



NEW YORK STATE

Unified Court System

OFFICE OF COURT ADMINISTRATION

JUSTIN BARRY, ESQ.
EXECUTIVE DIRECTOR

CHRISTOPHER GIBSON
DIRECTOR, OCA DIVISION OF E-FILING

To: Bar Associations, Legal Service Providers, Attorneys, and Other Interested Persons and Organizations

From: Christopher Gibson, Director, OCA Division of E-Filing



Date: December 6, 2023

Re: New York State Courts Electronic Filing Program

The Office of Court Administration will be submitting its annual report on February 1, 2024, to the Legislature, the Governor, and the Chief Judge evaluating the State's experience with the New York State Courts Electronic Filing System (NYSCEF). OCA's Division of E-Filing has in years past invited your comments on electronic filing, and as its new director, I seek your invaluable comments for inclusion in this year's report.

I write as well to solicit your observations, for inclusion in the February report, on a proposed amendment to CPLR Article 21-A and other relevant statutes to expand current authority for the use of e-filing in the courts and permit the Chief Administrative Judge (CAJ) to institute e-filing – on either a consensual or mandatory basis – in all of the State's trial courts and in any class of cases.

The proposed legislative amendments to expand e-filing, also included in the annual e-filing report of 2021, 2022, and 2023, are aimed at promoting the creation of a more efficient and effective court system in New York State. *The Commission to Reimagine the Future of New York's Courts* and its *Working Groups*,¹ support the proposed legislation and the expansion of e-filing. *The Pandemic Practices Working Group*, tasked with evaluating practices implemented during the pandemic, shared that the value of electronic filing became particularly clear during the pandemic when access to courthouses became difficult. The *Working Group's* final report, based on testimony from more than 300 people who experienced the effects of the pandemic on the courts, established that courts that had e-filing during the pandemic fared better than courts that did not, as the lack of electronic access made it difficult for those courts to function, impeding access to justice. The *Working Group* recommended expansion of e-filing to all courts and all counties, and that the Legislature should introduce and pass the proposed legislation.²

Additionally, the *Structural Innovations Working Group*, submitted their report supporting legislation to expand e-filing, which included the following conclusion and recommendations:

"E-filing has become an essential tool for improving access to justice to all litigants across the State. During the early stages of e-filing more than 20 years ago, it was reasonable to

¹ Created in June 2020 and charged with making recommendations to improve the delivery and quality of justice services, facilitate access to justice, and to examine technological and other innovations and to make recommendations to better equip the UCS to keep up with society's rapid evolving challenges/changes. Further information about the Commission and its work is available at:

<https://www.nycourts.gov/reimagine-the-future/mission.shtml>

² See *New York Courts' Response to the Pandemic: Observations, Perspectives, and Recommendations, A Report of the Pandemic Practices Working Group*, (January 2023). Available at: [NYCourtsPandemicPracticesReport.pdf](#)

expand e-filing in phases that required Legislative approval, but today that process is outdated and inefficient. The COVID-19 pandemic has compelled the need to permit significant expansion of e-filing at an accelerated pace. In order for the UCS to respond to the technological demands of today's modern world, the CAJ must be afforded discretion to institute e-filing in consultation with affected stakeholders. We recommend that the CAJ be empowered to institute e-filing in any or all of the State's trial courts in any case type, and that the existing restrictions on the CAJ's discretion to establish mandatory e-filing in case types which are currently excluded be repealed. Implementing these legislative changes will enhance access to justice without delay, while continuing to safeguard the interests of self-represented litigants and technologically challenged attorneys."³

The instant proposal would not alter requirements of consultation in advance of any expansion with the Bar, legal service providers, County Clerks outside New York City in Supreme Court matters, and other groups who would be affected by such electronic filing, nor would the proposal affect other existing provisions in the e-filing legislation. Further, unrepresented persons would continue to be exempt from e-filing unless they affirmatively choose to participate. Moreover, attorneys in cases in which e-filing would otherwise be mandatory would continue to be able to opt out of e-filing if they lack the equipment or knowledge to participate. Finally, the proposal would not alter current requirements of confidentiality in the treatment of actions that require it.

In order that we may have the time needed to prepare the report due February 1, 2024, I ask that as a group, an individual member of a group, or any interested person and/or attorney, submit any **comments by January 16, 2024**. Comments should be sent by e-mail or regular mail to either of the following addresses:

Christopher Gibson, Director
OCA Division of E-Filing
Office of Court Administration
25 Beaver Street, Room 926
New York, New York 10004

efilingcomments@nycourts.gov

We look forward to your comments regarding NYSCEF and the immediate proposal.

cc: Hon. Joseph A. Zayas, Chief Administrative Judge
Hon. Norman St. George, First Deputy Chief Administrative Judge
Justin Barry, UCS Executive Director
David Nocenti, Esq., UCS Counsel
Marc C. Bloustein, UCS First Deputy Counsel & Legislative Counsel

³ See *The Expansion of Electronic Filing A Report and Recommendation of the Structural Innovations Working Group*, (January 2021), at 16. Available at [CommitteeReport-eFiling.pdf \(nycourts.gov\)](#).