

OSWEGO COUNTY SURROGATE'S COURT E-FILING PROTOCOL

The Administrative Judge of the Fifth Judicial District, the Surrogate of Oswego County, and the Chief Clerk of the Oswego County Surrogate's Court hereby promulgate local user protocols (Protocols) to assist users in practice of the New York State Courts E-Filing System (hereinafter referred to as "NYSCEF") implemented in the Oswego County Surrogate's Court in accordance with the program established by the Chief Administrator of the Courts pursuant to Uniform Rules 207.4-a and 207.4-aa and provide guidance with respect to local practice and procedures used to process filings, fees, and court calendaring. Users should also review the NYSCEF website (www.nycourts.gov/efile). These Protocols do not supersede any statutory or regulatory provisions regarding electronic filing as those are controlling and take precedence.

1) Case Types Eligible for E-Filing:

Mandatory E-Filing: Pursuant to Administrative Order of the Chief Administrative Judge of the Courts, E-filing is mandatory in Probate and Administration proceedings and miscellaneous proceedings related thereto (does not include Guardianships and Inter Vivos Trust matters) that are commenced in this court on or after January 24, 2018. Except in limited circumstances, all such proceedings must be commenced by filing with the Court electronically through NYSCEF and all subsequent documents in such proceedings must be e-filed.

Hybrid Proceedings: In those proceedings that were previously commenced in paper, the court will accept e-filed proceedings/documents with the understanding that previously filed documents may not be available for viewing via NYSCEF or may be delayed in viewing while the court clerk uploads the file.

Documents Must Be E-Filed: Unless otherwise provided in the e-filing rules, this Protocol, or where a special exemption is granted (e.g., Oversized Exhibits in Section 3, below) all documents to be filed with the court in a NYSCEF case must be filed with the NYSCEF system.

2) Non-Participation in E-Filing:

Exemptions from Mandatory E-Filing: An attorney who certifies in good faith that he or she lacks the equipment or knowledge needed to e-file and has no staff member or employee under his or her direction who has such knowledge and equipment may opt out of e-filing in each mandatory proceeding by filing an Opt-Out form¹ with the Clerk. Attorneys also may be exempted by the court for good cause shown. Proposed intervenors (non-attorneys) and unrepresented non-parties are exempt from e-filing. (Uniform Rule § 207.4-aa(e)(1)). Unrepresented litigants are exempt from e-filing, but may choose to participate. (CPLR § 2111).

3) E-Filing Documents in Surrogate's Court:

Essential Step Prior to E-Filing: Prior to entering any information into an initial filing, you should run an inquiry on the decedent's last name, using the first initial, to determine if a file is already open in NYSCEF. Due to the numbering system in Surrogate's Court, an inquiry based on the file (or subfile) number alone may not produce accurate results. In addition, you must contact the Court to ascertain whether there may

¹ All forms referred to in these Protocols are available on the Forms page of the NYSCEF website at <https://iappscontent.courts.state.ny.us/NYSCEF/live/forms.htm#FormsSurrogateCourt>; also, e-filing assistance may be had by contacting the E-Filing Resource Center directly at 646-386-3033.

be another will for the decedent on file with the Court (e.g., filed for safekeeping).

Initial Entering of Case Information: Any error in the initial entry of case information can significantly delay the proceeding. Please double check to be sure to select the same county as is shown on your papers.

The case name must be entered as follows:

- Initial entry must be identical to the signature on the will
- If the name on the death certificate is different, that becomes an “AKA”
- If the name on the will does not match the signature, that becomes an “AKA”
- No punctuation or spaces should be used when entering the name or “AKA” (i.e. Mc Carthy should be input as McCarthy).
- The Party Name, Role, and Address information must be added for each petitioner (consented party), as reflected in the pleading.

[Note: For additional e-filing case entry practice tips, please see Addendum A attached to these Protocols.]

Notice of Hard-Copy Submission: Where, within the e-filing rules, an attorney or an unrepresented litigant who is participating in e-filing submits a document in hard copy, the document must bear a [Notice of Hard Copy Submission - E-Filed Proceeding](#) (see NYSCEF Forms page). Attorneys who are exempt from e-filing are required to attach this form to all hard copy filings, while unrepresented litigants who are not participating in e-filing are not so required.

Request for Surrogate’s Court Action Form: This court does **NOT** require the Request for Surrogate’s Court Action form and such document should **NOT** be used.

Death Certificates: In addition to e-filing the death certificate, a certified hard copy thereof, must be filed within two (2) business days of e-filing.

Wills: The ORIGINAL Will is required to be uploaded via NYSCEF; however, **DO NOT** remove staples from the original will in doing so. In all cases, the original paper Will must be filed with the court within two (2) business days of the initial e-filing of proceeding. Include a Staple Affidavit as a separate document if there is evidence of the staples/grommets having been removed.

NOTE: *Failure to file the original Will or hard copy of the Death Certificate: while the court may begin to process the matter NO action, (Le., granting Probate, issuance of Letters, etc.), will be taken until these, and all other required documents are received and approved. Also, if these required documents are not filed in a timely manner, the court may, in its discretion, remove the e-filing unprocessed from the NYSCEF system, and the filer will have to start anew. In such cases, if a fee has been paid online by credit card, a request for refund application will be generated by the court and sent to the filer for completion and return.*

Local Ruling Requirements: Oswego County Surrogate’s Court requires a signed copy of the retainer agreement and a preliminary inventory of assets with the initial filing of any court papers.

Citations: Submit a proposed citation electronically through NYSCEF only. The Court will complete the citation and upload the completed version to NYSCEF as quickly as possible. If your proposed citation

requires amendment, you will be notified. Otherwise, an e-mail notification will be sent when the completed citation is posted to NYSCEF. After receipt of the notification, print the citation and serve it, in accordance with the SCPA. Service of the citation should be accompanied by a [Notice of Commencement of Proceeding Subject to Mandatory Electronic Filing](#) unless service is by publication. (See Forms page on NYSCEF site.) (Form SCM-1; Uniform Rule 207.4-aa(3)).

Decrees and Orders: E-file proposed decrees and orders through NYSCEF only. Once the decree or order is signed, the court will upload the signed version to NYSCEF. Users who have requested a certified copy of the decree or order and have paid the appropriate fee via NYSCEF will receive the certified copy by regular mail.

Stipulations: Stipulations submitted for purposes of being “so ordered” by the Court shall be electronically filed.

Oversized Exhibits: If an exhibit or attachment is unsuited for electronic filing (e.g., a large map or a videotape), it shall be submitted to the court and served on the other parties in hard copy. Attach a Notice of [Hard Copy Submission - E-Filed Proceeding](#). In addition, a [Notice of Hard Copy Exhibit Filing](#) must be completed and electronically filed. (See Forms page on the NYSCEF site.)

Working Copies: Not required.

4) Payment:

This court accepts payment of fees required by the SCPA by credit card payments made via NYSCEF or by payments made at the court or by mail. Fees are calculated in accordance with SCPA § 2402 based on the documents filed with NYSCEF and the representation of the filing user regarding the size of the estate. Review by the Court may result in a modification of the fees initially anticipated or charged in connection with this transaction. In the event of any such modification, the Court will contact the filing user by e-mail or telephone with the proper amount and request an additional fee, if applicable. The filing of additional documents by the filer may not be permitted if the filer owes an outstanding fee in that proceeding.

If choosing to pay by credit card at time of filing on the NYSCEF website, enter credit card information directly on website. You must insert the credit card information with each filing; your credit card will be charged at the time of filing. A processing fee of 2.99% will be charged by NYSCEF for use of the credit card method. Make sure credit limit is large enough to cover anticipated filings.

If choosing to pay at the court or by mail, be aware that documents are not “filed” until payment is received. The court cannot process the filing until payment is received in full and will delete the filing if payment is not made within 30 days after e-filing after prior notification by phone or email is given.

5) Notifications:

Notification of defective filings will be sent out by e-mail or by telephone, depending on the circumstances. Clerks/staff are available for consultation during regular business hours at (315) 207-7566.

Certificates and Letters: To ensure rapid return of documents you have requested from Surrogate’s Court, you should include a self-addressed, stamped envelope and pay for Certificates in advance of their preparation with the filing fee; accordingly, do not use NYSCEF to request Certificates unless you pay on-line at time of request.

General Correspondence: All general correspondence, adjournment requests and conference requests shall be electronically filed.

6) Signatures:

Documents requiring signatures shall be considered to be signed under the circumstances outlined in Uniform Rule §207.4-a(f). When e-filing a document bearing an actual signature, the e-filer is responsible for maintaining the original, executed document pursuant to Uniform Rule 207.4-a(f)(2).

7) Sealed Documents. Sealed Cases: Documents Presented for In Camera Review:

Applying for a Sealing Order: A party who wishes to file a document under seal must file a hard copy of the document, along with the "[Hard Copy Submission - E-Filed Proceeding](#)" with the Surrogate's Court. Unless the document is being filed ex parte, the filing party shall serve all parties with hard copies of the document, along with the "[Hard Copy Submission - E-Filed Proceeding](#)" form, in the traditional manner. (See Forms page on the NYSCEF site.)

If the Court grants the sealing request, the Surrogate Clerk will then file the documents in the appropriate manner, as directed. If the application is denied, an order will be issued that directs the party to file the document electronically.

In Camera Documents: Documents submitted to the Court for in camera review should be delivered to the Court in a sealed envelope conspicuously marked "FOR IN CAMERA REVIEW BY THE COURT" with a [Hard Copy Submission - E-Filed Proceeding](#) form attached. (See Forms page on the NYSCEF web site.)

8) Decrees, Orders, and Judgments:

Decrees, orders, and judgments will be signed in hard copy by the Surrogate and forwarded to the Clerk for filing and scanning into the NYSCEF system, which will then transmit notification to all parties. However, the notification does not constitute service of notice of filing upon any party (see, Uniform Rule § 207.4-a[h]).

Court issued Letters and Certificates of Appointment will be provided in hard copy to the filer via the usual means (SASE, USPS mailing, messenger).

ADDENDUM A

Oswego County Surrogate's Court E-Filing Protocol

Additional E-filing Case Entry Practice Tips

I. PRE-DATA ENTRY:

- A. Scanning: Your scanner should meet state standards which is 200 DPI (dot per inch). You may contact NYSCEF E-Filing Resource Center for additional tech information support (Efile@nycourts.gov).
1. Review all documentation before scanning.
 2. Scanned documents should be previewed on your computer before they are uploaded to NYSCEF to make sure they are:
 - a. the intended document
 - b. have been properly scanned: right side up and legible; you may need to photocopy and lighten the density of certain images (i.e. death certificate) so the court will be able to read the scanned image.
 - c. scanned documents of one type under one image (ex. three waivers-scan as one image with three quantity in NYSCEF (except waivers of funeral home which should be scanned separately); Notice w/Affidavit of Mailing should be scanned as one image).
 - d. do not submit an image with blank pages
 - e. if requesting Preliminary or Temporary Letters, scan the Application for such in back of the Petition as one document.
- B. Create a folder on your computer specific to this filing in which to save your scanned pdf documents.

II. DATA ENTRY - 1st Filing for a particular decedent

- A. Perform an Inquiry search in NYSCEF of the decedent's name; if File No. (as opposed to an e-filing ID #) has been assigned for that same decedent, use the assigned File Number
- B. Correctly identify the type of proceeding and proceeding documents being e-filed; failure to do so impacts, among other things:
1. filing fees; i.e., if filing a petition for probate with trust(s), select proper drop down option
 2. documents available in drop down box are dependent upon type of proceeding selected:
 - a. if you do not see the intended document listed, first check to make sure you have selected the correct proceeding type;
 - b. if your proceeding type is correct but the drop down does not include the name of the document you are seeking to upload, use "Other Document" and provide name of document in the Description Field. ONLY enter a document as "Other Document" if it does not appear in the drop down list.
 - c. The above notwithstanding, before selecting "Other" as a particular proceeding, please check all available drop down options under each proceeding type to see which may apply. For example, a proceeding To Open Safe Deposit Box can only be found when reviewing drop down options under "Probate" (not available under VA or Admin); in such case, the "Probate" type option should be utilized in order to use the Open Safe Deposit Box document/petition option (even though a probate proceeding may not follow).
 - d. the petition, if applicable, should be the first document to be uploaded

- e. do NOT submit “Request For Surrogate's Court Action” form
- C. Common data entry errors that are easily corrected by careful proofreading:
- 1. spelling of names - enter the name of the decedent exactly as the decedent signed his/her name on the Will; or in Administration Proceedings, as it appears on the death certificate; use aka as applicable
 - 2. entry of date of death and date of Will/Codicil(s)
- D. Payment: *{Applies to initial and subsequent filings of papers which require fees}*
- 1. You may pay by credit card online, or pay at court with cash, check, money order or credit card. However, documents are not “filed” until payment is received. The Court cannot process the filing until payment is received in full.
 - 2. To expedite the Court’s handling of the filing of original Wills, Death Certificates or when remitting payment at court, be sure to include a transmittal letter or mark on your envelope that this matter has been e-Filed; **and** provide the court with e-File ID # originally assigned (or File No. if already assigned).
- NOTE:** Failure to file the original Will or hard copy of the Death Certificates: the Court may begin to process matter but the Court will take NO action i.e., granting Probate, issuance of Letters, etc. until these, and all other required documents are received.
- 3. If your only request for surrogate’s court action is for the purchase of Certificates, certified copies, recordings, exemplifications and/or searches, do NOT make such requests via NYSCEF UNLESS paying by credit card online at time of request since these requests require full payment in advance.

HI. **DATA ENTRY - Subsequent** filing for **same** decedent

- A. WAIT until the court has assigned a file number for your initial e-filing before submitting via NYSCEF anything further.
- 1. Once a file number has been assigned by the court in NYSCEF you submit subsequent filings using that number.
 - 2. Once a proceeding is started as an e-filing, unless instructed otherwise by the court, continue to submit ALL subsequent filings via NYSCEF (i.e. proofs of service, correction affidavits, additional proceedings, etc.)

IV. **Surrogate’s Court User’s Manual and FAQs** are available at www.nycourts.gov/efile under the User Manual and FAQ tab.

- V. If there are any **questions** about registration or about your e-Filing - in general or specific to a particular filing, contact the NYSCEF Resource Center at 646-386-3033 or email the center at efile@nycourts.gov.