

ONONDAGA COUNTY PROTOCOL FOR CASE FILINGS NEW YORK STATE ELECTRONIC FILES (NYSCEF) rev. Jan 2014

Attorneys seeking general information about the New York State Unified Court System's electronic filing program (NYSCEF) are advised to consult the *User's Manual* and *FAQs*, which may be found on the New York State Unified Court System's website (www.nycourts.gov) under the heading "e-Filing."

A. Identifying E-Filed Cases

Commencing January 21, 2014, all Onondaga County cases must be commenced electronically **except for the following case types:**

CPLR Article 70 proceedings (habeas corpus)
CPLR Article 78 proceedings
Election Law proceedings
Emergency medical proceedings
Foreclosure actions
Matrimonial actions
Mental Hygiene Law matters, including Art 10 and Art 81 proceedings
Name change applications
Small Claims Assessment Review actions

Cases filed in hard copy prior to January 21, 2014 may be (but are not required to be) converted to electronic filing pursuant to procedures set forth in NYSCEF User Manual. If a case is converted, the County Clerk will assign an electronic filing ("EF") index number and will post a document list/index of previously filed paper documents in the case. The parties need not electronically file previously filed documents unless specifically directed by the Court to do so.

B. Filing of Papers Generally

1. Index Numbers. The index number must be referenced on all e-filed documents and correspondence. All e-filed case index numbers will contain the letters "EF" between the year and the file number (for example, 2012EF9999)

2. Court fees. Court fees in e-filed cases must be paid online with the NYSCEF system using a credit card. The document is not considered to have been filed until payment of the fee has been tendered (see CPLR 304).

3. Requests for Judicial Intervention (RJI). The RJI will be submitted via the NYSCEF system along with any required RJI addendum forms. When the RJI is filed and the fee paid online, the Onondaga County Clerk's Office will electronically forward the RJI and any accompanying documents to the Onondaga Supreme Court Clerk's Office for assignment and processing. Counsel will receive notification of judge assignment via the NYSCEF system.

4. Hard Copy filings. Any papers to be filed with the court in an e-filed case must be filed online with the E-filing system except where a special exemption is granted (e.g., oversized maps, photographs). If such an exemption is granted, Form EFM-3, "*Notice of Hard Copy Submission - E-filed Case,*" must be attached to such documents forms which are not filed online. Also, Form EFM-4 "*Notice of Hard Copy Exhibit Filing'*" must be completed and uploaded to the action's e-file. Both of these forms may be found on the NYSCEF website.

5. Correspondence.

Correspondence may be filed and transmitted to other parties via the NYSCEF system. There is an email link available in every NYSCEF case to send items to counsel. However, any papers or correspondence that the court or attorneys would not ordinarily file with the Onondaga County Clerk in a hard-copy case need not be filed on the NYSCEF system unless otherwise directed by the assigned justice.

6. Filing errors/corrections.

If there is an error or an additional document is required, the system will notify the filing party, who will make the corrections/additions and resubmit them online.

7. Working Copies of E-filed Documents.

- a. For information as to whether or not an Onondaga Supreme Court Justice requires working (courtesy) copies of e-filed documents, please consult the Onondaga County Individual E-filing Rules are available on the Fifth Judicial District website:

<http://www.nycourts.gov/courts/5jd/onondaga/supremecounty/rules.shtml>

- b. The Supreme Court Clerk's Office and the Onondaga County Clerk's Office will NOT accept the working copies. Working copies must be sent directly to the assigned justice's chambers.
- c. A copy of the *Confirmation Notice*, generated by the NYSCEF system at the time a document is e-filed, must be attached to every working copy provided to chambers. If the *Confirmation Notice* is missing, the copy will not be accepted.

- d. Courtesy copies do not become part of the official court record as maintained by the Onondaga County Clerk's Office and will be destroyed by chambers at the disposition of the case. In the event that counsel fails to file a document via NYSCEF, the document will not be part of the court record.

8. Technical Failures.

When filing by electronic means is hindered by a technical failure (as set forth in Uniform Rule §202.5-b(h)(3)(i)), a party may file a hard copy with the County Clerk. With the exception of deadlines that by law cannot be extended (e.g., a statute of limitations or the deadline for filing a Notice of Appeal), the time for filing of any document that is delayed due to technical failure of the NYSCEF system will be extended for one day for each day on which such failure occurs, unless otherwise ordered by the court. A "*Notice of Hard Copy Filing Submission - E-filed Case*" must accompany any documents not filed via NYSCEF.

9. Motions on Notice

- a. Appearances are required on all motions in Onondaga Supreme Court except those filed with respect to asbestos actions, unless otherwise directed by the Court. Motions on asbestos cases are deemed submitted unless otherwise directed by the Court.
- b. All exhibits in e-filed cases must be e-filed individually as *separate attachments*.
- c. If the motion is the first filing in an action, the case will be assigned and counsel will be notified by the Supreme Court Clerk's Office via the NYSCEF system of the assigned justice and return date.
- d. If the motion is on a previously assigned case, counsel may choose a return date from the assigned justice's motion term schedule. If the date is unavailable, the Supreme Court Clerk's Office will assign the motion to the next available motion term date and will notify counsel via e-mail. The change will also appear in the notification generated by the NYSCEF system.
- e. Cross-motions, opposition and reply papers must be submitted online. Any courtesy "working" copies, if required (see Section B7 of these rules), must be provided directly to the assigned justice.

Fees must be paid on all cross motions. *Onondaga County local court rules require that any additional papers relating to motions must be e-filed at least two business days prior to the return date, excluding the return date.*

- f. Motions and Orders to Show Cause are assigned a sequence number by the system. Counsel must be sure that cross motions and other filings correspond with the correct sequence number so that a cross motion will not be associated with the wrong original motion.
- g. For information regarding requests for adjournments, please see the assigned Justice's individual e-filing rules on the Fifth Judicial District website.
- h. Decisions and/or orders on motions in an e-filed case will be signed in hard copy by the assigned justice. Original orders and decisions will be uploaded to NYSCEF either by chambers or by the Onondaga County Clerk's Office. Parties will receive notifications of the filing from NYSCEF. (Original orders and decisions will not be sent to counsel for filing).

10. Orders to Show Cause

- a. Proposed Orders to Show Cause and supporting papers must be filed online.
- b. In instances where a party because of exigent circumstance does not wish to provide advance notice to an adversary of a proposed Order to Show Cause by filing the Order to Show Cause with supporting papers on NYSCEF (which generates an e-mail message to the parties), the proposed Order to Show Cause and supporting documents may be submitted in hard copy to the Onondaga County Clerk. Form EF-20, "*Notice of Hard Copy Filing Submission - E-filed case,*" must accompany the hard copy of the Order to Show Cause. After signature, the original order to show cause must be filed with the Onondaga County Clerk's Office for uploading to NYSCEF.
- c. Any additional papers or documents on an e-filed case which are presented directly to the assigned justice on any Order to Show Cause must be filed online in NYSCEF as soon as possible following the motion or Order to Show Cause.

11. Procedures Regarding Service

Please see NYSCEF User Manual Section IV(M) "Service of Commencement Papers" and VIII "Service through the NYSCEF System."

12. Sealing of Documents

- a. As with hard copy files, if a party wishes to have a paper or file sealed in an e-filed case, the party must proceed in accordance with Part 216 of the Uniform Rules for the Trial Courts (NYCRR).
- b. Once a sealing order is granted, any documents filed in hard copy must be uploaded to the sealed NYSCEF file. The County Clerk will contact the filer to make arrangements for upload. Depending upon the size of the PDFs, the filer can email the PDFs to an email address designated by the County Clerk or mail a CD-ROM containing the PDFs. Any questions on this procedure should be addressed to the Onondaga County Clerk's Office at (315)435-2226.

13. Notice to the County Clerk

If an order filed in a case on the NYSCEF system requires the Onondaga County Clerk to take action, including but not limited to the sealing of an existing record, discharging a mortgage, or amending a judgment, NYSCEF Form EF-22 "*Notice to County Clerk - CPLR 8019(c)*" must be uploaded to the case.

14. Notice of Entry

- a. The Onondaga County Clerk will file orders electronically and such filing will constitute entry of the order. The County Clerk will transmit an e-mail message to all filing users on the case notifying them that the order has been entered. Such notice does not constitute service of Notice of Entry by any party.
- b. Notice of Entry is served by a party as follows: the party transmits electronically to all parties to be served the notification received from the Onondaga County Clerk, along with an express statement that the transmittal constitutes Notice of Entry.

15. Judgments and the Judgment Roll

- a. Once the Onondaga County Clerk has taxed costs and disbursements and has in hand a signed judgment, the County Clerk's Office will stamp the judgment with their file stamp and scan the judgment to the system. This constitutes entry. The County Clerk will then transmit an e-mail message to all filing users on the case notifying them that the judgment has been entered. This notice does not constitute service of notice of entry by any party (see Notice of Entry 11(b)).
- b. The filing fee for a default judgment is \$45. For e-filing, use document type, "Clerk Default Judgment (Proposed)."
- c. When the judgment is approved the judgment will be entered on the County Clerk docket, then later uploaded to NYSCEF, at which time the notification will be sent. This notice does not constitute service of notice of entry by any party. (See Notice of Entry, Section 12).
- d. Orders that can be countersigned by the Onondaga County Clerk as a judgment will be reviewed and uploaded by the County Clerk.
- e. If any problems are detected, the County Clerk will communicate with the filer by phone, e-mail or a return/correction thru NYSCEF.

Onondaga County does not require the submission of EF-8, *Certification of Signature (Judge)*.

16. Notices of Appeal and Appeal Papers

- a. Party(ies) wishing to file a Notice of Appeal must file online with NYSCEF.
- b. The other parties to the case may be served online in the manner described above. Proof of service must also be filed online.

The New York State Appellate Division, Fourth Department, ***does not have electronic filing at this time.*** For further information, counsel is advised to consult the rules of that court. The appellant is responsible for any conversion of e-filed documents to hard copies for the purposes of appeal.