus@lawyer.com

☎ +1(718) 310-3051

document in CPLR 2101(f). That affords protection to the rights of parties. With respect, clerks are neither qualified nor trained for determining substantive rights. It is pure sloppiness and laziness to thrust such a duty upon the clerks. There are very many cases that address the sufficiency of documents and whether a deficiency contains a minor irregularity or requires a curable ministerial act. Without the escape valve of allowing an attorney to efile a corrected document that relates back to the original filing, I believe you will see an huge increase in article 78 mandamus litigation. The game of handing back documents at the window while refusing to stamp a document should forever end with Efiling. To allow the clerks to reject a document outside of the peramiters of CPLR 2102(c) is likely unlawful. To improve the system, you may consider creating barriers for the clerks to interfere without citing a basis enumerated in the CPLR 2202(c). For example, you could have a drop down menu for the clerks to select the basis for the rejection and to further generate a written notice so that it may be readily reviewed for the basis of rejection. In my humble opinion, a clerk rejecting a document through the current system may not comply with law. (See CPLR R. 2102(c); 22 NYCRR 202.5(d)(1) and also see case law *Gehring v Goodman* 2009 NY Slip Op 29351 [25 Misc 3d 802])

CONCLUSION

The efling system is a testmant to a state's level of advancement and development. It definitely is an indicator to businesses that have commercial disputes so it impacts the economy. There are some states that are in a disgraceful state of affairs (look at Massachussets that lacks any efling while they have MIT located right there – and they lack are lacking in development baseball too). The level of efling is really an indicator of a state's level of development, level of transparency and ultimately its level of democracy.

Sincerely,

/S/B. Shamus O'Donniley, Esq.

Re: Comments on Efiling and NYSCEF

CP Carl E. Person <carlpers2@gmail.com>
Sat 12/30/2017, 6:09 PM
eFiling Comments

Reply all |

Inbox

I have one further comment:

7. Could the Court post a notice to the effect that any exhibits that have been separately efiled in the civil action (and thus has a Doc. No. for that document alone) may be referenced in motion papers by a description of the document, the date of its efileing as a separate document, and its efiled Doc. No. This would save huge amounts of time and money. Parties who have not accepted efileing would be entitled to receive copies of the documents in addition to the reference to the Doc. No. etc.

Carl E. Person

On Sat, Dec 30, 2017 at 8:50 AM, Carl E. Person <carlpers2@gmail.com> wrote:

1. Is it possible to reject only the PDF documents that do not pass the OCR test and not reject the pdf files that pass the test. A substantial amount of effort goes into filing exhibits and it would be helpful if the software identified the errant documents by rejecting only them or, if this is not possible, identifying which documents failed the test.
2. Could the court take a position on whether an affirmation of service is necessary if all parties have agreed to accept efileing? A substantial amount of time is put in by individual practitioners in preparing affirmations of service and the time and expense could be avoided if the Court stated something like: "Affirmations of service are not required for an efiled document when all appearing parties have agreed to participate in efileing."
3. Also, could the court give a notice that a Notice of Entry in an efiled case is not effective if the Notice of Entry is not efiled within xx days of its service. A lot of time and money on an appeal could be wasted if an unfiled Notice of Entry is used to support a motion to dismiss an appeal as untimely (as to the filing of the Notice of Appeal).
4. **Also, I would be interested in attending a 1 or 2 hour meeting with other users and efileing personnel to discuss various issues about efileing.**
5. Is it possible for any of the counties in NYS to emulate the federal EDNY which will not accept any paper (well, there are some exceptions). Everything has to be efiled, even letters to the judge.
6. Please don't think of me as a complainer. I think the efileing system is great and it is constantly being improved.

225 E. 36th St. - Suite 3A
New York NY 10016-3664
Office: **212-307-4444**
Cell: **917-453-9376**
Fax: **212-307-0247**

--

Carl E. Person
225 E. 36th St. - Suite 3A
New York NY 10016-3664
Office: **212-307-4444**
Cell: **917-453-9376**
Fax: **212-307-0247**

efiling comments/questions ...

Reply all |

Delete Junk |

JL

Jackie Luciano <jluciano@matlaw.com>

Reply all |

Tue 1/2, 10:13 AM

eFiling Comments

Inbox

I am responding to a letter asking for comments regarding the expansion of the eFiling system. I represent Matlaw Systems. We provide software that does document assembly, financials and research library for NYS Domestic Relations Practitioners and have been providing this software for over 20 years.

Our templates do convert to PDF format. I would like to know whether your plans will incorporate vendors like us or is the goal to eliminate us? If we need to make changes to our system to be able to work seamlessly with yours, could we get some notice on your plans so that we can make our software comply? JJ

Jacqueline Luciano, VP
Matlaw Systems
138 LeBarron Road
Hoosick Falls, NY 12090
(518) 686-1905

RE: e-filing feedback

DT

David Tolchin <dtolchin@lawjaros.com>

Tue 1/2, 10:35 AM

eFiling Comments ▾

🔗 Reply all | ▾

Inbox

Hi! One more suggestion:

5) A way to oppose 2 motions with the filing of a single set of opposition papers. This will avoid such misunderstandings as reflected in John Quealy Irrevocable v. AXA Equit. Life, 151 A.D.3d 592 (1st Dept 2017), where the First Dept held:

🔗 Reply The motion court improvidently exercised its discretion in sua sponte granting, on default, defendant's motion to strike the complaint. Plaintiff's papers filed in motion sequence No. 1 were also "in opposition to defendant's . . . motion seeking the striking of the note of issue" (mot sequence No. 2), and did address defendant's argument concerning its failure to respond to discovery requests by arguing that no discovery was required under the circumstances.

David Tolchin, Esq. | Jaroslawicz & Jaros PLLC
225 Broadway | 24th Floor | New York, NY 10007
212-227-2780 | dtolchin@lawjaros.com

*This message comes from a law firm and may contain **confidential** or **privileged** information. If you are not the intended recipient, please **advise sender** and **destroy** this message.*

From: David Tolchin [mailto:dtolchin@lawjaros.com]
Sent: Tuesday, December 26, 2017 10:59 AM
To: 'efilingcomments@nycourts.gov'
Subject: e-filing feedback

The efile system is GREAT and only getting better. Here are some of our suggestions to make NYSCEF system EVEN BETTER:

- 1) A way to download all the files on a given motion at once—like with Pacer in federal court.**
- 2) An option to download files where the page is reduced in size, so that the marginal headings will not be obscured if the document is refiled. (For example, take a notice of entry of an order: the order's heading is obscured by the notice**

obscured).

- 3) **An option to print the Doc # on the lower left or right of a page. When papers are bound at the top (as usually they are with working copies prepared for the Court), the bindings at the top of the page cover the Doc numbers, etc. It is also hard to refer to doc numbers in motion papers where the numbers are covered over.**

- 4) **On Confirmation Notices the Filing User info now only lists the Name of attorney, phone, email, and office address (without the firm's name or the name of the party being represented). The Confirmation Notice should list the name of the FIRM or the LITIGANT, or both. Since this information is in the data already associated with the filing user, we imagine that it can be easily populated on the Notice.**

David Tolchin, Esq. | Jaroslawicz & Jaros PLLC
225 Broadway | 24th Floor | New York, NY 10007
212-227-2780 | dtolchin@lawjaros.com

*This message comes from a law firm and may contain **confidential** or **privileged** information. If you are not the intended recipient, please **advise sender** and **destroy** this message.*

Comment for E-filing Program...

Reply all | Delete | Junk

JP

Julia Purdy <JPurdy@knoergroup.com>

Tue 1/2, 11:09 AM

eFiling Comments

Reply all |

Inbox

To Whom It May Concern:

I am writing in response to the Notice Seeking Comments on Electronic Filing Program (available [here](#)). My sole comment is to encourage rural counties to use e-filing. Thank you.

Sincerely,

Julia

Julia H. Purdy, Esq.
Associate Attorney
The Knoer Group, PLLC
424 Main Street, Suite 1820
Buffalo, New York 14202
Phone (716) 332-0032
E-mail: jpurdy@knoergroup.com

CONFIDENTIALITY NOTICE: This electronic communication is intended to be viewed only by the recipient to whom it is addressed. This transmission may contain confidential information which is protected by attorney-client privilege. If you have received this communication in error, please reply to sender indicating the error and delete any copies from your computer. Any disclosure, copying, distribution or the taking of any action in reliance on the on the message is *strictly* prohibited.

New York State Courts Electronic Filing Program

DF

Dina Farinaro <dina@ajlounyinjurylaw.com>

Tue 1/2, 11:18 AM

eFiling Comments

Reply all

Inbox

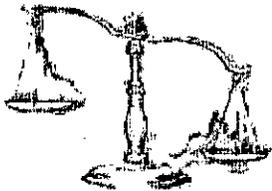
Dear Mr. Carucci:

This system is great if the Court System would use it, unfortunately they do not so this system has created an undue burden on law firms because no judge uses nor recognizes the system. We still have to supply support offices and chambers all documents filed by law firms so what's the point. The State created a system that is does not use but expects all none court personnel to use it. The biggest pet peeve I have is having to file an RJI twice every time I file same. The system is time consuming and moot. I especially love it when chambers says they cant find my papers when they were efiled and mailed to him months ago. All anyone in the Court has to do is look on NYSCEF and see all documents are there, but instead they delay the case even further because they cant find the hard copies I sent to them months ago.

Thank you for your time and attention to this matter.

Dina E. Farinaro
Paralegal

Paul Ajlouny & Associates, P.C.
320 Old Country Road, Suite 205
Garden City, New York 11530
Phone (516) 535-5555
Fax (516) 535-5556
dina@ajlounyinjurylaw.com



Help save a tree. Please print this email only if necessary

The information contained in this communication is provided for informational purposes only and is neither intended, nor sufficient to create an attorney client relationship. Furthermore, it is PRIVILEGED AND CONFIDENTIAL INFORMATION intended only for the use of the individual or entity named above. If you are not the intended recipient, or the employee or agent responsible for delivering it to the intended

purpose, nor disclose all or any part of the contents to any other person. Thank you.

🔄 Reply all | ▾ 🗑 Delete Junk | ▾ ...

efiling

LM

Linda Markowitz <linda@rosemarklaw.com>

🔄 Reply all | ▾

Tue 1/2, 1:07 PM

eFiling Comments ▾

Inbox

I am an older lawyer and I love efilng. However, the judges have to get on board and not require us to spend time both efilng and making and deliviering to the courthouse "working copies". This can only come from the administration. It should also be made clear that efilng is "service" (or not if that is the case) as our office is not clear on that and we are still sending out and serving hard copies when required to do so.

Linda Markowitz, Esq.
Partner, Rosenthal & Markowitz, LLP
399 Knollwood Road Suite 107
White Plains, New York 10603
914 347-1292 Telephone
914 347-1293 Facsimile
Linda@RoseMarkLaw.com

🔄 Reply all | ▼ 🗑 Delete Junk | ▼ ...

E-Filing

MO

Michael O'Neill <lawyer@oneillaw.com>

Tue 1/2, 1:20 PM

eFiling Comments ▼

🔄 Reply all | ▼

Inbox

E-filing has been a real blessing. It makes lawyers more efficient. I have an active Federal Court practice, and the State ECF is so much easier to use and more user friendly. Good work!

Two suggestions: (1) make it mandatory in all cases and (2) prohibit judges from requiring courtesy copies (which is a monumental waste of paper and defeats the purpose of e-filing.) I can understand a Judge wanting a working copy of a memorandum of law, and maybe the odd affirmation, but all of the exhibits on an SJ motion? Why copy a 400 page deposition when at most a few pages are referenced in the motion? Is it really that hard to pull up the pdf? I'm assuming that the court personnel have a more streamlined user interface to the system.

Anyway, overall it is great. Your people have done a splendid job.

Regards,

Michael O'Neill

Law Office of Michael G. O'Neill

Civil Rights, Labor and Employment and Personal Injury

30 Vesey Street, Third Floor

New York, New York 10007

212 581-0990

www.oneillaw.com

lawyer@oneillaw.com

NOTICE: All email communications to and from this email address are subject to the [ONEILLAW Email Policy](#)

e-filing program

JT

Jason Tenenbaum <jason@JTNYLAW.com>

Tue 1/2, 1:44 PM

eFiling Comments

Reply all

Inbox

Dear Sir or Madam:

Reply all | Delete | Junk | ...

Please allow this to be serve as my comment on the e-filing program. I am admitted to practice in New Jersey and Florida. The State of New Jersey has mandated e-filing of all Civil causes in all their Courts (Both Superior and Special Civil). Most of the larger Counties in Florida mandate e-filing in all of their Courts (Circuit Court and County Court). New York appears to be an outlier in that most Supreme Courts are not mandatory e-filing justifications, and a majority of the upstate counties still do not even allow consensual e-filing.

My hope is that within the next year or two, New York (at least in the downstate and more populated upstate counties) will become a mandatory e-filing State in all of the Courts of record.

For instance, my firm files a lot of cases in the Civil Courts. Unfortunately about 5% of our motions are "lost" in Kings County Civil Court. We cannot paper file cases until the month a motion is returnable (if we are a cross-movant), and the Court will not accept opposition and Reply papers ahead of the motion return date. This is due to staffing and other considerations.

In another instance, I attempted to locate an order in Civil Court, New York County. The clerk had this backwards handwritten paper with various entries that needed to be cross-indexed before the paper order could be located. I waited 3 hours for two clerks to obtain the order. In my opinion, the state of the quality of the filings in the Uniform Court system is largely outdated and pales in comparison to that of other States. In 2018, e-filing should be mandatory system wide.

Thank you for considering my comment.

Jason Tenenbaum, Esq.
The Law Office of Jason Tenenbaum, P.C.
595 Stewart Avenue
Suite 400
Garden City, NY 11530

☎: [\(516\)750-0595](tel:(516)750-0595)

☎: [\(516\)414-2869](tel:(516)414-2869)

✉: Jason@jtnylaw.com

My Blog: [No Fault blog](#)

Website: [The Law Office of Jason Tenenbaum, P.C.](#)

January 3, 2018

Mr. 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

RE: New York State Courts Electronic Filing Program

Mr. Carucci,

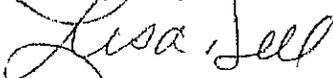
Having held office for two years now, I have had the opportunity to experience the full effect of e-filing and its benefits. E-filing's component of immediate access and retrieval of documents makes for a very efficient, customer friendly work environment. The electronic storage of these documents is another asset of the program. We are a large, high volume office and just do not have the extra storage space to hold paper.

I am very pleased to say that the e-filing program and its proven benefits was one reason why we were incentivized to move our office further into the electronic age. Our customers now have immediate access to other public records, including images, via the internet that they never had before. With this upgrade we also have the capability of accepting land records and other related documents electronically, similar to the e-filing program, which has also proven to be very successful with the same benefits.

Our office looks forward to 2018 and the expansion of our consensual e-filing program to include all new civil case types that are not mandated. This will only significantly add to the efficiency that e-filing brings to our office. I will continue to strongly suggest that criminal actions at some point in the near future be included in the e-filing program.

I am very pleased to say that my office continues to have an excellent working relationship with our court system here in Onondaga County. I look forward to continuing to work with them and all parties involved with this process.

Very Truly Yours,



Lisa Dell

MANAGING ATTORNEYS AND CLERKS ASSOCIATION, INC.

Timothy K. Beeken, *President*
Dennis Murphy, *Vice-President*
Owen G. Wallace, *Treasurer*
Peter McGowan, *Secretary*

Maura A. McLoughlin, *Immediate Past President*

John D. Bové
Richard V. Conza
Henry J. Kennedy
Bradley Rank
Robert T. Westrom
Ira E. Wiener
Directors

Timothy K. Beeken, Esq.
Debevoise & Plimpton LLP
919 Third Avenue
New York, NY 10022
212 909 6518
tkbeeken@debevoise.com

January 5, 2018

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: New York State Courts Electronic Filing Program

Dear Mr. Carucci,

I am writing on behalf of the Managing Attorneys & Clerks Association, Inc. to offer our comments on NYSCEF generally and on the possibility of making e-filing mandatory in matrimonial cases in particular. We welcome this opportunity and thank the Chief Administrative Judge for his December 15, 2017 letter soliciting the views of the bar on this important subject.

As you know, MACA is comprised of more than 120 law firms with litigation practices, primarily large and mid-sized firms. Our members' positions within our respective firms and concomitant responsibilities afford us a breadth of understanding of the day to day operations of the various state and federal court systems. In particular, our members have extensive experience with e-filing in NYSCEF, in other states' e-filing systems and in the federal e-filing system. In a majority of our member firms, the actual filing of litigation papers in NYSCEF is performed by managing attorney/managing clerk staff.

In addition, a substantial portion of our member firms handle matrimonial actions in New York Supreme Court—some as part of their regular business and many on a pro bono

basis. As a result, we are able to comment on the basis of extensive experience filing matrimonial papers in hard copy and a reasonable amount of experience e-filing matrimonial papers pursuant to the current consensual program.

Our overall experience with NYSCEF continues to be very positive. Our membership gives the system high marks for usability and reliability. We are especially grateful for the receptiveness of NYSCEF's administrators to ideas to improve the system and their responsiveness to concerns we may raise about one aspect of the system or another.

An excellent example of that responsiveness is the solution NYSCEF administrators developed for sealed filings in actions that are not sealed in their entirety. We approached NYSCEF administration at the end of 2016 when one of our members' filing that was meant to be sealed was obtained by a commercial service during the few moments between the filing of the document and the Court sealing it in NYSCEF, as a result of which the client's sensitive information became widely published. Within a matter of months, NYSCEF administrators came up with a workable solution that makes the filing temporarily inaccessible to the public from the moment it is filed, pending application for a sealing order. That solution is now just awaiting final approval before it is implemented.

Our membership also enthusiastically supports expanding mandatory e-filing to some of the case categories that now are excluded, such as matrimonial actions and Article 78 proceedings. The ability to serve and file via NYSCEF generally makes those processes less time-consuming and more efficient. That increased efficiency favorably impacts the cost of matrimonial actions for paying clients, and also favorably impacts the cost to law firms of providing pro bono representation in such cases. NYSCEF also facilitates control over the record, which likely would eliminate the phenomenon of misplacement of portions of the file and consequent delays that we experience from time to time in hard copy cases. We have not experienced any problems in our consensually e-filed matrimonial actions that would suggest any intrinsic incompatibility with e-filing.

* * *

Again, we are grateful to the OCA for soliciting the views of the bar on NYSCEF. We are enthusiastic supporters of the system, and eagerly await the launch of e-filing in the Appellate Division as well as other expansions of mandatory e-filing.

Respectfully submitted,

/s/Timothy K. Beeken

🔄 Reply all | ▼ 🗑 Delete Junk | ▼ ...

Re:New York State Courts Electronic Filing System

RO

RCBA Online <rcbaweb@gmail.com>

Fri 1/5, 8:40 AM

eFiling Comments; Allyn J. Crawford <acrawford@crawfordbringslid.com> ▼

🔄 Reply all | ▼

Inbox

Dear Mr. Carucci:

Receipt of Justice Mark's December 13, 2017 request for comments as to the implementation of the New York State electronic filing program is acknowledged. Discussion of this request was had at our January 2, 2018 board of directors meeting.

On behalf of our Association, we wish to report that the electronic filing system has been very well received by our members and that the feedback we received has been overwhelmingly positive.

Our membership has related that the system saves them time and the expense of having to physically file papers with the Court and County Clerk's offices. The accessibility of filed documents is also a benefit to our members. The system is generally "user friendly" and we have no reports of any serious problems or issues with its implementation.

Our membership is also in favor of the expansion of the program and the elimination of certain restrictions on electronic filing, provided that safeguards are available to protect clients' personal and sensitive information. In particular, the expansion of the program to matrimonial actions would be appreciated by our matrimonial practitioners.

Further, we welcome possible expansion of electronic filing to the Civil Court.

We look forward to the opportunity to be included in a review of any future proposed expansion of the electronic filing system.

Suzanne Vidal

Executive Director

On Behalf Of:

Allyn J. Crawford

President

Richmond County Bar Association

25 Hyatt Street, Suite 203, Staten Island, NY 10301

Phone: 718-442-4500

Fax: 718-442-2019

From Natasha Kennedia

TT

Tara J. Thomas <kennedyisrael008@gmail.com>

Reply all |

Fri 1/5, 10:48 AM

eFiling Comments

Inbox

Please could you update the system to include e-filing capabilities for both Criminal Courts and also Family Courts in Manhattan, NYS.

Sent from Mail for Windows 10

Comments Addressing User Experience with NYSCEF

DA

David Arpino <davida@arpinolaw.com>

Fri 1/5, 2:14 PM

eFiling Comments

Reply all

Inbox

To Jeffrey Carucci, Statewide Coordinator for E-Filing:

Greetings, my name is David Arpino, I am the principal paralegal/law clerk to Arnold A. Arpino, Esq. and I am currently a second year law student at St. John's University School of Law. I am a daily user of the New York State Unified Court System and I wish to provide commentary and my own personal experience, and that of our small law practice.

First I will discuss positive experiences. Speaking as a small law firm user, it has truly made our operations run more efficiently. We are small enough that we do not outsource our e-filing to third party vendors like other large law firms do. All our e-filing is done by Arnold Arpino, personally or a staff member. In counties that have adopted e-filing, our firm's productivity has increased and our carbon footprint has been reduced since we have within the past eighteen months begun the transformation into a paperless office environment.

Next I will discuss our negative experiences. We are a high volume litigation firm that files lawsuits in multiple counties (over 2,000 per year). There are variations between how certain county clerk's offices want documents to be filed, which causes expense, delays, and numerous repeated filings. Specifically, Westchester county requires that a proposed judgment, including the judgment roll, be filed as a Single PDF document under the appropriate judgment heading. Dutchess County, however, requires that the judgment be filed separate and apart from each document in the judgment roll. Our office has no opinion on which procedure is more efficient, but the fact that there is not a uniform procedure across all County Clerk's Office is a drain on resources. A single standard operating procedure would increase efficiency.

Our biggest concern is that after 7 or 8 years since the e-filing program has started, some counties have still not adopted e-filing. Specifically, one of our biggest clients recently purchased a facility in Ulster County and thus our client's litigation in Ulster County has increased exponentially. Ulster County does not participate in NYSCEF, and it causes severe operational inefficiencies for our firm. Specific examples include developing and implementing different operating

Further, there was a specific instance whereby our office utilized the Schenectady County Sheriff's Civil Division to serve a Schenectady domiciled defendant in a pending Ulster County litigation. The Schenectady County Sheriff's Civil Division informed our office that their affidavits of service are now created and stored electronically, and they do not keep original records in paper form. When our office subsequently filed the Deputy Sheriff's certificate of service with the Ulster County Clerk, same was rejected as the certificate did not include an original signature. The Deputy who served the summons and complaint was thereafter deployed overseas for military service, and we could not elicit his original signature. This caused our client the added expense of serving the commencement documents twice. The Schenectady Sheriff Civil Division likely believed they could make change to electronic certificates of service because Schenectady County has adopted e-filing.

Thank you for reading my proposed comment.

--

Best regards,
David Arpino, Paralegal
J.D. Candidate 2019
St. John's University Law School

Arnold A. Arpino & Associates, P.C.
155 East Main Street Suite 190
Smithtown, New York 11787
631-724-5251 Ext. 105
www.arpinolaw.com

🔄 Reply all | ▾ 🗑 Delete Junk | ▾ ...

comment

RS

Richard Solomon <richardasolomonesqlp@yahoo.com>

🔄 Reply all | ▾

Fri 1/5, 7:53 PM

eFiling Comments ▾

Inbox

Greetings - Could you please add an entry for "Notice of Default." Thank you. Richard Solomon

Mandatory e-filing

MC

Mitchell Cohen <MitchellC@johnsoncohenlaw.com>

Reply all | v

Sat 1/6, 11:01 AM

eFiling Comments v

Inbox

Currently, e-filing in Matrimonial cases is not mandatory but is available on a voluntary basis in many counties. My practice is devoted exclusively to matrimonial law and I have been e-filing in cases in Westchester and Rockland Counties since it has been available. I have found it to be easy and convenient. I have only two concerns/comments:

- 1) When an attorney is discharged from a case and new counsel takes over, the outgoing attorney is not removed from the list of authorized users and continues to get notification and copies of all papers that are e-filed.
- 2) One of the purposes of e-filing is to reduce paperwork but many Judges require that working copies be delivered to chambers.

Mitchell Y. Cohen, Esq.

Johnson & Cohen, LLP Reply all v Delete Junk | v ...

mitchellc@johnsoncohenlaw.com

phone (914) 644 - 7100

fax (914) 922 9500

www.johnsoncohenlaw.com

Fellow, American Academy of Matrimonial Lawyers

Fellow, International Academy of Matrimonial Lawyers

AMERICAN ACADEMY

AAML

OF MATRIMONIAL LAWYERS



EMAIL IS NOT PERMITTED FOR SERVICE OF PAPERS NOTICE TO RECIPIENT: THIS EMAIL TRANSMISSION IS MEANT ONLY FOR THE INTENDED RECIPIENT OF THIS TRANSMISSION. THIS TRANSMISSION MAY BE A COMMUNICATION PRIVILEGED BY LAW. IF YOU HAVE RECEIVED THIS TRANSMISSION IN ERROR, ANY REVIEW, USE, DISSEMINATION, DISTRIBUTION, OR COPYING OF THIS EMAIL IS STRICTLY PROHIBITED. PLEASE NOTIFY US BY RETURN EMAIL OF THE ERROR AND DELETE THIS MESSAGE FROM YOUR SYSTEM. THANK YOU FOR YOUR COOPERATION.

🔄 Reply all | ▼ 🗑 Delete Junk | ▼ ...

E-filing and potential fraud in the Courts

JN

John Nappi <paradoxical1988@gmail.com>

Sat 1/6, 2:28 PM

eFiling Comments ▼

🔄 Reply all | ▼

Inbox

To whom it may concern:

I am writing out of concern for the continued use of the e-filing system in the Courts. The use of this system is leaving all users open to fraud. The Court is using hard paper copies of e-filed documents including motions. This can potentially allow any party on a case to submit one set of documents and exhibits for a motion for the Court to see and a different set of documents that is served on the parties in the e-file system. The Judge could decide a case seeing information that the other side did not even know was submitted. This is especially true on cases where there are a lot of pro se litigants who do not sign up for e-filing. They don't have the means or mechanisms to e-file, particularly on residential foreclosure cases, where the defendants are already going through hard times financially and cannot pay for scanners and other equipment to e-file from home. Unfortunately, the Courts do not have the personnel to check every word in every page of documentation on all cases to see if they are exact copies of what was filed in the e-file system. We are relying on attorneys to submit the exact same copies to all sides. Having seen many errors and mistakes by attorneys' offices, even unintentionally, I cannot believe this system will self-police and hope for the best, especially in high volume areas of the law like foreclosures. I think that the e-filing system should not be used on types of cases where there are high levels of pro se litigants who will not be consenting to e-filing. This is a major disservice to justice in New York State. Foreclosure cases should not be e-filed and all current cases being e-filed at this time should be immediately taken off e-filing and required to go back to paper filing to all parties. The Court does not have the personnel to be scanning in all the documentation filed by pro se litigants on these cases either. The Court record should be kept as clean and complete as possible. This does not happen by using multiple computer systems and e-filing on such cases. It opens the door to fraud on the Court and the parties and an incorrect case record. This does not fall in line with the Chief Judge's excellence initiative in any way, shape, or form. This is not access to justice at all and is not beneficial as a Justice system to any of the tax paying citizens of the State of New York. It is the opposite - shameful. Budget and staffing cuts will not allow this system to get anything but worse. Please correct this problem now and close cases like residential foreclosures to e-filing immediately. Thank you for your time.

Sincerely,

A concerned Court employee

E-filing in Supreme Court and in Family Court

AA

Alton L. Abramowitz <aabramowitz@mak-law.com>

Sat 1/6, 5:17 PM

eFiling Comments ▾

📧 Reply all | ▾

Inbox

📧 Reply all | ▾ 🗑 Delete Junk | ▾ ...

Dear OCA – I am writing in my individual capacity and not as the representative of any group, etc., regardless of the fact that I may have in the past or may at present serve in a leadership capacity in a number of bar associations, OCA committees, etc. Suffice it to say that I write in support of mandatory e-filing in all litigated actions and proceedings. I and my office find it exceedingly efficient, less open to error, and uncannily user friendly. Although my firm's office is located in Manhattan, we have experience with e-filing in other counties, which means that our charges to our clients for e-filing documents are far less expensive than the hourly rate charges for having to send an attorney, paralegal or clerk to file papers in person. Simply put, it is time for NY to join the vast majority of States that now employ e-filing for litigated matters. Respectfully submitted, Alton L. Abramowitz

Alton L. Abramowitz



Fellow & Past President, American Academy of Matrimonial Lawyers

Diplomate, American College of Family Trial Lawyers

Fellow, International Academy of Matrimonial Lawyers

aabramowitz@mak-law.com

275 Madison Avenue, Suite 1300

New York, New York 10016

Direct: (646) 277-1313

Main: (212) 685-7474

Fax (212) 685-1176

www.mak-law.com

CONFIDENTIALITY NOTICE: This e-mail is intended only for the named recipient(s). It contains confidential, privileged and/or attorney work product information. If you receive this e-mail in error, please do not disseminate, distribute or copy it or any attachment, please notify the sender by replying to it or calling the above phone number, and please delete it and any attachments from your system. Thank you!

IRS CIRCULAR 230 NOTICE: In compliance with IRS requirements, any US tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of avoiding tax penalties or in connection with marketing or promotional materials.

🔄 Reply all | ▼ 🗑 Delete Junk | ▼ ...

(No subject)

FA

Frank Apicella <fjaesq@aol.com>

Sat 1/6, 6:42 PM

eFiling Comments ▼

🔄 Reply all | ▼

Inbox

I am a senior attorney and not happy with the mandatory e-filing in Westchester Surrogate court. This is necessarily burdensome for elder solo practitioners with limited support staff and limited technological proficiency. We should be allowed to file in person without feeling we are creating some sort of burden on the court.

Comment re: eFiling

DH

Dan Heyman <dheyman@danheyman.com>

Reply all |

Mon 1/8, 8:47 AM

eFiling Comments

Inbox

Hello:

One of the most burdensome tasks in eFiling is attaching a multitude of exhibits to a motion. The other day a possible shortcut occurred to me:

In attaching the first exhibit to an affidavit, you first have to choose "Exhibit" from the document drop down menu (4 clicks down the list, then another click to choose "Exhibit"). Then, a window opens reminding you to fill in the exhibit number or letter, which you comply with, then you close the reminder window, attach the pdf document, etc. That is for the very first exhibit.

You then go to your next (the second) exhibit, by again going to the document drop down menu, clicking 4 times to "Exhibit", click on "Exhibit", filling in the exhibit number or letter, and going through the entire process again for each exhibit (except we are spared closing the reminder window). After a while, the repeated clicking, 4x each time just to get to "Exhibit" on the document drop down list and then choosing it, drives you mad!

What if, after the first exhibit, you merely had to fill in a number or letter in the "exhibit number or letter box" and the act of filling in the number or letter in that box automatically chose "Exhibit" for you in the document drop down window without having to run through the list? Clicking through the list seems kind of pointless once you have designated a number or letter for the exhibit and it is so aggravating.

Thank you for your consideration.

DANIEL G. HEYMAN

Attorney at Law
747 Third Avenue - 23rd Floor
New York, New York 10017
(212) 922-1495

If you are a client and the intended recipient of this e-mail, you must confirm with your system administrator that you have not waived attorney client privilege by sending or receiving e-mail communications on the system you are using.

This e-mail, and any documents sent in connection therewith, is intended only for the use of the addressee named herein and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, distribution or copying of this e-mail, and any documents therewith, is strictly prohibited. If you have received this e-mail in error, please notify us via return e-mail and via telephone at (212) 922-1495 and permanently delete the original and any copy of the e-mail and any printout thereof.

E-filing

CR

Chudy, Richard <rchudy@amherst.ny.us>

Mon 1/8, 11:09 AM

eFiling Comments 

 Reply all | 

Inbox

To whom it may concern,

The e-filing system has been a huge assistance in tracking the Lis Pendens and foreclosure proceedings. I handle the vacant and foreclosure matters for the Town of Amherst.

I'm unsure if there's a means to ask for other information to be included in the e-filing that could help all parties involved in a foreclosure situation.

When a foreclosure/ Lis pendens situation is filed it would be extremely helpful if it was mandated that the mortgage servicer and their contact information (phone number and official address).

 Reply all |   Delete Junk |  ...

This would allow all municipalities a standard place to look for this specific necessary information when it has not been reported to DFS yet. I picture it being included on a specific sheet or in a required location that would be a standard.

Thank you for your consideration.

Sincerely,

Richard Chudy
Town of Amherst
716-631-7094

MARCUS ROSENBERG & DIAMOND LLP

488 MADISON AVENUE
NEW YORK, NEW YORK 10022

Telephone: (212) 755-7500
Telefax: (212) 755-8713

January 8, 2018

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
or
efilingcomments@nycourts.gov

Re: Comments On Electronic Filing

Dear Mr. Carucci:

This is to respond to the Notice Seeking Comments for Electronic Filing, as published in the New York Law Journal.

The Unified Court System website Frequently Asked Questions page states:

“2. What are the benefits of electronic filing?”

Electronic filing offers many benefits to attorneys, clients and unrepresented litigants in Supreme Court and the Court of Claims. Once jurisdiction is obtained, attorneys can file and serve papers at any time from any place via the NYSCEF system. A case can be initiated or post-commencement documents filed at any time on any day, even when the courts are closed. Service through NYSCEF could hardly be easier. Multiple attorneys working on a case can view the file simultaneously, and do so from different locations. Storage of papers is simplified and expenses reduced. . . . The system provides immediate e-mail notice of all filings, including filing of all orders,

judgments, and decisions, which will be available on-line. The docket is clear and easy to work with. The system is easy to learn and simple to use. Where necessary, documents containing confidential information can be sealed if the assigned Justice so directs."

The claimed benefits of e-filing are eliminated when courts or individual jurists require that hard-copies of e-filed documents be provided.

Instead, e-filing becomes merely an additional burden for litigators.

Similarly, the stated purpose of the "Uniform Rules" – to provide, predictability and certainty – is defeated by permitting individual jurists to establish and impose their own rules and requirements for e-filing and other matters.

Absent extraordinary circumstances or clearly defining limited categories, the Uniform Rules should bar individual courts or jurists from imposing hard-copy filing requirements.

Respectfully submitted,


David Rosenberg

DR/cac



Queens County Clerk
Clerk of the Supreme Court
Commissioner of Jurors



Audrey I. Pheffer
*Queens County Clerk
Clerk of the Supreme Court &
Commissioner of Jurors*

Francis K. Kenna, Esq.
Chief Deputy County Clerk

Alexis Cuffee
First Deputy County Clerk

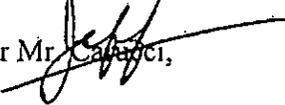
Ruth Deutsch
Second Deputy County Clerk

Jo Ann Shapiro
Second Deputy County Clerk

Alexandra Zervopoulos, Esq.
Counsel to the County Clerk

January 9, 2018

Jeffrey Carucci
Office of Court Administration
60 Centre Street
New York, NY 10007

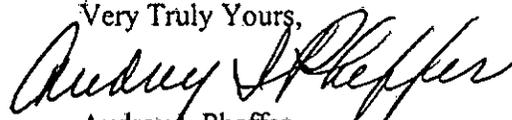
Dear Mr.  Carucci,

Queens County has been very satisfied with the implementation of mandatory electronic filing in foreclosure, medical malpractice and commercial matters and hopes that foreclosure cases remain mandated in Queens County. Queens County looks forward to the further expansion of electronic filing of tort actions as well as other case types in the very near future. Mandatory electronic filing has proven to be very cost-effective. It has greatly reduced the number of paper filings in the system, conserving staff time, storage, paper and printing costs.

Additionally, electronic filing promotes greater convenience to its users and the public. It provides instant access to court records without the need to come into the courthouse. Users and the public are able to commence actions, file and view court documents from their own computers even in off hours, weekends and snowstorms.

There is a constant collaboration between our county and the New York State Courts Electronic Filing Resource Center (NYSCEF) to continuously improve and enhance the system. NYSCEF is always willing to address any concerns and provide improvements to the system. We look forward to continue working with NYSCEF to expand mandatory electronic filings in all case types in Queens County.

Very Truly Yours,



Audrey I. Pheffer
Queens County Clerk

EXECUTIVE OFFICE: 88-11 Sutphin Boulevard, Room 105, Jamaica, New York 11435, (718) 298-0601
89-17 Sutphin Boulevard, Room 244, Jamaica, New York 11455, (718) 262-7223
120-55 Queens Boulevard, Room CJI, Kew Gardens, New York 11415, (718) 298-0621
25-10 Court Square, Room B58, Long Island City, New York 11101, (718) 298-0624

🔄 Reply all | ▾ 🗑 Delete Junk | ▾ ...

removal of cases once they are settled and a stip has been filed

DS

Donna Stady <donna@blhfirm.com>

Tue 1/9, 9:52 AM

eFiling Comments ▾

🔄 Reply all | ▾

Inbox

In reviewing the "my cases" tab of the cases that are efiled, it would be nice to have either a separate tab for closed cases where a stipulation to discontinue has been filed on a case and it is no longer active...or the ability to remove the cases to a different area/tab/screen once they are disposed of/settled/closed. Rather than always seeing them in the current cases tab.

Thanks for your consideration. Have a very pleasant day .

CONFIDENTIALITY STATEMENT

This e-mail transmission and any accompanying attachment contains information that is confidential, privileged and exempt from disclosure under applicable law. This e-mail is intended only for the use of the individual or entity to which it is addressed. If you receive this e-mail in error or you are not the intended recipient, do not read, copy or disseminate in any manner. If you are not the intended recipient, you may not disseminate, distribute or copy this communication and any disclosure, copying, distribution, use or taking any action in reliance on the contents of this information is strictly prohibited. If you received this communication in error, please reply to the message immediately by informing the sender that the message was misdirected and after advising the sender you must erase the message from your computer system and destroy any hard copies that may have been made. Thank you for your assistance in correcting this error. This email message and any attachments are covered by the Electronic Communications Privacy Act, 18 U.S.C. Secs 2510-2521 and are considered legally privileged.

🔄 Reply all | ▼ 🗑 Delete Junk | ▼ ...

E-Filing

AF

Andrew Fisher <afisher@riehlmanshafer.com>

Tue 1/9, 4:10 PM

eFiling Comments ▼

🔄 Reply all | ▼

Inbox

Good Afternoon,

I would like to point out a serious flaw with e-filing that I have recently encountered on multiple occasions. It appears that the Courts do not have any real access to the e-file system, or if they do, they are not utilizing it. By this I mean that there seems to be no check or verification that papers being sent to the Court as working copies are in fact the same papers that are actually uploaded to the system. I've had one Court Clerk advise me that they are not even aware anything (or at least aware of what) has been uploaded until they receive working copies.

In one example, a Motion and Order to extend time to serve was uploaded to the system for "Case A", but the papers that were sent as working copies were from a previously filed "Case B" for the same defendant. The physical copies sent were for a request for Attorney Fees and Default Judgment on "Case B", which had already been granted by another Judge and filed. While it was our mistake for sending the incorrect physical copies, the document was not verified and the Judge Signed the duplicate Order For "Case B" and it was uploaded to the E-File system as a new Order for "Case B". It was not until after I had called the Clerk that it was realized the incorrect physical working copies had been sent. While I was able to get in touch with the Clerk to address the mix-up, it was clear that neither the Index Number, or the papers themselves were verified against what was actually uploaded.

As a second example: Motion paperwork for "Case C" (Defendant Charlie) was incorrectly uploaded to "Case D" (Defendant Dan) due to having the incorrect index number on the papers being uploaded. The caption on the paperwork being uploaded was otherwise correct. So though Documents For "Case C" with "Charlie's" name were uploaded to "Case D" which was for "Dan", this apparently was overlooked as an RJl number, and Judge were both assigned to "Case D". It was only noticed by our office after the Court was calling requesting working copies for "Case C" with "Charlie's" name. This wasn't the case the Documents were uploaded to, but was the name on the documents.

a complete disconnect between what is uploaded to the system and what the Courts are working with. Please note that these were with different Judges in different counties.

I would also like to make a couple of suggestions unrelated to above:

It would be nice if there was the ability for managing attorneys to sign/upload a form (or maintain a list) that would allow specific filing agents the ability to upload/view all files for that attorney without the need for the filing agent to upload a Statement of Authorization for each and every file they touched. This would then allow that same attorney to revoke the filing agent's access and ability to upload for all (or single) files at once should the filing agent no longer be associated with that attorney. This would also allow for one centralized 'location' where an attorney could view and confirm all filing agents who had access to their e-accounts.

I would also like to see the ability as a filing agent to be able to utilize the 'My Cases' search button the same as attorneys are able to do. So every case a filing agent uploaded something to would show up when that button was pressed. (less any that may have been revoked per the above suggestion)

There was recently a new update which has caused a delay between the time of uploading a document to when the document is actually viewable. It was explained to me that this is due to the system doing a scan to confirm no SS# are being posted. While I understand this may require a delay, it makes it no less frustrating when receiving a confirmation e-mail with a link to view the document that essentially is broken due to not being able to view the document yet. If the delay is required, would it be possible to delay the delivery of the confirmation e-mail until the document was viewable?

Thank you for your time,
Andrew



STEPHANIE L. BURNS
President

DOLORES GEBHARDT
Secretary

RICHARD S. VECCHIO
President-Elect

WENDY M. WEATHERS
Treasurer

HON. LINDA S. JAMIESON
Vice President

KELLY M. WELCH
Immediate Past President

JAMES L. HYER
Vice President

New York State Courts Electronic Filing Program WCBA Comment from Members

- Makes practicing in more than one courthouse much easier. Streamlines office practices and is in line with storing files electronically. Reduces paper and man hours filing documents.
- Don't have e-filing if you are going to permit the judges to ask for working copies. The entire point is to save time and paper and this double doing only increases costs to clients.
- Discovery demands and responses should not be e-filed. Currently they are not required to be, but there is the option on the menu. It should be deleted. The reason is that the two sides sometimes get into games as to who served what first and who therefore has priority. Someone who e-files an answer at 8 p.m. and serves a Notice of Deposition via regular mail the next day (because the secretary has gone home) finds the next morning that his adversary has priority because he served a Notice of Deposition at 11:30 p.m. The ultimate result will be that everyone will feel the need to e-file *everything*. Also with e-filing discovery responses, we have to go through everything to delete personal information (which we don't have to do if serving by regular mail).
- Let's say a Notice of Entry was served via ECF and concurrently via regular mail. Does the adversary have 30 days to service a Notice of Appeal or 35? This issue has cropped up in a couple of my cases (where the adversary e-filed a Notice of Appeal on the 34th day) and the Appellate Division seems reluctant to rule on it. It should be decided by the Administrative Judge via a change in rules.
- With all due respect, in the past 17 years of my practice, it has NEVER taken me longer than in recent weeks to receive even *Preliminary* Letters Testamentary. Submitted an Application on 10/9 but the Decree was not issued until 11/27. Honestly, what is the point of even having a procedure to obtain prelims?

Not sure whether this is a function of the mandatory e-filing system, or just having one (1) active probate clerk in Westchester, but seriously, something's gotta give. Extremely frustrating.

- If e-filing is going to be required in matrimonial cases, it should be recognized that the security of electronic systems cannot be guaranteed and that special care should be taken to detach highly sensitive personal information from the e-filing process.

The rules governing electronic filing should require that highly sensitive personal information of the parties and their children (social security numbers, dates of birth, and children's full first names) be omitted from e-filed documents. A single document containing this information should be mailed (US postal service) or hand-delivered to the County Clerk. (US Mail, too, is becoming less and less secure, so a wise attorney would have the mail hand carried to the post office). There may also be circumstances in which addressed should not be e-filed. The Certificate of Dissolution, because it contains such a concentration of personal information in a single document, should also be filed via mail or hand delivery to the Clerk.

The documents that are e-filed should only contain the minimum amount of personal information necessary for processing. If there is to be any mention of social security number in the e-filed documents, it should contain

no more than the last 4 digits ("xxx-xx-1234"). If a birthdate is to be mentioned in e-filed papers, it should only contain the year of birth. Children should only be identified in e-filed documents by initials or first initial and last name.

PAUL PIPERATO
County Clerk



COUNTY OF ROCKLAND
OFFICE OF THE COUNTY CLERK

1 SOUTH MAIN STREET - SUITE 100
NEW CITY, NEW YORK 10956-3549

Phone # (845) 638-5070

Fax # (845) 638-5647

E-Mail: piperatp@co.rockland.ny.us

Website: rocklandcountyclerk.com

Deputy County Clerks

Donna Gorman Silberman
Jamie Maria Graham
Joseph Alongi

January 10, 2018

Mr. Jeffrey Carucci
Statewide Coordinator for E-Filing
New York State Unified Court System
New York County Courthouse
60 Centre Street, Room 119M
New York, NY 10007

Dear Mr. Carucci:

I am pleased to provide comments about the impact that e-filing has had on our office. Our positive experiences are as follows:

- Extremely cost effective.
- Saves us time by not having to shuffle and file paper documents.
- Very efficient - We have been able to do more work with less staff.
- There has been a lot of positive feedback from everyone that utilizes NYSCEF.
- The pro-se litigants that come to our office can opt out of e-filing without incident. If a case comes in as e-filed, and a pro-se litigant wants to have the papers uploaded, we do the filing for them, or the pro-se litigants can do the filings themselves.
- All papers are available for viewing immediately, files don't need to be pulled from the filing room.
- Everyone involved with the filing of documents in the NYSCEF system has only positive comments.
- When cases are transferred to other counties, papers don't have to be moved. We can create a disc of all documents and send it to another county that doesn't e-file.

Negative

- Attorneys complain that the judges still require working copies.

Overall, we have been pleased with e-filing and request that all case types be made mandatory.

Sincerely,

A handwritten signature in cursive script, appearing to read "Donna Silberman".

Donna Silberman
Deputy County Clerk



WESTCHESTER COUNTY CLERK

Timothy C. Idoni
County Clerk

January 10, 2018

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

Dear Mr. Carucci:

Westchester County is again pleased to hear of proposed legislation permitting the expansion of electronic filing under the authority of the Chief Administrative Judge, and eliminating the current restrictions based on case type. It is well known that the NYSCEF program has been met with tremendous success in our county and the Office of the Westchester County Clerk strongly supports expanding the types of civil case categories in Supreme Court. We proudly boast an 88% electronic filing volume in Westchester County in 2017.

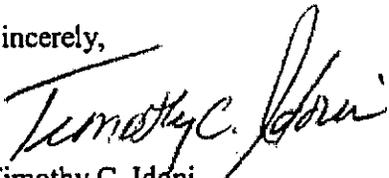
Westchester County has participated in the voluntary filing of matrimonial cases in NYSCEF since April of 2013. In 2017, 44% of the matrimonial cases in Westchester have been commenced electronically. We continue to encourage the use of electronic filing for this case type. Filers are becoming increasingly more comfortable and have eliminated any doubts that may have existed regarding confidentiality while utilizing electronic filing. The NYSCEF system has proven that the security and integrity of the documents in these cases is indeed well preserved. Our positive experience with the security features built into NYSCEF is why we support the expansion of electronic filing for civil case categories that are statutorily sealed. Accordingly, we would also support expansion of electronic filing for Mental Hygiene (specifically Article 81 Guardianship) cases, and would encourage any discussions about this specific case category being sealed by statute due to privacy concerns. The incorporation of Mental Hygiene cases as both a voluntary and eventually a mandatory case type in NYSCEF can be seamless once legislation is enacted addressing confidentiality and access to pleadings within Article 81 Guardianship cases.

We continue to support the elimination of restrictions for the electronic filing of civil case types such as matrimonial, Article 78, Election Law and Mental Hygiene Law cases. As we

have indicated in the past, the cost savings are impressive with regards to the scanning of legal documents as well as storage of such papers in the County Clerk's Office. The NYSCEF system is a user friendly and efficient system and has been embraced by staff and the legal community as a reliable and comprehensive means to file their legal documents. We also reiterate that we have developed a long-standing professional relationship with the NYSCEF e-filing administrative team, e-filing Resource Center, as well as the NYSCEF Office of Information Technology, who have been extremely helpful and responsive during the continued expansion and improvement of electronic filing.

Thank you for your consideration of our comments and we understand that these may be included in a report on electronic filing being submitted to the Legislature, the Governor, and the Chief Judge. We are pleased to share how successful the implementation and expansion of NYSCEF has been in Westchester County.

Sincerely,



Timothy C. Idoni
Westchester County Clerk

User experience with NYSCEF

JE

Janet D'Angelo, Esq. <Janet.Dangelo@PuleoDelisle.com>

Wed 1/10, 10:49 AM

eFiling Comments ▼

🔄 Reply all | ▼

Inbox

Good Morning,

Thank you for allowing the public the opportunity to comment on the eFiling system.

While the eFiling system itself is straightforward and user friendly, there are a few items that I feel require attention:

- 1) The need to provide working copies obviates the convenience of eFiling. That the working copies need to be collated, tabbed, bound, backed and submitted with a cover sheet (often within a day of eFiling) is as burdensome as filing a hard copy as far as I can see.
- 2) In my practice, I eFile Notices of Petition accompanying Petitions (as the commencement documents), but in Queens and Nassau Counties, this is not permitted. Those counties require that an index number be assigned to and printed on an RJ and Petition before a Notice of Petition can be eFiled. Therefore, an additional \$45.00 must be paid at the time the Notice of Petition is filed, as it is not 'accompanying the commencement document'.
- 3) Since eFiled cases are public record, it would be a true benefit for research purposes if the cases were searchable by the case category for example, with further filters by County, Parties, etc.

The personnel at the eFiling help desk (646 386 3033) are terrific by the way!

Thank you

Janet D'Angelo, Esq.
Puleo Delisle, PLLC
444 Route 111
Smithtown, New York 11787
phone: 631.648.1350
fax: 631.648.1450
janet.dangelo@puleodelisle.com

NYSCEF Comment

 Reply all |  Delete Junk | 

ER

Eric R <erichman@gmail.com>

Wed 1/10, 11:26 AM

eFiling Comments 

 Reply all | 

Inbox

Dear Sir / Madam:

There should be no reason why the City of NY is granted permission to opt out of NYSCEF filing.

I believe that the Manhattan office consents but that the Kings office opts out. This inconsistency causes confusion.

Thank you for your attention to this matter.

Sincerely,

Eric Richman, esq.

T: 212.688.3965

(NYSCEF User and attorney)

Efiling comments

Reply all | Delete | Junk | ...

MK

Matthew Kauget <MKauget@garykauget.com>

Reply all |

Wed 1/10, 12:23 PM

eFiling Comments

Inbox

I am a personal injury lawyer, primarily in supreme kings but I do handle cases all over NYC and Long Island. My main issue is with the "courtesy copy" rules for different courts and different judges within each court. There are dozen or so different rules we have to keep track of. Different judges each have their own specific rules and this creates tremendous confusion. Queens CMP has different procedures than Kings CCP, etc...

I understand this may not be under your control, but giving guidance to the courts on this issue so there is some conformity would be very helpful. (really there should be no such thing as courtesy copies)

As for the actual efile system- when you click "my cases" you can see cases sorted by "caption" but it then lists them by FIRST name, which nobody goes by. It would be easier if there was a way to list all cases by last name.

Thanks

Matthew Kauget

Law Offices of Gary P. Kauget

9201 4th Ave, 7th Floor

Brooklyn, NY 11209

(718) 833-2496



OFFICE OF THE
COUNTY CLERK OF DUTCHESS COUNTY

22 Market Street
Poughkeepsie, New York 12601
(845) 486-2374

Bradford H. Kendall
County Clerk

Anne-Marie Dignan
Deputy County Clerk

Sandra Strid
Deputy County Clerk

January 11, 2018

SENT VIA E-MAIL

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

Dear Mr. Carucci:

Pursuant to your request of December 21, 2017 for comments on the continued implementation of electronic filing I offer the following.

In 2017, 5763 civil actions were commenced in Dutchess County. This represents a 7% increase from 2016. Of those actions, 2441 (42%) were commenced in paper and 3322 (58%) were commenced electronically.

Significantly, 773 matrimonial actions were commenced in paper representing 32% of overall paper commencements. An additional 165 matrimonial actions were commenced electronically.

You have also asked for comments related to the authority of the Chief Administrative Judge to expand mandatory e-filing. Dutchess County wholeheartedly endorses this. Time has demonstrated that the NYSCEF system is convenient, efficient and secure. In all cases confidential information and documents are more secure electronically than in paper case files. As seen from the numbers above, the addition of matrimonial actions alone would significantly expand e-filing in Dutchess County.

I believe with the safeguards in place for pro se litigants and sole practitioners, in conjunction with the required consultation with the Bar, legal services and other interested parties, that it is appropriate and desirable to expand the authority of the Chief Administrative Judge to add additional case types that are subject to mandatory electronic filing.

All the best,

A handwritten signature in black ink, appearing to read "Bradford H. Kendall", written over a horizontal line.

Bradford H. Kendall



Office of the County Clerk
Monroe County, New York

Adam J. Bello
County Clerk

Jeffery L. McCann
Deputy County Clerk

January 11, 2018

Hon. Lawrence K. Marks
Chief Administrative Judge
60 Centre Street, Room 629
New York, New York 10007

Re: Monroe County E-Filing

Dear Justice Marks:

Thank you for the opportunity to provide comments on electronic filing, particularly as it relates to Monroe County. As you know, we commenced voluntary E-Filing of civil cases on January 18, 2017, pursuant to your Administrative Order AO/24/17, and anticipate the commencement of mandatory E-Filing in January 2018.

At the submission of these comments, the Monroe County Clerk's office has issued over 3,500 E-File index numbers to electronically-filed cases ranging in case types from medical malpractice to money judgments. My office has found E-Filing to be easy, expedient, and has had a positive impact on the work flow for our staff. The partnership with support staff at the NYS Office of Court Administration, led by Jeffrey Carucci, has been critical in making this program a success, and they should be recognized for their innovative and collaborative approach.

In addition, local media and the public continue to applauded the accessibility of documents filed through the New York State Courts Electronic Filing (NYSCEF) website. An important function of the Clerk's Office is to make public records more accessible and readily-available. Online access to electronically filed records allows for remote viewing, and reduces the need to use microfiche and other obscure media.

Electronic filing has saved time and expense for both Clerk staff and our clients, and has dramatically increased accessibility to records by the public. Continued expansion of electronically filed record types will help grow those benefits. Therefore, I would urge the state to consider, in consultation with County Clerks, the Judiciary, Bar Association, and other interested parties, legislation and/or regulations to allow for approval the expansion of electronically filed matrimonial, mental hygiene, and Article 78 cases.

I look forward to the implementation of mandatory E-file program, and remain hopeful that the E-file system can continue to grow and accept additional case types. If I may be of any assistance to you as this process continues, please do not hesitate to call upon me.

Sincerely,

Adam J. Bello
Monroe County Clerk

COUNTY OF SUFFOLK



JUDITH A. PASCALE
COUNTY CLERK

January 11, 2018

Jeffrey Carucci
Statewide Coordinator for Electronic Filing
Office of Court Administration
60 Centre Street
New York, NY 10007

Dear Mr. Carucci:

Thank you for the opportunity to provide comments on Suffolk County's experience with electronic filing ("E-filing") through the New York State Courts Electronic Filing ("NYSCEF") System.

March, 2018 will mark the beginning of the sixth year that Suffolk County has truly been an active E-filing county. Mandatory E-filing of Commercial Division and medical malpractice cases began in March, 2013. Tax certiorari, foreclosure actions and other commercial and tort actions were consensual. Foreclosure actions became mandatory at the end of March, 2014. Effective December 15, 2015, the scope of mandatory case types was expanded significantly to include most case types which could be made mandatory. With additional mandatory expansions in October, 2016 and January, 2017, seventy-five percent (75%) of all new cases filed in Suffolk County are filed electronically. A request to the Chief Administrative Judge has been made to expand mandatory E-filing in April, 2018 to include all special proceedings that are not prohibited as such.

On the whole, my staff, Court staff, attorneys and the public have become even more comfortable with and knowledgeable about E-filing. This is exemplified by the fact that no significant increase in hard copy filings by pro se litigants has occurred since their exemption from E-filing with the enactment of Article 21-A of the Civil Practice Law and Rules ("Article 21-A").

Operationally, we have refined and enhanced our minute system over the last year to include an electronic stamping program for certain judgments and creating a routing system using other NYSCEF functionality to simplify the processing of consumer credit judgment applications, among others. Throughout these changes, Resource Center staff has been a tremendous help in testing our system and fixing errors that occur.

Article 21-A was amended in 2017 continuing the grandfathering of Suffolk County, and a handful of other counties, permitting them to continue mandatory E-filing for residential

foreclosures. Unfortunately, this permission sunsets on September 1st of this year. Neither I nor my staff have received any comments, calls, letters or other information suggesting any defendants have not receive proper notice, that any due process rights have been violated which prompted the decision to sunset this authorization. This is in fact the most common case in which we receive hard copy submissions from defendants.

It is my hope that not only will residential foreclosures and consumer credit cases be made mandatory on a permanent basis, but that the consensual only cases referred to in Article 21-A will be authorized to be filed on a mandatory basis. In this way, each county can choose for itself how and what it wants to file electronically. It is our experience in Suffolk County that mandatory, rather than consensual, authorization significantly reduces the rate at which opt-outs are filed. Our experience also shows that consensual, rather than mandatory, authorization also significantly reduces the rate of initial filing electronically.

Suffolk County is eager to further expand electronic filing and build on the great progress already made. I look forward to serving as a member of the committee tasked to implement criminal E-filing in County Court and becoming a pilot county.

Thank you again for the opportunity to allow this Office to share its experience with E-filing. We look forward to continuing to work together to enable this program to grow and succeed.

Sincerely,

A handwritten signature in black ink that reads "Judith A. Pascale". The signature is written in a cursive style with a large, prominent initial "J".

Judith A. Pascale
Suffolk County Clerk

COURTHOUSE NEWS SERVICE

30 N. Raymond, Third Floor, Pasadena CA 91103, (626) 577-6700, home@courthousenews.com

January 11, 2018

Lawrence K. Marks
Chief Administrative Judge
State of New York Unified Court System
25 Beaver Street
New York, NY 10004

Dear Judge Marks

As the editor of Courthouse News Service, I am submitting this letter as public comment on the public access component of NYS Courts Electronic Filing.

As it now operates, New York's e-filing system allows for excellent press coverage of the courts, consistent with the First Amendment right of access to court records. The press and public access system contained within NYSCEF matches the First Amendment standard set in the nation's federal courts, and it provides a first-rate example for individual state courts all around the nation.

The public access component of NYSCEF provides the electronic equivalent of the traditional access journalists had to paper filings, particularly in New York City, translating that paper access into the new medium of electronic filing and storage of court records. But in so doing, the Chief Judge, Governor, Legislature and the Chief Administrative Judge have broadened and deepened public access by extending it to smaller courts outside New York City where much important litigation takes place. This system allows the press to observe and report on newly filed court records, a regular source of news, immediately and contemporaneously, as the new matters cross the electronic transom into the state courts and become public records.

I should also give a tip of the hat to the NYSCEF programmers who in early 2017 deftly and swiftly set up the public access component of the e-filing system, which has worked perfectly, and without any adverse consequence, since then.

I go back a ways, and remember the press corps that covered the state courthouse on Foley Square late in the last century. The reporters would troop in from the press room at the end of the day to look through stacks of law and commercial complaints, and see each and every new case filed that day up until the filing counter closed. The same was true in the Brooklyn courthouse, where journalists searched the new civil cases at the end of the day for news. And the courts in New York City regularly generate news.

The access standards put in place as part of the NYSCEF system allow that tradition of journalism in New York to continue in the digital era, adapting public access to changing technology and allowing the increasingly rapid press cycle to include contemporaneous coverage of newsworthy litigation. Journalists are now able to review all electronically filed documents, including complaints, motions and judicial rulings, as they are filed in all 27 New York counties that allow or require e-filing. That includes courts in the 16 biggest counties in New York, jurisdictions that cover 80 percent of the state's population. As more New York courts move over to e-filing, we fully expect those courts to keep the high standard of access set by the state of New York.

News reporters on the courthouse beat have an important role in the operation of our great democracy. They put a window on the courthouse, allowing the public to see inside, allowing those who hear, read or watch the news to know what is going in the courts and talk about it. Courthouse News recognizes and appreciates the policy decisions of the Chief Judge, Governor, Legislature and the Chief Administrative Judge in giving the press a powerful new tool to cover the courts, in keeping with a long history of prompt and open access to court documents in New York and in keeping with the role of the press under the First Amendment.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill Girdner", with a long horizontal stroke extending to the right.

Bill Girdner

Editor

Courthouse News Service

Comments re E-Filing

CD

Chris DelliCarpini <chris@dellicarpinilaw.com>

Thu 1/11, 11:22 AM

eFiling Comments ✓

↻ Reply all | ✓

↻ Reply all | ✓  Delete Junk | ✓ ...

Inbox

Thanks for accepting comments on the e-filing program. It's been a tremendous benefit to be able to file and access court documents online. Based on my experiences, I have a few comments to share:

—The rules for redacting CPI are a significant burden. We're required to juggle two sets of documents, one redacted for e-filing and another unredacted for courtesy copies. This also makes appellate practice more difficult, as we have to serve the redacted copies in the appendix and serve the unredacted copies to the court for in camera inspection. Couldn't we have a system where exhibits with CPI are simply checked off as such, and access is restricted to the registered participants in each case?

—Many counsel appear to still not realize that e-filing is e-service, which is clear in Uniform Rule 202.5-b(f)(2)(ii). What's not clear, however, is whether counsel who e-fil must also e-file proof of service. The rule states: "Proof of such service will be recorded on the NYSCEF site." Written in the passive voice, this sentence leaves unclear who records proof of service: the filing attorney, or the web site itself. The latter seems the best solution, as NYSCEF knows precisely when a document is filed, and could easily generate a record to that effect. The better solution, though, would be to simply rule that e-filed documents never require a separate proof of service, as anyone who logs into NYSCEF can see what was filed when.

—Why can't we file retainer statements and closing statements online? The biggest anachronism in my practice, as a personal injury attorney, is that when I sign a client or close a case I have to submit a hard-copy statement—with a post card to get my OCA retainer or closing number! We should be able to do all this online, either by a web form or uploading a PDF statement; and then get our OCA numbers electronically as well, by e-mail or on the site.

I'm happy to answer any questions or discuss any of these matters further. Thanks again for the opportunity.

Christopher J. DelliCarpini
The DelliCarpini Law Firm
170 Old Country Road, Suite 303
Mineola, NY 11501
516.307.8818
516.307.8819 fax
Chris@DelliCarpiniLaw.com

(No subject) Reply all Delete Junk | v ...

E ellen@intercountyjudicial.com
Tue 1/16, 11:41 AM
eFiling Comments v

Reply all | v

Inbox

As President of the New York State Process Servers Association, my recommendation would be that E-courts should be opened up to Process Serving Agencies allowing them to process files with their own username and passwords and not require the attorney authorization forms. They should also allow for third party integration so that third party databases can be allowed to interface with it. This would make the process much smoother.

Ellen Eakley

President

New York State Professional Process Servers Association

914-328-1069 x 201

www.nysppsas.org



State of New York



Nancy T. Sunshine
County Clerk, Kings County

360 Adams Street
Brooklyn, NY 11201

MEMORANDUM

January 18, 2018

TO: Jeffrey Carucci
Statewide Coordinator for Electronic Filing
VIA EMAIL: jcarucci@nycourts.gov

FROM: Hon. Nancy T. Sunshine *nb*
County Clerk, Kings County

RE: 2018 Comments on E-filing

The implementation of electronic filing in the Office of the Kings County Clerk has been extremely successful. Attorneys, as well as litigants, continue to express their appreciation for the ease and efficiency of filing documents electronically from their home, office or any remote location with appropriate computer access.

The success of the NYSCEF system in the office of the Kings County Clerk is further demonstrated by the enthusiastic support for the expansion of mandatory e-filing for all tort cases commenced as of March 21, 2016. This success and positive experience with the NYSCEF system is proven by the significant and continuing increase in the e-filing of civil cases over the last two years. In 2016, over twenty-three thousand actions were commenced electronically in the Kings County Clerk's Office via NYSCEF and that number increased to over twenty-five thousand actions in 2017. Furthermore, during the same two years, the Kings County Clerk's Office has seen its traditional paper cases decrease. For 2016, slightly over 6,900 hard copy cases were commenced. In 2017, the number of paper cases decreased to 3,400.

The Kings County Clerk looks forward to the expansion of e-filing into more case types and for the addition of more functionality that will provide increased efficiency from my staff and filers using the NYSCEF system. Towards that end, before any changes to the NYSCEF system is implemented, consultation with certain interested County Clerks and their key staff should occur

to permit an expedited, brief review and test period prior to rollout of those changes. Providing an avenue for interested County Clerks to assess any changes, whether minor or substantial, will ensure that the NYSCEF system continues to improve and enhance the user experiences of court employees, attorneys and self-represented filers.

Two examples highlight the benefit of collaboration between certain County Clerks and NYSCEF staff prior to rolling out changes to NYSCEF. Recently, a minor change in language used to alert users that their newly filed documents were being scanned for unredacted social security numbers caused some confusion. While the language change was necessary for operational reasons unrelated to court users or the County Clerks, rolling out the change with notice to County Clerks would have permitted better communication between NYSCEF and County Clerks and permitted County Clerks to assist court users with inquiries following this NYSCEF update. Future notice of language changes promotes effective communication and effectiveness in operational changes.

On a more significant change, implementation of sealing orders can vary based on the particular directive in the court order. Collaboration on this issue led to a more robust functionality in the NYSCEF system permitting more efficient implementation. Continued collaboration between NYSCEF and interested County Clerks prior to rollout of NYSCEF updates will promote further successful enhancements.

Thank you for the opportunity to comment on the current success of e-filing in the Kings County Clerk's office, and to contribute my thoughts regarding improvements to further enhance NYSCEF.

efile for Pro Se litigants
Reply all | Delete | Junk | ...

JA

James P Arlotta <arlojp24@mail.buffalostate.edu>

Thu 1/18, 9:30 AM

eFiling Comments

Reply all |

Inbox

Hello,

Honestly, from my experience so far in State Supreme Court as an un-represented litigant. I understand how efile can be convenient, but at the same time it isn't.

Here's why... if I was an unrepresented litigant and filed a claim or complaint in federal district court. I would have to file a hard copy of everything and NOT BE ALLOWED to use efilng.

My suggestion for un-represented litigants'...since we already have to file hard copies and serve them ourselves'...WE SHOULDN'T BE ABLE TO USE EFILING EITHER.

The Post Office makes revenue off my postage, the "state," makes revenue from me using the law library, its photocopiers' and printing from its computers' also.

I DON'T WORK FOR THE "GOVERNMENT," BUT IF I DID...I WOULD REQUIRE THE ONLY USE OF EFILE TO VIEW THE STATUS OF THE CASES....WHICH IS BETTER THAN FEDERAL DISTRICT COURT, BECAUSE TO USE PACER.GOV, JUST TO LOOK AT THE CASE INFORMATION OR PRINT AND DOWNLOAD DOCUMENTS' I HAVE TO PAY SO MUCH PER PAGE...MAKE SENSE?

JUST LIKE THE STATE, AND POST OFFICE, MAKES MONEY FROM ME HAVING TO PRINT THE FORM TO OPT OUT, THEN SERVE IT BY MAIL TO ALL PARTIES INVOLVED IN THE CASE! DO YOU SEE WHERE THE STATE CAN MAKE MONEY?

I REST MY CASE.

Respectfully,

Mr. James P. Arlotta

**NEW YORK
CITY BAR**

COMMITTEE ON ENVIRONMENTAL LAW

JOSEPH KEVIN HEALY
CO-CHAIR
1290 AVENUE OF THE AMERICAS
NEW YORK, NY 10104
Phone: (212) 541-1078
jkhealy@bryancave.com

AMY E. TURNER
CO-CHAIR
195 MONTAGUE STREET
14TH FLOOR
BROOKLYN, NY 11201
Phone: (646) 389-3503
amy@turnerlegalpllc.com

January 23, 2018

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

Dear Mr. Carucci,

We are writing on behalf of the Environmental Law Committee of the New York City Bar Association in response to your December 15, 2017, letter seeking comments on the proposal to expand mandatory electronic filing ("e-filing"). While we do not express any opinion on the legal questions raised in the notice, we would like to express our strong support for the efforts to expand e-filing because of the substantial environmental benefits.

E-filing provides a wide range of significant environmental benefits, including reducing wood use, energy use, and greenhouse gas emissions. Indeed, in an e-filed case, the court and all parties to the action are provided with the same documents as they would receive in a non e-filed case. The difference between an e-filed case and a non-e-filed case is that the documents are provided electronically and thus the e-filed case avoids the environmental costs associated with printing documents to be filed with the court, copying documents to be served on other parties to

the action,¹ and physically delivering documents to court for filing. Attorneys may choose to print e-filed documents, but typically only do that as needed.

The e-filing data provided in the December 15 letter help illustrate the immediate benefits that would result from the proposed expansion of e-filing. According to the letter, 7700 matrimonial cases have been e-filed to date. Under an extremely conservative assumption that each of the 7,700 matrimonial cases would have required printing 25 total pages of paper,² e-filing in those cases saved 192,500 pages of paper.³

Assuming that the pages of paper are standard copy paper (and using the Environmental Defense Fund's paper calculator),⁴ e-filing in those cases produced the following environmental benefits:

- 14 tons of wood used to create the paper were saved;
- 125 million BTU's of energy needed for paper production were saved; and
- 21,565 pounds of carbon dioxide equivalent emissions were avoided.

Those numbers do not account for the additional savings from avoiding copying the documents for opposing counsel and avoiding thousands of trips needed to transport the paper filings to court and opposing counsel. By avoiding having to make those copies and take those trips, e-filing helps avoid additional greenhouse gas emissions and reduces the use of toner and ink cartridges that contain hazardous materials and could adversely affect the environment when discarded.

The 7700 matrimonial cases that have been e-filed to date is only a tiny fraction of the total number of cases filed each year in the state, but these numbers are illustrative of the fact that further expansion of e-filing would greatly benefit the environment. In 2016, a total of 45,150 uncontested matrimonial cases were filed in Supreme Court. A total of 3,435,146 cases were filed statewide in the trial courts and 9,359 records on appeal were filed in the appellate divisions.⁵ As former Chief Justice of the New York Court of Appeals, the Honorable Judith Kaye, explained in the *Environmental Action Plan for the New York State Court System*, the cost of producing and transporting the "mountain of paper" for that caseload takes a "substantial toll

¹ Pursuant to 22 N.Y.C.R.R. 202.5-b(2), at the consent of opposition parties, service of documents in e-filed cases may be accomplished by e-filing.

² See Judith S. Kaye and Ann Pfau, *GreenJustice, An Environmental Action Plan for the New York State Court System* at 7 (2008) ("Assuming, conservatively, that the average court file consists of only 25 pages, the four million new cases initiated in New York each year result in the filing of 100 million pieces of paper in the courts, with the same amount of paper being sent around the State for service on each of the opposing parties."), available at <https://www.nycourts.gov/whatsnew/pdf/NYCourts-GreenJustice11.2008.pdf> (last visited Jan. 10, 2018).

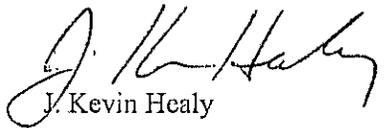
³ This estimate does not account for the pages of paper that would be used by attorneys who chose to print e-filed documents. But given that the estimate of pages is extremely conservative, the fact that some parties may choose to print certain documents on an as-needed basis, should not cause a measurable change in the environmental savings.

⁴ See Environmental Paper Network, <http://c.environmentalpaper.org/baseline> (last visited Jan. 10, 2018). One ream of paper contains 500 sheets. To get 192,500 sheets of paper, 385 reams are needed. Each ream is 20 pounds. 385 reams times 20 pounds is 7700 pounds total.

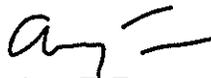
⁵ New York State, Unified Court System, 2016 Annual Report at 25-26, available at http://nycourts.gov/reports/annual/pdfs/16_UCS-Annual_Report.pdf (last visited Jan. 10, 2018)

on the environment.”⁶ Because of the substantial environmental benefits, we strongly support any efforts to increase e-filing in New York State.

Respectfully submitted,



J. Kevin Healy



Amy E. Turner

Environmental Law Committee
New York City Bar Association

⁶ See Kaye and Pfau, *GreenJustice* at 7-8, *supra*.

Mandatory E-filing

Reply all | Delete | Junk | ...

RV

Rosemary Vella <rvella@ghnlawgroup.com>

Wed 1/24, 11:42 AM

eFiling Comments

Reply all |

Inbox

Good morning,

Can you please advise as to when it will be mandatory to e-file, and please provide me with the website link to see the correct procedure in which to file. Is Nassau and NYC also mandatory?

Thank you.

Rosemary Vella

Legal Assistant

Grenier, Humes & Nolan, LLP

445 Broad Hollow Road

Suite 330

Melville, NY 11747

Tel: (631) 694-2626

Fax: (631) 694-2629

rvella@ghnlawgroup.com

From: Michael J. Brenner <michaeljbrenner18@gmail.com>
Sent: Wednesday, January 24, 2018 4:38 PM
To:
Subject: Re: Can I still comment?

I am an attorney, admitted to practice in NYS but am not involved in a heavy practice. However, I have agreed to assist a family member in obtaining a court order pursuant to revising a birth certificate, in order to obtain a passport.

A major concern is that under the new system I am unable to use the client's funds to pay the filing fees from my escrow account. Instead, I have no choice but to pay it with my own personal credit card. I think that how I use my own personal credit card should be at my discretion. I cannot write a check from my escrow account because the court won't accept checks anymore. Additionally, the bank won't issue a credit card on my escrow account.

In the new situation, what I believed to be a fairly simple and routine process, became an exceedingly difficult one, because of the mandatory requirement of eFiling using a credit card to pay the filing fees.

The mandatory eFiling requirement has led to the further difficulties of protecting sensitive or personally identifiable information. It is difficult to eFile without running the risk of disclosing unredacted routine, and potentially sensitive information, such as the name of a minor or birth date, without pre-judicial screening of that information. In my case we have information that is material that may also be considered sensitive. Retaining the option of filing a hard copy directly with the court would avoid that dilemma.

I appreciate your assistance and consideration of my concerns.

Sincerely,

Michael J. Brenner