



**NEW YORK STATE**  
**Unified Court System**

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS  
CHIEF ADMINISTRATIVE JUDGE

EILEEN D. MILLETT  
COUNSEL

**MEMORANDUM**

To: All Interested Persons

From: Eileen D. Millett

Re: Request for Public Comment on Proposed Rules Codifying the Electronic Document Delivery System (EDDS)

Date: August 17, 2021

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The Administrative Board of the Courts is seeking public comment on a proposal, proffered by Jeff Carucci, Director of Office of Court Administration’s Division of E-Filing (“Director”), to codify provisions regulating use of the Electronic Document Delivery System (EDDS). Exhibit A contains a proposed rule amendment to the Uniform Rules for the Trial Courts.

During the COVID-19 pandemic, the Judiciary, as part of its expansion of virtual court operations, established a new program to transmit digitized documents (in pdf format) to UCS courts, County Clerks, and other court-related offices around the State (See Exhibit B – AO/87/20 (permitting electronic filing via EDDS), Exhibit C – Notice to the Public regarding EDDS). The initial aim was to spare court users and employees, as much as possible, the need for physical contact with others when delivering court documents. This program, known as the Electronic Document Delivery System (EDDS), allows individuals, through use of a secure UCS web portal, to transmit documents by: (1) entering basic information about a matter; (2) uploading one or more pdf documents; (3) sending those documents electronically to a court or clerk selected by the user; and (4) paying applicable fees and requesting that the documents be reviewed by the clerk, and if they are in accord with general filing standards, that they be accepted for filing. Upon receipt of documents by the court, the sender will receive an email notification, together with a unique code that identifies the delivery; and the documents will be stored in a secure location for appropriate further handling by the court or clerk.

The EDDS is not a tool for serving documents on other parties nor is it intended to duplicate or supplant the New York State Courts Electronic Filing System (NYSCEF). Use of EDDS in certain classes of cases and in certain venues is authorized by administrative order of the Chief Administrative Judge.

The EDDS was first authorized on May 4, 2020. It has since been used to deliver post-commencement documents in most case types in County Clerk's offices and in over 300 courts, including Supreme Court, the Court of Claims, Family Court, Surrogate's Court, the NYC Criminal Court, the District Courts, the upstate City Courts, and, on a pilot basis, in some Justice Courts. Occasionally, where authorized by the Chief Administrative Judge, it has also been used in Family Court, City Court, and Town Court to deliver documents commencing a case. EDDS is also used as a mechanism to request the Court authorize the use of NYSCEF in a pending matter and to direct the County Clerk (or Clerk of Court) to convert the matter from paper form to electronic form.

EDDS has thereby become an important tool in the fight against COVID-19; additionally, it has demonstrated real usefulness as the bench and bar have sought to make greater use of technology to reduce costs and burdens associated with litigation. In the days ahead, there may be even greater resort to EDDS technology.

It is the view of the Director of the Division of E-Filing that the existence of EDDS and knowledge of its features and any applicable limitations on its use, be broadcast publicly as widely as possible. The Director submits that such information has only been available to those having access to administrative orders and memoranda of the Chief Administrative Judge alluding to the EDDS program and to those knowing enough to access written instructions and recorded video demonstrations on web pages posted by the Judiciary. The Director submits that codifying EDDS information in a general rule for the trial courts will ensure that its availability is widely known.

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Persons wishing to comment on the proposal should e-mail their submissions to [rulecomments@nycourts.gov](mailto:rulecomments@nycourts.gov) or write to: Eileen D. Millett, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11<sup>th</sup> Fl., New York, New York, 10004. Comments must be received no later than October 15, 2021.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

# **EXHIBIT A**

**DRAFT – 2021.06**

The Uniform Rules for the Trial Courts shall be amended, effective immediately, by adding a new section 202.5-c, to read as follows:

§202.5-c. Electronic document delivery system.

(a) Court documents may be transmitted to the courts of the unified court system by means of the electronic document delivery system (“EDDS”) only to the extent and in the manner provided in this section. For purposes of this section, “clerk of the court” shall mean the county clerk where the court is the Supreme Court or a County Court, and the chief clerk of the court where it is any other court.

(b) How to use the EDDS. In order for a party to a court action or proceeding to use the EDDS to transmit one or more court documents to a court, such party must:

(1) have use of a computer or other electronic device that permits access to the Internet, an email address and telephone number, and a scanner to digitize documents or some other device by which to convert documents into an electronically transmissible form; and

(2) access a web site provided by the UCS for the transmission of the document(s) by the EDDS and, using that web site: (i) select a court to be the recipient of the document(s) and, where the Chief Administrator has authorized use of the EDDS for the filing of documents in an action or proceeding and the party is using the EDDS for such purpose, so indicate, (ii) enter certain basic information about the action or proceeding; (iii) upload the document(s) thereto in pdf or some other format authorized by the Chief Administrator of the Courts; and (iv) if a fee is required for the filing of the document(s), follow the on-line instructions for payment of that fee.

(c) When may the EDDS be used. The EDDS may be used for the transmission of

documents in such courts and in such classes of cases, and for such purposes including the filing thereof with a court, as may be authorized by order of the Chief Administrator. Notwithstanding any other provision hereunder:

(1) a party may not use the EDDS to transmit documents in a court action or proceeding in a court in a county in which consensual or mandatory e-filing is available in such an action or proceeding, except that EDDS may be used in such a county for the purpose of (i) converting a pending action to e-filing in accordance with section 202.5-b(2)(iv) of these rules, (ii) transmitting exhibits for a conference, hearing, or trial; or (iii) any other use as may be authorized by the Chief Administrator.

(2) unless the Chief Administrator shall otherwise provide as to a particular court or class of cases, a party may only use the EDDS for the transmission of documents for a purpose other than for filing in an action or proceeding;

(3) where the Chief Administrator authorizes use of the EDDS for the transmission of documents for filing with a court in an action or proceeding, any such documents shall not be deemed filed until the clerk of such court or his or her designee shall have reviewed the documents and determined (i) that they are complete, (ii) that any fee that is required before the documents may be filed has been paid, (iii) that the documents include proof of service upon the other party or parties to the action or proceeding when proof of service is required by law, and (iv) that all other filing requirements have been satisfied.

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Chief Administrative Judge

Date:

AO/ /21

# **EXHIBIT B**

ADMINISTRATIVE ORDER OF THE  
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and at the direction of the Chief Judge, I hereby promulgate, effective May 4, 2020 and until further order, the following additional procedures and protocols to mitigate the effects of the COVID-19 outbreak upon the judicial officers, staff, and users of the Unified Court System.

A. In pending matters, digital copies of (1) motions, cross-motions, responses, replies and applications (including post-judgment applications), (2) notices of appeal and cross-appeal, (3) stipulations of discontinuance, stipulations of adjournment, and other stipulations; (4) notes of issue, and (5) such other papers as the Chief Administrative Judge may direct, shall be accepted for filing purposes by all courts and clerical officers of the Unified Court System (including County Clerks acting as clerks of court) when presented for filing through (1) the UCS New York State Courts Electronic Filing (NYSCEF) system; (2) the UCS Electronic Document Delivery System (EDDS); or (3) such other document delivery method as the Chief Administrative Judge shall approve.

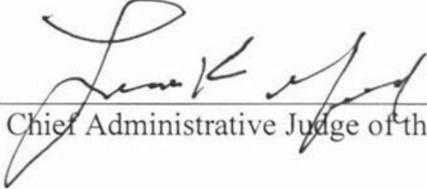
B. Documents filed through the EDDS system shall be served by electronic means, including electronic mail or facsimile. Filing fees required for documents filed through the EDDS system shall be paid by credit card or, where credit card payment is unavailable, by check delivered to the appropriate clerk's office by U.S. Mail or overnight mail service.

C. The provisions of paragraphs A and B above are authorized on a temporary basis, and will be reviewed and circumscribed promptly at the conclusion of the COVID-19 public health emergency.

D. Problem-solving courts may conduct virtual court conferences with counsel, court staff, service providers, and, where practicable, clients.

E. Judges may refer matters for virtual alternative dispute resolution, including to neutrals on court-established panels, community dispute resolution centers, and ADR-dedicated court staff.

F. The court shall not request working copies of documents in paper format.



Chief Administrative Judge of the Courts

Dated: May 1, 2020

AO/87/20

# **EXHIBIT C**

# NOTICE TO THE PUBLIC

May 4, 2020

## EDDS: UCS Program for Electronic Delivery of Documents

In response to the COVID-19 public health emergency and the expansion of “virtual” court operations, the Unified Court System has initiated a new program to transmit digitized documents (in pdf format) to UCS courts, County Clerks, and other court-related offices around the State. The Electronic Document Delivery System (“EDDS”) allows users, in a single transaction, to (1) enter basic information about a matter on a UCS webpage portal page; (2) upload one or more pdf documents; and (3) send those documents electronically to a court or clerk selected by the user. Upon receipt of the document(s) by the court, the sender will receive an email notification, together with a unique code that identifies the delivery. More detailed instructions for sending or filing documents through EDDS may be found on the [EDDS FAQ](#) page.

Users/Senders should keep several important points in mind when using this system:

1. EDDS May be Used to File Papers with Certain Courts: At the direction of the Chief Administrative Judge, during the COVID-19 public health crisis EDDS can be used to deliver documents for filing with certain courts— including some Family Courts, Criminal Courts, Supreme Court, the Court of Claims, Surrogate’s Courts, and District Courts, and City Courts. (EDDS is not available in the New York City Criminal Court.)

To use the system for filing, the sender must simply check a box on the sender information screen, complete the sending of the document(s) to the appropriate court through the EDDS system, and pay any required filing fee by credit card. The clerk’s office will review the document(s) for sufficiency and, if the clerk determines that filing prerequisites have been met, accept them for filing purposes. In the event that a clerk’s office has accepted and filed a document received through EDDS, the sender will be notified of that fact by email or publication on a public database. *If no email or published notification is issued indicating that the document has been accepted for filing, the sender should not assume that the filing has occurred. The sender may contact the clerk’s office to inquire about the status of a proposed filing.*

2. EDDS is Not a Substitute for E-filing or NYSCEF: Please note that, although EDDS may be used for filing in various courts, it does not replace and may not substitute for filing under the New York State Courts Electronic Filing System (NYSCEF). Therefore, it should not be used in matters where NYSCEF is available on either a mandatory or consensual basis. (Counties and case types where NYSCEF is available are listed on NYSCEF’s [Authorized for E-Filing](#) page.)
3. EDDS Delivery is not “Service” on Other Parties: Finally, unlike NYSCEF, delivery of a document through EDDS does not constitute service of the document on any other party. If service is required, the sender must serve by some other means.

In sum, EDDS is a document delivery portal that complements the UCS electronic filing system and which, upon completion and together with NYSCEF, will allow remote and immediate delivery of digitized documents throughout the Unified Court System.