



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

OFFICE OF COURT ADMINISTRATION

**HON. JOSEPH A. ZAYAS**  
CHIEF ADMINISTRATIVE JUDGE

**HON. NORMAN ST. GEORGE**  
FIRST DEPUTY CHIEF ADMINISTRATIVE JUDGE

**DAVID NOCENTI**  
COUNSEL

**MEMORANDUM**

To: All Interested Persons

From: David Nocenti

Re: Request for Public Comment on a proposal to amend Sections 207.4-a and 207.4-aa of the Uniform Rules for Surrogate's Court to establish procedures for when service of a citation by mail is returned as undeliverable

Date: May 6, 2026

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The Administrative Board of the Courts is seeking public comment on a proposal recommended by the Surrogate's Court Advisory Committee (SCAC) to amend the Uniform Rules for Surrogate's Court (22 NYCRR §§ 207.4-a & 207.4-aa) to require notification to the Clerk of the Court if a notice or citation sent by mail is returned as "undeliverable."

The SCAC asserts that service of notices and citations by mail has been increasing. Such service is presumed complete and valid at the time of the mailing, but when the mail is returned as "undeliverable," the service is ineffective. Although many attorneys appropriately notify the court of that fact, there currently is no clear requirement or timetable for doing so.

The SCAC therefore is recommending the addition of new paragraphs to Section 207.4-a (which governs the *consensual* electronic filing program) and Section 207.4-aa (which governs the *mandatory* electronic filing program), providing that if the mail is returned as "undeliverable," the petitioner must give written notice to the Clerk of the Court within three business days.

The proposed new rule is attached as Exhibit A, and attached as Exhibit B is a February 6, 2026 memorandum from the SCAC Chair providing background on this issue and the reasons for the proposal.

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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: David Nocenti, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 10<sup>th</sup> Fl., New York, New York, 10004. Comments must be received no later than Friday, June 26, 2026.

All public comments will be released and made available to the public on the Unified

Court System website following finalization of the proposed rule. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System.

**EXHIBIT A**

**Proposed Amendments**

*Paragraph 1 of subdivision (g) of Section 207.4-a of the Uniform Rules for Surrogate's Court (22 NYCRR § 207.4-a(g)(2)) is amended to read as follows (deletions in ~~strikethrough~~ and additions underscored)*

§ 207.4-a. Electronic Filing in Surrogate's Court; Consensual Program

\* \* \* \* \*

(g) Service of Parties.

\* \* \* \* \*

(1) ~~An attorney or party seeking to obtain jurisdiction over a party to a proceeding shall serve that party by any of the methods permitted by the SCPA.~~ In the event service of citation by mail is returned as "undeliverable" the party seeking to obtain jurisdiction shall be required to give written notice of such fact to the Clerk of the Court within three business days of receipt of such notice.

\* \* \* \* \*

*Subdivision (b) of Section 207.4-aa of the Uniform Rules for Surrogate's Court (22 NYCRR § 207.4-aa(b)) is amended by adding a new paragraph (4) to read as follows (deletions in ~~strikethrough~~ and additions underscored)*

§ 207.4-aa. Electronic Filing in Surrogate's Court; Mandatory Program

\* \* \* \* \*

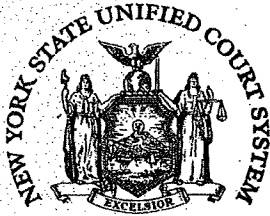
(b) Commencement of Proceedings Under This Section.

\* \* \* \* \*

(4) In the event service of citation by mail is returned as "undeliverable" the party seeking to obtain jurisdiction shall be required to give written notice of such fact to the Clerk of the Court within three business days of receipt of such notice.

\* \* \* \* \*

## **EXHIBIT B**



Surrogate's Court  
Advisory Committee

Chair: Hon. Peter J. Kelly

TO: Hon. Joseph A. Zayas

FROM: Hon. Peter J. Kelly

DATE: February 6, 2026

SUBJECT: Proposed Amendments to 22 NYCRR 207.4-a and 207.4-aa

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**BACKGROUND**

We write to request that a proposed amendment to NYCRR Secs. 207.4-a and 207.4-aa be submitted for public comment.

Over the last several years, there has been a marked increase in the use of mail to effectuate the service of notices and citations in the Surrogate's court. The use of mail for these purposes should only increase since SCPA 307 has now been amended permitting service of process by mail on New York State residents without the need to obtain a court order.

But even before the enactment of this legislation, there had been occasions when counsel is notified that mail sent to respondents was returned as "Undeliverable". This would mean that service, although presumed complete and valid at the time of mailing, was, in fact, ineffective. Counsel would therefore be obligated to notify the court of this fact so it would not proceed under the mistaken belief jurisdiction over these parties was complete.

Although most counsel fulfilled this obligation in a prompt fashion, at times delays in providing such notification has caused consequential issues. Additionally, in the absence of any formal written guidance, clerical staff have had to adopt remedies and procedures in their individual courts for counsel to adhere to, thereby causing confusion and further delays in processing estates.

Accordingly, the Advisory Committee has determined a Uniform Rule addressing situations when mail has been returned as "Undeliverable" was necessary.

### **SUMMARY**

The Committee proposes that the Rules in both 207.4-a and 207.4-aa be amended to reflect the procedures to be followed in these instances. Those sections set forth rules for the commencement of actions by electronic means and establish procedures for service of process.

Specifically, the Committee recommends two additional but identical requirements be set forth in Sec 207.4-a (g)(1) as well as a new 207.4-aa (b) (4) which would provide that in the event service of citation by mail is returned as "undeliverable" the petitioner shall be required to give written notice of such fact to the Clerk of the Court within three business days of receipt of such notice.

If adopted, the rule would establish a designated individual in each court to whom such notice would be given and standardize the time frame in which such notice is to be provided. It was determined that notice to the Chief Clerk would work in every Surrogate's court regardless of size, and that a three business day timeline from counsel's receipt is more than sufficient time to provide notice to the court.

The proposal would provide courts and litigants with clear and concise guidelines on the procedures to follow in these circumstances and further the goal of providing uniformity in the procedural operations of the Surrogate's courts throughout the state.

cc: David Nocenti, Esq.

**PROPOSED AMENDMENT TO SURROGATE'S COURT RULE 207.4-a and 207.4-aa**

It is proposed that paragraph g of section 207.4-a of the Uniform Rules for Surrogate's Court be amended as follows:

**§ 207.4-a. Electronic Filing in Surrogate's Court; Consensual Program**

\* \* \*

**(g) Service of Parties.**

(1) An attorney or party seeking to obtain jurisdiction over a party to a proceeding shall serve that party by any of the methods permitted by the SCPA. In the event service of citation by mail is returned as "undeliverable" the party seeking to obtain jurisdiction shall be required to give written notice of such fact to the Clerk of the Court within three business days of receipt of such notice.

It is further proposed that paragraph b of section 207.4-aa of the Uniform Rules for Surrogate's Court be amended by adding a new subparagraph 4 as follows:

**§ 207.4-aa. Electronic Filing in Surrogate's Court; Mandatory Program**

**(b) Commencement of Proceedings Under this Section.**

\* \* \*

(4) In the event service of citation by mail is returned as "undeliverable" the party seeking to obtain jurisdiction shall be required to give written notice of such fact to the Clerk of the Court within three business days of receipt of such notice.