

DELAWARE COUNTY PROTOCOL FOR CASE FILINGS
NEW YORK STATE ELECTRONIC FILES (NYSCEF)
effective, JULY 29, 2019

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. Cases Eligible for consensual E-Filing

Commencing May 23, 2018, all Supreme Delaware County cases may be commenced electronically.

Cases filed in hard copy prior to May 23, 2018 will not be converted to electronic filing.

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" prior to the year and the file number (for example: EF2018-0100)

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 Delaware County Clerk's Office will electronically forward the RJI and any accompanying documents to the Delaware 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, "Notice of Hard Copy Submission - E-filed Case," must be attached to such documents forms which are not filed online. Also, "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 and will NOT be provided upon request. **DO NOT SUBMIT HARD COPIES UNLESS REQUESTED BY THE COURT.**

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 Delaware 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: DO NOT SUBMIT HARD COPIES UNLESS REQUESTED BY THE COURT.

- a. Delaware Supreme Court justices do NOT require working (courtesy) copies unless otherwise directed. The Delaware County Clerk's Office will NOT accept the working copies. Working copies must be sent directly to the assigned justice's chambers.
- b. A copy of the Confirmation Notice, generated by the NYSCEF system at the time a document is e-filed, must be attached (to the front of the document) to every working copy provided to chambers. If the Confirmation Notice is missing, the copy will not be accepted.
- c. Courtesy copies do not become part of the official court record as maintained by the Delaware 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 NOT required on all motions in Delaware Supreme Court, as they are scheduled UPON SUBMISSION ONLY, unless otherwise requested or directed by the assigned justice. See individual court rules at:
<http://nycourts.gov/courts/6jd/delaware/motions.shtml>
- b. All exhibits in e-filed cases must be e-filed individually as separate attachments. Each Exhibit must be given an identifying description.
- 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 (see separate motion dates as to Foreclosures). 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. 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. As to adjournment requests, please submit by filing the proper document via NYSCEF, for the assigned justice's Chambers.

- 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 Delaware 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 may be filed online.
- b. In instances where a party because of exigent circumstance does not wish to provide advanced 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 Delaware County Clerk's Office. Form, "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 Delaware 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 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 Delaware County Clerk's Office at 607-832-5700.

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

14. Notice of Entry:

- a. The Delaware 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 Delaware County Clerk, along with an express statement that the transmittal constitutes Notice of Entry.

15. Judgments and the Judgment Roll:

- a. Once the Delaware 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 Delaware 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.

Delaware County does not require the submission of Form, 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.