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January 7, 2021

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Attention: Jeffrey Carucci
Director, Statewide Coordinator for Electronic Filing
Office of Court Administration
25 Beaver Street
New York, New York 10004
efilingcomments@nycourts.gov

Re: New York State Courts Electronic Filing Program

Dear Mr. Carucci:

Please be advised that the Richmond County Bar Association supports the proposed amendment to authorize the Chief Administrative Judge to make e-filing mandatory across the state in all trial courts.

Very truly yours,
Sheila T. McGinn
Sheila T. McGinn
President

From: Timothy Wan, President
Sent: Tuesday, January 5, 2021 4:40 PM

Subject: RE: Request for Comments re: annual NYSCEF Report and proposed amendment to authorize the Chief Administrative Judge to make e-filing mandatory across the state in all trial courts

Categories: Red Category

On behalf of the New York State Creditors Bar Association, we have no objection to this. We further applaud the Courts for adapting to procedures that help mitigate the effects of COVID-19.

New York State Creditors Bar Association
Timothy Wan, Esq., President



<https://nyscba.org/>



Federal Bar Association
Southern District of New York Chapter

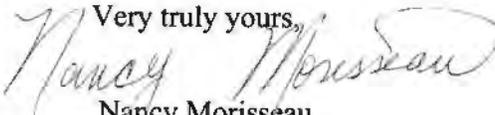
January 20, 2021

Re: New York State Electronic Filing Program

The Federal Bar Association Southern District of New York (FBA SDNY) chapter supports the proposed amendment to CPLR Article 21A and other relevant statutes authorizing Chief Judge Janet DiFiore and Chief Administrative Judge Lawrence K. Marks to make electronic filing mandatory across the state of New York – in any or all of the State’s trial courts.

We want to emphasize, however, that all electronic filings should remain free and open to the public without any cost. We are concerned, similar to concerns raised about the federal PACER system, that court filings will be walled off and inaccessible to the public unless a payment is made and that the required payment far exceeds any actual cost for the PACER system. We believe access to electronic filings should not be a source of revenue for New York State or for the judiciary as a whole. Open court records should remain just that: open and available to all without cost.

Thank you for your consideration.

Very truly yours,

Nancy Morisseau
President



Managing
Attorneys & Clerks
Association, Inc.

Peter McGowan, *President*
Owen G. Wallace, *Vice-President*
Timothy Beeken, *Treasurer*
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Ira E. Wiener
Directors

January 22, 2021

Mr. Jeffrey Carucci, *Director*
Statewide Coordinator for
Electronic Filing
Office of Court Administration
25 Beaver Street, 11th floor
New York, NY 10004

Re: New York State Courts Electronic Filing Program

Dear Mr. Carucci:

On behalf of the Managing Attorneys and Clerks Association, Inc. ("MACA"), we write in response to your December 22, 2020 invitation to comment on electronic filing in New York State for inclusion in the Office of Court Administration's 2021 annual report on e-filing. We welcome this opportunity and thank you and the Office of Court Administration for soliciting the views of the bar on this important subject.

As you know, MACA is comprised of approximately 125 mid-sized and large, litigation based law firms and corporate legal departments. Our members' positions within their respective firms and companies and concomitant responsibilities afford them a breadth of understanding of the day-to-day operations of the various state and federal court systems. In particular, our members have extensive experience with e-filing in NYSCEF, in other states' e-filing systems, and in the federal e-filing system. Additionally, some of our member firms handle matters that fall outside standard civil litigation, such as matrimonial actions, proceedings in Family Court, residential foreclosure and consumer credit actions, and matters in Criminal Court, either as part of

their regular business or on a pro bono basis. In a majority of our member firms, the actual e-filing of documents is performed by managing attorney/managing clerk staff.

Our membership tends to be heavy users of NYSCEF and has a positive view of the NYSCEF system in general. The NYSCEF system is easy to use and the platform is reliable and stable. Many of our members have had equally positive experiences dealing with the Statewide Electronic Filing Resource Center staff who always seem able to assist with any issues we may have, either at the system level or at the local courthouse level. As we have stated in previous correspondence, NYSCEF works well because of the competent technical support it receives from its developers and the user support the statewide resource center provides, from top to bottom.

The quality of the product and personnel behind NYSCEF has never been more apparent than during the Covid-19 pandemic, which has confirmed the value and efficiency to the courts and the bar of the e-filing system. At this time, as we hope to be on the way out of this global pandemic, it seems like a perfect opportunity to address how NYSCEF could be further improved and strengthened. We applaud some of the recent upgrades, such as allowing attorneys to remove themselves from receiving electronic filing notices on a case in certain situations. Other aspects of NYSCEF that we would like to see addressed and enhanced are expansion to all courts and case types and uniformity across those courts and case types. Additionally, we would like to see the development of software that will enable the court to hyperlink and bookmark documents automatically after they have been filed.

As attorneys across the state expand from local to more statewide practice, NYSCEF should be further standardized so filers will have a more consistent experience of how to proceed in any court, county, or case type. Currently, some courts or case types are paper filings, some mandate e-filing, while others permit e-filing on a consensual basis. We would like to see NYSCEF expanded to all counties and all courts, with appropriate coordination with the County Clerks, so as to make case filings in New York State courts more uniform, including the uploading by all courts of calendar notices and decisions on motions and appeals.

E-filing under seal, in particular, could benefit from more standardization across courts. The NYSCEF infrastructure in certain counties permits parties to file documents electronically under seal on a provisional or restricted basis, while others do not. The lack of uniformity causes confusion and can require considerable effort on behalf of the clerk's office and the bar to file one's papers under seal in a given court. It's particularly troublesome in large, fast-moving cases with many parties. We are cognizant that certain case types have inherent issues with confidential information, such as matrimonial actions. However, NYSCEF currently enables parties to file under seal in certain case types in certain counties, and the clerks have the ability to seal entire case files making e-filing a viable option for every case type. Where the ability to file under seal does not

exist, especially provisionally by parties, either by case type or county, that functionality should be added, and provisional e-filing under seal should be expanded to all e-filing courts and case types.

With respect to functionality, we would like to see NYSCEF further developed to include automatic hyperlinking by the court after a document has been filed. Currently, hyperlinking is only partially utilized in the Commercial Division. When required, it now falls on the filer to hyperlink the document before filing. That process requires access to software, such as Lexis or Westlaw to hyperlink to cited cases. Hyperlinking to documents previously filed on NYSCEF can be very time consuming, particularly with a large filing such as a motion for summary judgment. In many instances, time spent hyperlinking is time taken away from formulating and writing legal argument to the detriment of the litigants the courts are supposed to serve. Many litigants are spending hundreds or thousands of dollars to have a vendor hyperlink their papers for them. As we previously advocated to OCA as well as to the Commission to Reimagine the Future of New York's Courts¹, a better approach to achieve the same efficiencies is for the programmers of the NYSCEF platform to develop a process so that the court could automatically hyperlink any document after it has been filed, much like the court does with respect to converting documents to be searchable using OCR. Providing the court the ability to automatically hyperlink filed documents would make that process uniform for all filed documents and benefit jurists throughout the Unified Court System, not just the Commercial Division. Additionally, while many of our member firms have the resources to hyperlink documents prior to filing, many smaller firms do not have the resources to do so on a consistent basis. Furthermore, some filings are made on a rush basis, which further complicates a filer's ability to hyperlink the document.

In addition to hyperlinking, bookmarking has become common for documents filed on NYSCEF, and required in some situations. Bookmarking certainly makes sense as it creates ease of movement throughout a document. However, the rules on this are not uniform. While the rules require documents filed in the Commercial Division must be bookmarked, several judges require that exhibits not be bookmarked, but rather filed as individual PDFs. While this might facilitate hyperlinking to those documents at a later time, it defeats the general purpose of bookmarking.

Another function we would like to see developed is the ability to relate a document to more than one motion at a time. Currently, a filer may only link a document

¹ Attached hereto is a copy of MACA's letter to the Hon. Lawrence K. Marks, Chief Administrative Judge and Henry M. Greenberg, Esq., Chair of the Commission to Reimagine the Future of New York's Courts, dated June 19, 2020.

to one motion per filing. If the parties wish to file one stipulation to adjourn more than one related motion, the stipulation must be filed multiple times, once for each motion to which it relates. A similar situation arises if a party intends to file one set of documents in response to multiple motions, e.g., a plaintiff responding with the same set of papers to multiple motions to dismiss. The filer in this situation must file the papers separately for each specific motion. We believe a better approach would be to enable filers to “spread” the filing across multiple motions if the situation calls for that.

Overall the experience of MACA has been that NYSCEF is a mature and useful resource which deserves to be implemented to the fullest extent possible in a uniform manner across the state court system. With additional enhancements the system can become even more useful to the bench and bar.

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Thank you again for the opportunity to comment on NYSCEF. We are enthusiastic supporters of the system, and believe continued expansion and investment in both the development of new system functionality and in the programming staff and support staff is warranted.

Respectfully submitted,

Peter McGowan, Esq.
MACA President
Managing Attorney
Sidley Austin LLP
pmcgowan@sidley.com

Owen G. Wallace, Esq.
MACA Vice-President
Managing Attorney
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ATTACHMENT

MACA LETTER TO OCA AND COMMISSION TO REIMAGINE THE FUTURE OF NEW
YORK'S COURTS
DATED: JUNE 19, 2020



Managing
Attorneys & Clerks
Association, Inc.

Peter McGowan, *President*
Owen G. Wallace, *Vice-President*
Onika D. McLean, *Secretary*
Timothy K. Beeken, *Treasurer*

John D. Bové, *Immediate Past President*

Jennifer S. Candelario
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Robert T. Westrom
Fra E. Wiener
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June 19, 2020

Hon. Lawrence K. Marks
Chief Administrative Judge
New York Office of Court Administration
25 Beaver Street
New York, NY 10004

Henry M. Greenberg, Esq.
Greenberg Traurig
54 State Street
Albany, NY 12207

Proposal to Implement Hyperlinking Functionality in NYSCEF

Dear Judge Marks and Mr. Greenberg,

We write on behalf of the Managing Attorneys and Clerks Association, Inc. (MACA) respectfully to propose that the Unified Court System prioritize the development of functionality in NYSCEF that automatically converts legal citations into hyperlinks to the cited authorities and formally assign the project to the Division of Technology. We are addressing this letter to you in your respective capacities as Chief Administrative Judge and Chair of the Commission to Reimagine the Future of New York's Courts. We fully support Judge DiFiore's goal of focusing on the use of technology and online platforms to improve the New York State Court System and we believe our proposal outlined below fits squarely within this initiative.

MACA is comprised of 125 law firms with litigation practices (primarily large and mid-sized firms) as well as the Attorney General's Office. Our members' positions within our respective firms and concomitant responsibilities afford us a breadth of understanding of the processes required to get papers filed in court and the resource constraints under which the State's judicial officers and their staff labor to fulfill the judicial branch's mission of dispensing fair and impartial justice. In particular, our members have extensive experience with the time pressures involved in finalizing court papers for e-filing as well as the pace at which courts are able to render decision under the weight of sizeable caseloads.

The NextGen version of the federal courts' CM/ECF program includes a "Citations Link" feature that creates hyperlinks in text-searchable documents filed on ECF. The programming has the capability to recognize citation formats, much as NYSCEF presently is configured to recognize data that could be a social security number or financial account number as a measure to protect against mistaken filing of confidential personal information that is not redacted in conformance with Uniform Rule 202.5(e). Citations Link instantly creates hyperlinks to Lexis, Westlaw, Google Scholar or to documents filed on the ECF system, enabling judges and court staff to evaluate the parties' arguments and prepare written rulings more efficiently.

This functionality originally was developed locally by courthouse staff at the United States Court of Appeals for the Fifth Circuit who were looking for a way to make the work of their court's judges, law clerks and staff attorneys more efficient. Their homegrown programming identifies standard Blue Book citation forms and converts them to live hyperlinks. Fifth Circuit staff figured out how to do this without expending sums on outside developers and without imposing on their bar other than by requiring use of standard citation formats. Fifth Circuit staff have told us they are available to consult with Division of Technology staff on developing hyperlinking functionality in NYSCEF.

We believe such functionality should be added to NYSCEF for the benefit of every court in the Unified Court System that accepts e-filing: Supreme Court, Surrogate's Court, the Court of Claims and the Appellate Division. As new courts in the Unified Court System are equipped with e-filing, including Civil Court, Criminal Court and, in due time, the Court of Appeals, the efficiencies of hyperlinked citations would inure to judges and staff working in all of them, especially when circumstances require working remotely. Indeed, once the functionality is developed in NYSCEF, it would seem to require little further development to permit courts that still work in hard copy to scan memoranda and feed them into the system for hyperlinking just like papers that are e-filed. We are confident that New York's busy courts would have little trouble redirecting time and energy now spent on looking up authorities if hyperlinking were generally available to them.

As noted, NYSCEF already is configured to scan filings for text that matches patterns for some types of confidential personal information. That capacity to recognize textual patterns is an essential component of hyperlinking functionality like Citations

Link. Without minimizing the additional development required to add hyperlinking functionality to NYSCEF, as noted above that originally was done for the federal system by courthouse staff working in a busy appellate court. Given our years of experience working with New York Director of E-Filing Jeffrey Carucci and the excellent staff of the Statewide E-Filing Resource Center, our familiarity with the work of the OCA's very able Division of Technology, and our discussions with Fifth Circuit staff about their development of hyperlinking for their court, we believe hyperlinking functionality can be developed for NYSCEF with limited expenditure.

We are cognizant of a proposal by the Commercial Division Advisory Council to require litigants to file hyperlinked papers in Commercial Division cases. Indeed, we have commented on two different such proposals from the Council, including the one that is now pending before the Administrative Board of the Courts. While we respectfully disagree with the means the Council has proposed (litigants hyperlinking their papers before filing), we fully agree with the benefits to judicial efficiency it seeks to achieve; only, we believe the benefits of hyperlinking should be made available throughout the Unified Court System rather than be limited to a single division or category of case. Accordingly, whether the Council's proposal is approved or not, we urge the Office of Court Administration to prioritize the development of functionality in NYSCEF to permit judges and court staff throughout the Unified Court System to hyperlink legal memoranda in order to make their work more efficient and to ease the extra burdens associated with judges and staff working remotely as they have had to do during the coronavirus public health emergency.

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We are grateful to you and your respective organizations for considering MACA's views. If we can elaborate on this proposal or assist in consideration of it in any way, please let us know.

Respectfully,

Peter McGowan
MACA President
Managing Attorney, Sidley Austin LLP
pmcgown@sidley.com

Timothy K. Beeken
MACA Rules Committee Chair
Counsel & Managing Attorney,
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Richard B. Swanson

January 25, 2021

MEMORANDUM

TO: Mr. Jeffrey Carucci
Statewide Coordinator for Electronic Filing
Office of Court Administration
25 Beaver Street
New York, New York 10004
efilingcomments@nycourts.gov
Via E-Mail

FROM: Appellate Courts Committee, New York County Lawyers Association

RE: Comments on Electronic Filing

This memorandum, submitted by the Appellate Courts Committee of the New York County Lawyers Association, offers comments for inclusion in the Office of Court Administration's ("OCA's") annual report to the Legislature, the Governor, and the Chief Judge evaluating our State's electronic filing system, including the New York State Electronic Filing System ("NYSCEF"). We appreciate the opportunity to offer input.¹

In December 2017, all four departments of the Appellate Division adopted uniform rules on electronic filing (the "Rules"). See 22 NYCRR § 1245 et. seq. And in 2020, the Appellate Divisions First and Second Departments went "all digital," no longer requiring paper filing of any documents. Instead, in the First Department, papers are

¹ These comments have been approved by NYCLA's Appellate Courts Committee and approved for submission by NYCLA's President. They have not been reviewed by NYCLA's Executive Committee and do not necessarily represent the views of its Board.

filed on NYSCEF and in the Second Department papers are filed on either NYSCEF or a portal.

The Appellate Courts Committee of the New York County Lawyers Association applauds the Unified Court System's efforts to expand electronic filing. Electronic filing drastically enhances the efficiency of the court system and prevents the wasteful process of travelling to a courthouse to file paper. Still, the current e-filing system can be improved. These comments propose several simple e-filing reforms that could drastically improve the efficiency of our appellate system.

In proposing these reforms, we do not operate on a blank slate. Many of the reforms proposed below have already been previously proposed, in one form or another, in bar-association letters and reports.² Now is the time to adopt them.

A. Compilation of the Record on Appeal

The current system for providing the record to assigned counsel is inefficient, costly, and delays cases by years. Digital reform can fix this problem.

In First Department cases where counsel is assigned (a vast majority of criminal cases and a significant number of civil cases in that Department), the record that the court provides to assigned counsel is often incomplete, thus forcing assigned counsel to spend considerable resources compiling a complete record.³ Relevant transcripts are often not provided. Papers filed with the trial court are often absent from the record, meaning that counsel must dig through the paper court file to assemble a complete record. And hearing and trial exhibits are, as a matter of established practice, *never* part of the provided record and are instead only provided upon a request to the party who introduced them, which often takes months to fulfill. Even worse, these exhibit requests are fulfilled at the taxpayer's expense as the prosecution

² See Exhibit A, which attaches the following materials: NYCLA Statement, *Electronic Filing and Service During the Current Pandemic* (March 25, 2020); New York City Bar Association, Criminal Justice Operations Committee, Criminal Advocacy Committee, and Criminal Courts Committee, Letter to O.C.A. and Presiding Justices of the First and Second Departments, *Delays Associated with Compiling the Record on Appeal in Criminal Cases* (March 5, 2020); NYCLA, Appellate Courts Committee, Letter to the Presiding Justices of the Appellate Courts, *Proposals for Reform of Appellate Procedures in the First and Second Departments* (July 3, 2018); NYCLA, Appellate Courts Committee, Letter to the Clerk of the Court of Appeals, *Electronic Service of Applications for Leave to Appeal in Criminal and Civil Appeals* (July 13, 2018).

³ The situation is even worse in the Second Department. There, the record is not provided at all; instead, assigned counsel must compile the record from scratch on his/her own.

and other state agencies must spend resources scouring old files for exhibits that were admitted years earlier.

Once the record is complete, it still takes years after judgment is imposed for the court system to provide it. It often takes at least a year for counsel to be assigned post-judgment. At that point, the court orders the provision of the transcripts/record to assigned counsel, a process that routinely takes another year. So, for instance, appellate counsel may not receive a viable record on appeal from a May 2014 judgment until May 2016 or even later. This delay hurts individuals seeking appellate relief. And it hurts the government's interests because, if a judgment is reversed, new proceedings must take place many years after the initial proceeding, thus injecting the risk of absent witnesses, stale memories, and outright loss of evidence.

To improve this inefficient system, OCA should enact a rule requiring the following simple changes:

- the OCA CRIMS record sheet, which lists all of the court appearances in criminal cases, must be filed on NYSCEF so appellate counsel can have easy access to information that will allow for a determination of the record's completeness;
- transcripts should be uploaded onto NYSCEF so the parties can have easy access to them;
- all materials filed in the trial court and/or contained in the court file must be filed on NYSCEF, including jury notes, *in limine* motions, and substantive email correspondence with the trial court (such as requests to charge, which are often done through email); and
- a copy of each exhibit must be made part of the record and placed on the NYSCEF file.

These reforms will do a lot of good. They should be adopted.

B. The Court of Appeals Should Go All Virtual

Although the Appellate Divisions have gone virtual during the Pandemic, the Court of Appeals has unfortunately not done so. Briefs and records, often collectively consisting of a thousands of pages, must still be filed in paper copy, as must motions for leave to appeal. Fortunately, the Court has recently (effective January 2021) created a new e-filing portal which allows for parties to file electronic copies of motions for leave to appeal in criminal and civil cases. But while the Court has abandoned the cumbersome requirement that copies of the Appellate Division

briefing must be filed in paper, it still requires paper copies of the motion papers and letters.

The Court of Appeals should nullify any paper-filing requirements as doing so will enhance efficiency and save the taxpayer millions of dollars over a decade on the costs associated with printing/shipping of millions of pages of paper (when papers are filed and served by assigned or government counsel). In turn, the Court of Appeals should join the NYSCEF filing system so papers can be filed there.

At a minimum, the Court of Appeals should amend all of its rules to render a paper timely filed if the digital copy is uploaded by or on a deadline. The Court's current rules pin the filing date to the date the paper copy is received by the Court in Albany. This rather arbitrary rule puts the parties at the mercy of the mail. Justice should not be pinned to factors outside the party's control. Nor should attorneys have to endure anxiety and time tracking packages, contacting postal services to determine the status of packages, and contacting the court to confirm that a paper has been received. Instead, as in virtually every other court system of which we are aware, a paper should be deemed filed when it is electronically submitted.

C. The Second Department's Technical Citation Requirements

E-filing works wonders for busy attorneys. But the imposition of hypertechnical and time-consuming e-filing rules wastes precious time. The Second Department's cumbersome citation rules for e-filed cases is wasteful and should be modified.

In the Second Department, filings must comply with a set of "Technical Guidelines." Among them are requirements that authorities cited within filings must be "Bookmarked" or "Hyperlinked." Under the Technical Guidelines, litigants who opt for bookmarking must: (1) compile all of the authorities cited into pdf files, (2) merge those files into one compendium, (3) annex that compendium to the filing, and (4) manually bookmark each cited authority. Those who opt for hyperlinking must, for each citation in the filing, manually create a hyperlink to the website where the source is located. For an average-length appellate brief, we have found that both methods require between two and a half to three hours to complete.

This requirement comes at a tremendous cost for appellate practitioners and produces little benefit. For one, appellate counsel must purchase expensive pdf-writing software. Worse, counsel must spend valuable time complying with the intricacies of the Technical Guidelines rather than tending to clients' needs. Indigent clients represented by institutional providers suffer the most. Purchasing the required software licenses creates budgetary headaches for providers. Additionally, since many institutional providers have limited support staffs, formatting responsibilities fall onto attorneys who must divert time and energy away from legal work and client communication in order to bookmark and hyperlink their filings.

In sum, there should not be any technical citation requirements. Instead, a table of authorities suffices.

D. Improving Access to Transcripts

Ready access to electronic copies of transcripts is essential to good lawyering and the fair administration of trial-level and appellate justice. Nevertheless, in assigned-counsel cases, transcripts are still routinely delivered in paper copy to the courts and the parties. This is senseless and wasteful. Transcripts should be provided in electronic copy because doing so is cheaper and far more efficient than printing out hundreds (and at times thousands) of pages and transporting those pages to the recipients. And once the court system receives a transcript for an appeal, it should immediately upload that transcript onto the NYSCEF system so it will be available to all parties. This change will speed up the appellate process by many months.

Further, the court system should ensure that there are no price distinctions between PDF and paper copies of transcripts. PDF copies should never cost more than paper.

E. Rejected E-Filings

Courts routinely reject e-filings that do not comply with formatting and e-filing requirements. The manner in which they do so is often unhelpful. Often, the courts provide neither an explanation of where in the filing the defects appear nor a person to contact regarding their rectification. This can lead to practitioners spending valuable time trying to obtain guidance on how to fix (often minor formatting) errors. OCA should require courts to provide contact information for the person(s) who deem filings defective and eliminate the waste of time and resources current conventions produce.

Respectfully Submitted,

Appellate Courts Committee,
New York County Lawyers Association

EXHIBIT A

STATEMENT OF THE NEW YORK COUNTY LAWYERS ASSOCIATION
Electronic Filing and Service During the Current Pandemic

In response to the current pandemic, some, but not all, New York courts have relaxed the rules governing the filing and service of legal papers by permitting electronic filing and service. And as of March 22, 2020, the Administrative Order of the Chief Administrative Judge of the Courts prohibits filings except in certain enumerated matters and those matters deemed “essential.”¹

To ensure the safety of the thousands of individuals involved in the filing, service, and review of legal documents, we recommend that New York appellate and trial courts, in both civil and criminal cases, quickly enact a rule that requires electronic service/filing of all legal documents and prohibits paper service/filing. See C.P.L.R. § 2103(b)(7) (authorizing the chief administrator to create rules governing e-service). This proposed rule would not require the establishment of any new e-filing systems but would instead merely require courts and litigants to make e-mail addresses available for electronic filing. This rule will facilitate filings in those cases where filing is currently permitted under the March 22nd Order and will continue to facilitate filings once that order is lifted some time in the future.

An exception to this proposed electronic-filing rule should be made for (1) incarcerated individuals and (2) *pro se* litigants who, due to financial, technological, or other hardship, cannot file documents electronically. This rule would be temporary in light of current circumstances and should remain in effect until subsequent rule modification.

This rule should not require consent of the parties and should simply require that courts and litigants make all reasonable efforts to provide an avenue for electronic service and filing. In virtually all pending cases, these avenues are already in place as parties already have access to court and party e-mail addresses. And if e-mail addresses are not currently available to accommodate this simple method, arrangements can easily be made to facilitate electronic filing and service. We are confident that attorneys and courts can, with ease, quickly adapt to this simple change.

We further recommend that the court system continue to make efforts to permit oral argument *via* video or telephone conference during this difficult period.²

¹ <https://www.nycourts.gov/whatsnew/pdf/AO-78-2020.pdf>

² The New York County Lawyers Association was founded in 1908 as one of the first major bar associations in the country that admitted members without regard to race, ethnicity, religion or gender. Since its inception, it has pioneered some of the most far-reaching and tangible reforms in American jurisprudence, including through the work of its many committees that provide in-depth analysis and insight into legal practice areas. A version of this statement was approved by the Committee on Appellate Courts on March 22, 2020. The Executive Committee approved this statement as a Statement of the New York County Lawyers Association at its regular meeting on March 25, 2020.

1 West Main Street, 4th Floor
Rochester, NY 14614

Tele: (585)325-2520
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January 25, 2021

Jeffrey Carucci, Dir.
Statewide Coordinator for
Electronic Filing
Office of Court Administration
25 Beaver Street
New York, New York 10004

Dear Mr. Carucci,

I write on behalf of LawNY to submit comments on electronic filing and whether it should be made mandatory. LawNY is a non-profit law firm representing low-income clients in civil matters free of charge. We cover 14 counties in Western New York, most of which are rural counties, and we have seven offices across those counties. LawNY strongly urges that electronic filing be made mandatory in almost all matters, except for pro se litigants and attorneys who are not able to file electronically due to a lack of competence and/or technology in this area.

Requiring electronic filing will greatly increase access to justice for litigants. This is because it enables an office like LawNY, with a large service area, to instantly obtain court documents in a case that has already been opened or in a case that is being considered for intake. Instead of sending someone to the court to copy the file, which can easily take up half a day, the attorney handling the case can download the entire court file in a matter of moments at her desk. The electronic filing system automatically serves all other parties with any document that is filed, almost instantaneously, further saving time and energy that can be directed elsewhere. Finally, the current system results a patchwork of different courts using different methods of filing. For practitioners working within a large service area the lack of uniformity is annoying. It is hard to see what the benefits are to such a system, and the drawbacks are many.

The pitfalls of a lack of mandatory electronic-filing have been brought into sharp relief during the COVID-19 pandemic. The necessity of filing papers, and copying court files in person became a public health hazard both for attorneys and court staff. This forced the courts to stand up the EDDs system. While EDDs worked well in some jurisdictions, there were at least two supreme courts within LawNY's service area that simply refused to set up the EDDs system within their courts. This caused our attorneys to have to drive for long distances and then physically interact with court staff just to get something filed. This again put our attorneys' health at risk. When we inquired about this, we were told that the administrative judges cannot force a court to implement EDDs. This is a sign of a highly dysfunctional system; a system with insufficient centralized control.



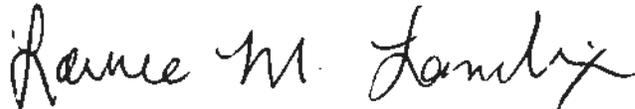
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We strongly urge that mandatory electronic filing be adopted across the board in New York State. It is baffling that this has not already happened. Workers in all fields of employment have had to keep pace with changes in technology and adapt to new systems, and the legal profession should be no different. It is time for the court system to join the 21st century and implement mandatory e-filing.

Thank you for your consideration.

Respectfully submitted,



Laurie M. Lambrix
Director of Litigation and Advocacy



From: Victoria Esposito <VEsposito@Lasnny.org>
Sent: Monday, January 25, 2021 2:38 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments re: proposed efilng rules

Dear Mr. Carucci,

I am attaching our attorneys' comments re: mandatory e-filing. Please note that both these attorneys practice in fairly rural areas.

Please do not hesitate to contact me should you have any questions or concerns.

Respectfully,

Victoria Esposito

- 1) My biggest concern is of course justice courts. While I understand that this proposal would come with funding to upgrade technology and provide training, I remain extremely skeptical. Many of these courts lack email and reliable fax let alone have the ability to upgrade to efilng and virtual proceedings. Is it possible to do? Of course, but I fear it's more daunting than perhaps may be realized. As we've seen through the COVID19 discussions, there seems to be very poor understanding of just how technologically barren many of these courts are. Currently, I have experienced justice courts having poor audio recording, poor record management, refusing to accept money for the sake of undertakings or stays claiming they lack the capacity to do so, etc. This is all after the changes to justice court in 2006, the alleged increase in trainings, and existence of the hotline for assistance. I can't find what the actual exemptions are for pro se litigants (admittedly, I did not look very hard) and I'm assuming it's strictly a pro se litigant is not required to e-file period, the end. If so, I'm ok with that. If there is any judicial oversight in determining who is exempt and who isn't, I'm extremely skeptical of that as well. So to sum up, while this states this proposal is contingent on assessing and implementing sufficient technological upgrades and training, I feel that this has been promised before and has fallen short to the harm typically of indigent Respondents/Defendants.
- 2) There should be a far easier way in which to change attorneys for cases pending. When I started there were a number of cases which the prior attorney was involved in, but e-filing does not allow you access to those or to make filings as they are not listed as "your cases." I believe this is technical in nature as well, as we sign our papers as "of counsel" to LASNNY and the individual attorney is not the counsel of record.) For LASNNY and similar organizations there should be an easier mechanism. There should be easier access between the e-file system and the docket listing for the courts, a hyper link if possible. For the area up here, are the Town and Village Courts (and our 1 city court) going to be brought into the fold on this? It would make life much easier up here.

Victoria Esposito

(she/her/hers pronouns)

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www.mobilizationforjustice.org

January 25, 2021

Jeffrey Carucci, Dir.
Statewide Coordinator for
Electronic Filing
Office of Court Administration
25 Beaver Street
New York, New York 10004

Submitted via email to efilingcomments@nycourts.gov

Re: Request for Public Comment on the New York State Courts Electronic Filing System

Dear Mr. Carucci:

On December 22, 2020, the Office of Court Administration (“OCA”) issued a notice seeking comments for inclusion in its annual report evaluating the State’s experience with the New York State Courts Electronic Filing System (“NYSCEF”).¹ The notice also requested feedback on a proposed amendment to CPLR Article 21-A that would make e-filing mandatory in certain cases. In response, Mobilization for Justice, Inc. (“MFJ”) has prepared comments reflecting our attorneys’ experiences with e-filing and addressing the recommendation by the Online Courts Working Group of the Commission to Reimagine the Future of New York’s Courts for mandatory e-filing across the State.²

MFJ envisions a society where there is equal justice for all. We endeavor to achieve social justice by prioritizing the needs of people who have low incomes, have disabilities, are elderly, and/or are disenfranchised by providing direct civil legal assistance and community education, partnering with other organizations, engaging in policy advocacy, and commencing impact litigation. In the past year alone, MFJ has provided legal assistance to 5,155 individual clients and helped a total of 10,828 New Yorkers. Because MFJ is a Universal Access to Counsel (“UAC”) provider, many of our attorneys primarily practice in New York City’s Housing Courts located in Manhattan, the Bronx, and Brooklyn and represent tenants facing eviction. MFJ’s attorneys also represent senior clients in Manhattan Housing Court through the Assigned Counsel Project (“ACP”) and represent

¹ *New York State Court Electronic Filing Program*, UNIFIED COURT SYSTEM OFFICE OF COURT ADMINISTRATION, Dec. 22, 2020, <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/NoticeInterestedParties.pdf>.

² *Initial Report on the Goals and Recommendations for New York State’s Online Court System*, ONLINE COURTS WORKING GROUP OF THE COMMISSION TO REIMAGINE THE FUTURE OF NEW YORK’S COURTS, Nov. 9, 2020, at 1, 11, <http://www.nycourts.gov/whatsnew/pdf/OCWG-Report.pdf>.

tenants in Housing Part (“HP”) actions for repairs in the Bronx, Manhattan, and Brooklyn Housing Courts.

Since Governor Andrew Cuomo declared a State of Emergency in March 2020 due to the COVID-19 pandemic³ and Chief Administrative Judge Lawrence Marks authorized the use of e-filing in Housing Court,⁴ e-filing has become a necessary tool that MFJ’s attorneys have come to rely on in order to continue to provide high-quality legal representation to our clients. MFJ recognizes the many benefits that e-filing provides for practitioners, including the ability to quickly access court documents for current and potential clients and expeditiously file emergency applications with the Court. However, MFJ also acknowledges the need to balance the benefits of the continued and expanded use of e-filing against litigants’ need for privacy and the needs of those litigants who are pro se and/or who have limited or no access to technology. Our comments and recommendations regarding the continued and expanded use of e-filing and the proposal that e-filing be made mandatory across the State are provided in detail below:

I. Rules Must Be Enacted to Protect Litigants’ Privacy Concerns and Prevent the Improper Use of Court Documents by Third Parties.

a. Litigants’ Personal and Sensitive Information Must Be Adequately Protected.

Housing Court filings necessarily contain a vast amount of information about tenants including, at minimum: the tenant’s name; address; names of family members residing with the tenant; the tenant’s monthly rental obligations; and the presence of rental subsidies. In addition to this information, Housing Court files often include Confidential Personal Information (“CPI”), as defined by Uniform Rules for the New York City Civil Court (22 New York Code of Rules and Regulations (“NYCRR”) § 208.4(b), such as birth dates, social security numbers, financial account numbers, and the full names of minor children. Frequently, this information is not properly redacted as required by the existing rules.

In addition to CPI, Housing Court files often contain other sensitive personal information, including medical and mental health information. Such information frequently includes: assessments by Adult Protective Services (“APS”); medical and mental health evidence submitted in connection with applications for the appointment of guardians ad litem; medical or mental health evidence submitted to establish a reasonable excuse to vacate default judgments; documentation relating to drug or alcohol abuse or treatment; and evidence regarding tenants’ participation in the HIV/AIDS Services Administration (“HASA”) subsidy program. Such information is often filed without redactions.

With e-filing, improperly filed CPI and sensitive information is instantly made available to the public, and nothing prevents NYSCEF users from viewing and/or downloading that information.

³ See Executive Order 202, Mar. 7, 2020, https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/EO_202.pdf (Declaring a Disaster Emergency in the State of New York).

⁴ See Administrative Order 115/20, May 28, 2020, <http://nycourts.gov/whatsnew/pdf/AO-115-20.pdf> (superseded by Administrative Order 267/20).

Once confidential or sensitive information has been disseminated in the public sphere, an order to seal the file cannot remove the improperly disclosed information from the public domain. Additionally, with the expanded use of e-filing, tenants' personal information, although already public, has become much more readily accessible. Widespread access to the information contained in Housing Court files may subject tenants to possible identity theft and could even jeopardize the safety of survivors of domestic violence who have a strong interest in shielding their personal information from their abusers. Expanded e-filing could also compound the existing problem with tenant screening reports, also known as the "tenant blacklist," which identifies tenants who have appeared as a respondent in a Housing Court proceeding as a means for landlords to deny their application for new housing. Although the Housing Stability and Tenant Protection Act of 2019 ("HSTPA") banned the use of blacklisting by enacting Real Property Law ("RPL") § 227-f, blacklisting may continue and will be made easier by the expanded use of e-filing if there is no mechanism in place to ensure that the information contained in court files will not be used to unlawfully discriminate against tenants.

Failing to enact adequate safeguards to protect individuals' personal information will undoubtedly prejudice vulnerable litigants by deterring them from seeking certain forms of relief that may require disclosure of sensitive information. Accordingly, MFJ recommends that the NYSCEF site enable litigants to "flag" CPI or other potentially sensitive information that has been improperly e-filed without redactions. Once "flagged" on the NYSCEF website, the material should be temporarily unavailable to the public until the litigant can make the appropriate motion to seal the confidential or sensitive information and permanently restrict its public access on the NYSCEF system. If the litigant fails to make an appropriate motion, the "flagged" documents should revert to being publicly accessible after an established period. Such a system would balance the Court's interest in maintaining publicly accessible records against private litigants' interests in limiting the wide dissemination of CPI and other sensitive information.

Litigants should also be permitted to e-file documents or statements containing sensitive medical information, such as references to HIV/AIDS status, mental health diagnoses or treatment, and references to drug or alcohol abuse or treatment under seal. Unfortunately, the current process used to file motions to seal imposes unnecessary burdens on advocates and unrepresented litigants alike. For example, in the New York State Supreme Court, the process for e-filing sensitive documents with a "restricted" status, which limits access to the documents to court staff and the parties while a motion to seal is decided, requires obtaining a signed temporary restraining order ("TRO") within five business days.⁵ If a litigant is unable to obtain a signed TRO within five business days, or simply fails to bring the signed TRO to the clerk's attention, the sensitive documents automatically lose their restricted status and become available to the public. The alternative to e-filing a motion to seal and TRO, and risking that sensitive documents will automatically be made publicly available on the NYSCEF website, is to file a hard copy of the motion to seal and supporting documents in person.

MFJ recommends that the current requirement imposed in the New York Supreme Court, that documents automatically lose their "restricted" status if a signed TRO is not obtained within a

⁵ *Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases*, SUPREME COURT, CIVIL BRANCH, NEW YORK COUNTY, HON. MILTON A. TINGLING, COUNTY CLERK OF NEW YORK COUNTY, at 10-11 (revised Aug. 15, 2019), <https://www.nycourts.gov/LegacyPDFS/courts/ljd/suptctmanh/Efil-protocol.pdf>.

five-day period, be eliminated completely or, at a minimum, replaced with a much longer timeframe to reduce the risk that litigants' confidential and sensitive personal information will become publicly available on the internet due to their failure to obtain a signed TRO within a short timeframe. This change will make it more likely that litigants and legal advocates will e-file motions to seal and related documents, thereby reducing the burdens imposed on Courts and litigants by in person filing. MFJ also recommends that a similar system be enacted in the Housing Court.

b. Third Parties Must Be Required to Provide Proof of Identity Before Accessing Court Files on NYSCEF.

The current system for reviewing Housing Court files in person requires individuals to fill out a requisition card with their name and address and present it to the Housing Court clerk along with identification. The requisition cards are then preserved in the court file, thereby maintaining a paper trail of who has accessed the file and when they accessed it. In contrast, the current NYSCEF system allows anyone to use the NYSCEF website to search for case files anonymously as a "guest." MFJ recommends that, consistent with the Court's long-standing practice of requiring individuals to provide identification in order to review physical court files, a NYSCEF user should be required, at a minimum, to create an account with their name and address in order to access documents on NYSCEF. Moreover, registration for a NYSCEF user account should only be permitted where a court employee can verify the person's identification as matched to an account, unless the user is an attorney registering with their attorney registration number. The requirement of providing one's name and address will help discourage inappropriate uses of information contained in Housing Court files.

Additionally, when registering for an account to access NYSCEF, and prior to searching for Housing Court cases on NYSCEF, a non-party user should be required to certify that the information contained in the Housing Court file cannot be used to "refuse to rent or offer a lease to a potential tenant," consistent with RPL § 227-f. Although this will not serve as a complete deterrent against unlawful tenant blacklisting, such a measure will help to educate the public about the consequences associated with the improper use of Housing Court records.

c. Court Records Should Be Available on NYSCEF For a Limited Time Only Following the Resolution of a Case.

Housing Court records should not be preserved on the NYSCEF site indefinitely. To further protect litigants' privacy, the e-filed court file should only be accessible via terminals at court houses after a certain amount of time has passed following the conclusion of a case. This will balance the public's right to access court documents against the concern that the NYSCEF site could become a database used by third parties to mine for litigants' personal information and blacklist tenants.

II. A System Must Be Established to Ensure the Availability of Complete Court Files in Active E-Filed Cases.

- a. Essential Documents, such as the Petition and Predicate Notices, Must Be Made Available on NYSCEF in E-Filed Cases.

There are currently thousands of active cases in the Housing Court that were filed prior to the COVID-19 State of Emergency and converted to e-filing long after those proceedings were commenced.⁶ As a result, there are many cases in which the court file available on NYSCEF only contains a fraction of the case documents. One common example are Housing Court cases where the landlord commenced a proceeding against a tenant in person, obtained a judgement prior to the COVID-19 State of Emergency, subsequently converted the case to e-filing, and then made a motion to execute the warrant pursuant to DRP-213.⁷ In those cases, the available documents on NYSCEF primarily consist of: the case summary prior to conversion, a court document compiled by the Court that lists what occurred at each court appearance; the landlord's rent ledger (in non-payment proceedings); and the court order awarding the judgment. Crucially, the online court file is frequently missing the documents tenant advocates need in order to represent their clients zealously and effectively, such as the petition and relevant predicate notices.

When court documents are missing from the online court file, the onus falls on the respondent's attorney to obtain copies of the missing documents. Although tenant attorneys will typically first request copies of the missing documents from the landlord's attorney, such requests are often fruitless because many landlord's attorneys lack access to their full court files while working remotely. When this is the case, tenant attorneys are forced to ask the Court to provide copies of court documents via email. Although most judges and their staff are responsive to requests for digital copies of court files, the Court has yet to adopt a uniform approach to handle these types of requests. Additionally, at least one attorney has reported that a judge declined to email her copies of a court file and the judge's clerk advised the attorney to obtain a copy of the Housing Court file in person at the courthouse, notwithstanding the COVID-19 pandemic.

To address the logistical challenges imposed on litigants by incomplete electronic case files and to ease the burden imposed on the Court by having to field countless requests for digital copies of court files, MFJ recommends that a rule be enacted requiring attorneys to upload all documents they have filed in a proceeding once the case is converted to e-filing. For example, in a Housing Court case, the landlord's attorney could annex the missing court documents to their application to convert the case to e-filing and the application should not be granted unless and until the necessary documents have been uploaded to NYSCEF.

⁶ See Administrative Order 87/20, May 1, 2020, <https://www.nycourts.gov/whatsnew/pdf/AO-87-20.pdf> (expanding use of e-filing).

⁷ DRP-213, Aug. 12, 2020, <http://www.courts.state.ny.us/courts/nyc/SSI/directives/DRP/DRP213.pdf> (Management of Pre-Pandemic Eviction Proceedings in the New York City Civil Court (Part I)).

- b. A System Must Be Enacted to Ensure that “So-Ordered” Stipulations are Consistently Uploaded to NYSCEF by the Court.

Another logistical challenge posed by e-filing, at least in the Housing Court, is the fact that there is no system in place to ensure that “so-ordered” stipulations are filed on NYSCEF. As a result, in many cases, the only record available regarding the resolution of a case will be an email from the Court to the attorneys litigating the case that contains the “so-ordered” stipulation as an attachment. If an attorney wants the “so-ordered” stipulation to be e-filed, they must then take the additional step of asking the Court to upload the document. It is imperative that the complete case record be available in e-filed cases to ensure equal access to information and compliance with “so-ordered” stipulations. As such, MFJ recommends that a mechanism be put in place to ensure that the Court automatically uploads stipulations within a reasonable time after they are “so-ordered.”

III. CPLR Article 21-A Should Be Amended to Require Mandatory E-Filing in Certain Cases.

- a. E-Filing Should Be Mandatory in Cases Where All Parties Are Represented.

E-filing has become an essential tool for attorneys representing individuals with low incomes because it: provides an efficient way to quickly check case files; permits the filing of documents without the expense of mailing; saves time that would otherwise be spent commuting to court to file documents in person; and prevents entire court files and motions from being lost as they are physically transferred from one part of the court to another. Indeed, it is not uncommon for motions – such as time-sensitive orders to show cause – to be lost in the Housing Court when they are filed in person.

Another benefit of e-filing is that it removes the discretion of the court clerks at the filing window to reject filings in person. A frequent problem experienced by MFJ attorneys and advocates practicing in the Housing Court is that clerks will decline to accept court papers. For example, when one MFJ attorney tried to file an amended answer in person at the Bronx Housing Court, the clerk informed the attorney that she could not file the amended answer because there was already an answer in the file. The attorney was then forced to contact the presiding judge in the case and the judge had to then call the clerk so that the attorney could file the amended answer. Another attorney also reported that the clerk at the window declined to let her file an amended answer – the attorney was able to file the amended answer later that week when she spoke to a different clerk. Accordingly, MFJ enthusiastically welcomes the continued implementation of an e-filing system that will eliminate these sorts of needless roadblocks that only serve to increase the burden imposed on the already-strained court system, litigants, and legal advocates.

Although MFJ supports e-filing in cases where all parties are represented by counsel, it believes that the exception that allows pro se litigants to proceed in person should remain because many unrepresented litigants lack the technology – such as access to the internet, smart phones, and computers – and/or technology skills required to adequately represent themselves in e-filed cases. Indeed, because e-filing requires a computer or smartphone and a wi-fi connection, there is an unsurmountable cost prerequisite to using NYSCEF for certain litigants. MFJ strongly believes

that no pro se litigant should be penalized and prejudiced due to their lack of sufficient funds or access to technology.

b. Opt-In to Consensual E-Filing by Pro Se Litigants Should Require an Explanation by the Judge on the Record.

The current rules provide a consensual e-filing program that allows petitioners to commence proceeding by e-filing and requires respondents—whether pro se or represented by counsel—to opt-in pursuant to 22 NYCRR §§ 208.4-a(b)(3) and 202.5-b(b)(2). The current rules provide that an unrepresented litigant may consent to e-filing “provided the clerk shall first have explained his or her options for e-filing in plain language.” § 202.5-b(b)(2)(ii). However, MFJ recommends that any consent to e-filing by a pro se litigant require that the presiding judge explain what it means to consent to e-filing on the record, just as a stipulation must be explained pursuant to RPAPL § 746. This change will help ensure that pro se litigants understand the risks associated with e-filing, and that they may not get notice of new court dates or motions made by the opposing party unless they check their e-mail. Unrepresented litigants may feel pressured to opt-in to e-filing or may misunderstand the process and, thus, may opt-in without understanding that they are free to ignore the notice about consensual e-filing. The only way to ensure that an unrepresented party’s rights are protected is to have such consent be given on the record at a court date. The “notice of electronic filing (consensual case)” form should also be amended for use in Housing Court to explain that a pro se litigant must give their consent to the presiding judge on their first court date following conversion.

IV. Conclusion

We thank you for this opportunity to provide feedback regarding e-filing and the proposed amendment to CPLR Article 21-A. We hope our comments will assist you in continuing to improve the e-filing system and promote access to justice for the benefit of all New Yorkers.

Please do not hesitate to contact me directly if you have any questions.

Very truly yours,

s/ Cristina Quiñones-Betancourt
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**Legal
Services NYC**
DEMAND JUSTICE

February 1, 2021

efilingcomments@nycourts.gov

Mr. Jeffrey Carucci

Statewide Coordinator for Electronic Filing

NYS Unified Court System

New York County Courthouse

60 Centre Street, Room 119M

New York, New York 10007

Re: Request for Comments on Electronic Filing Program

Dear Mr. Carucci:

Thank you for the opportunity to comment about the proposed expansion of electronic filing in New York State Courts and the impact the expansion would have on our clients and unrepresented litigants in consumer debt collection cases.

Manhattan Legal Services is part of Legal Services NYC (LSNYC), the largest civil legal services provider in the country, with offices in the Bronx, Brooklyn, Queens, Staten Island and Manhattan. LSNYC fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. For over fifty years, LSNYC has challenged systemic injustices and ensured the well-being of communities across the city. This work includes preventing evictions and preserving housing; demanding access to high-quality education, health care, and economic security; ensuring safety and stability for survivors of domestic violence and immigrants; and fighting for the dignity and respect of all New Yorkers.

LSNYC provides full representation to low-income New Yorkers in the areas of consumer law, including, but not limited to, representing consumers who are defending debt collection lawsuits, as well as advocating for those whose bank accounts have been restrained, or whose wages are being garnished, and filing affirmative cases against debt collectors for violations of the Fair Debt Collection Practices Act. The majority of the clients I represent in consumer matters are elderly and/or disabled, and many of them are limited English proficient (“LEP”).

E-filing platforms should only be expanded if the expansion benefits *pro se* litigants in addition to court personnel and attorneys

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Peggy Earlsman, Project Director

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The majority of attorneys who use e-filing find it much more convenient than having to file and serve hard copies of papers, but this is not necessarily true of the self-represented.

Many studies have established that low income communities of color are disproportionately affected by debt¹, and that more default judgments are entered for people living in those communities than in others that are more privileged.² Low income communities which are most subject to default judgments are the least likely to have the technology needed to benefit from e-filing,³ Ironically, expanding e-filing has the potential to increase the number of default judgments.

Debt collectors have a long history of abusing the court system by filing a high volume of debt collection cases without sufficient review to verify the debt is valid.⁴ Expanding e-filing will make it faster and cheaper for plaintiffs to file court cases and obtain default judgments without making it easier for *pro se* defendants to defend themselves.

Example:

My office has sued a number of debt collection law firms for filing cases against consumers without a legal basis. Many of these law firms file literally thousands of court actions per year, although they may have ten or fewer attorneys on staff. Expanding e-filing to civil court, where the bulk of these collection cases are filed, will allow them to file motions for default and summary judgment in even higher numbers than they do at present without expanding their staff, and reduce the amount of attorney involvement in each additional case even more.

Debt collectors often file more than one lawsuit against a consumer at a time. Because many of these cases are filed by the same debt buyer and give little or no information about the original creditor, many *pro se* defendants assume the complaints are duplicates and end up defaulting on one or more of them.

Ms. D was served with multiple debt collection lawsuits at the same time by a single debt buyer, so the named plaintiff was identical in all the actions, although the debts involved different credit cards. Ms. D had no idea that there were three court cases against her until she met with me and had already defaulted on one of the actions.

The higher rate of filings made possible by e-filing will only exacerbate this problem.

Most *pro se* litigants lack the technology to be able to use e-filing

If *pro se* consumers had equal access to e-filing, it would help to level the playing field, but that is not currently the case. People who are being sued in debt collection actions are

¹ <https://www.propublica.org/article/debt-collection-lawsuits-squeeze-black-neighborhoods>

² <https://www.neweconomynyc.org/wp-content/uploads/2018/11/Press-Release-CY-PRES-TO-CLARO-11-9-2018-maps.pdf>

³ <https://www.gothamgazette.com/opinion/10022-time-bridge-new-york-digital-divide-heres-how-wifi-internet>

⁴ <https://www.issuelab.org/resources/15013/15013.pdf>

predominately low income and lack financial resources. Most do not have computers or a stable internet connection. For many of them, the only technology they possess that can be used for e-filing is a smart phone. They don't have or know how to use docu-sign or how to save a word document into a PDF document and have no access to a word processing program, printer or scanner.

E-mail, which many of us take for granted, is not used by a majority of my clients and those who do have an e-mail account do not check it regularly.

Most don't know how to set up an account with a username and password and have to be helped to do so. It has taken me half an hour or longer to assist clients to open an account because they simply are not used to choosing a password and struggle to do so given the requirements for numbers and special characters many platforms now have.

Pressures *pro se* litigants feel to opt into e-filing and their lack of understanding of what it entails.

In courts that already have mandatory e-filing, *pro se* litigants have little or no understanding of what e-filing consists of at the time they must make a decision on whether or not to opt in. The clerks do not have time nor is it their role to explain how e-filing works. The forms that accompany the hard copies of complaints that notify the defendant of e-filing options are often incomprehensible to the self-represented. Pre-COVID, when they went to court, the unrepresented were encouraged to opt in, being told that it means they won't have to go to court as often. During COVID, many people feel an added pressure to opt in because they do not want to put their health at risk by traveling to the court and sign up only to find out later that they cannot use the system.

Example:

Mr. F. signed up for e-filing because he was elderly and disabled. He had suffered a traumatic brain injury which affected his judgment as well as his memory. His disability and lack of technology prevented him from being able to actually participate in e-filing. He had to go to court and ask the clerk to assist him every time he had to file a paper. The only technology Mr. F had was a smart phone with a limited data plan. Once he used up his data for the month, he could no longer receive e-filing notifications because he had no internet service and missed several important notifications.

Menus that seem simple and straightforward to attorneys can be incomprehensible to a *pro se* litigant who has never heard of an RJJ and does not know what a motion is, or an exhibit, or an affidavit. In addition, a significant number of my clients are illiterate, or have limited literacy, presenting another challenge to using the system.

Many unrepresented litigants have their papers rejected repeatedly because they do not understand the categories and choose the wrong one when filing papers. Others are defeated by a message that pops up saying they have to pay a fee for filing that they

cannot afford and NYSCEF does not make it clear that they can request a fee waiver or how to do so.

Example:

Ms. S is a college graduate and has a working computer. She went to court to file an answer, but she had not known it had to be served before filing. The clerk told her if she consented to e-filing, she could file the answer that day. Not wanting to have to return to court, she opted in. She was unable to navigate the NYSCEF system for future filings. She missed several e-mail notifications because the case had been inactive for an extended period of time before the plaintiff filed a motion and notifications went into her spam folder. I was giving Ms. S pro se assistance and I had signed up for e-track notifications, so I was able to alert her to the filing, but Ms. S was unable to file a response herself because her username and password no longer worked, or she remembered them wrong. Once she was finally able to access NYSEF, she did not understand what an RJF was or how to get fees waived and as a result, paid a fee she could not afford that she should not have had to pay.

All too often, consumers sued in Supreme Court who opt into e-filing because they think it will save them trips to the courthouse end up having to bring hard copies to the courthouse to be filed because they lack the resources to e-file them from home. In addition, pre-COVID, many judges required hard copies of motion papers be brought to the court on e-filed cases, so the defendants still had to go to court. For low wage workers who risk losing their job if they take time off during the day to go to court to file and for the elderly and disabled whose health presents an obstacle, these personal appearances required even after opting in to e-filing negate its benefit.

For those who lack technology, access to public computers is limited because the need is greater than the supply. Most unrepresented defendants typically have to travel to use a public computer which presents an additional barrier to participating in e-filing, particularly those who are caregivers for a disabled family member, are disabled themselves, or who have minor children.

The court must take steps to make e-filing accessible to all prior to expanding it to more courts

In civil court, approximately 95% of defendants are unrepresented. The legal resources available to them are extremely limited. The Volunteer Lawyer for a Day program (“VLFD”) provides limited scope assistance to *pro se* defendants in a narrow range of consumer debt cases during court appearances. The CLARO program, a partnership between the Feerick Center, the City Bar, and legal services organizations, provides limited scope *pro se* assistance to unrepresented defendants primarily in consumer credit transaction debt collection actions through a daily clinic. During COVID, both programs are operating virtually at a much reduced capacity.

Most legal services organizations have very few attorneys available to represent defendants in consumer debt collection actions. At Manhattan Legal Services, my office, I am the only attorney who practices consumer law.

Court sponsored access to justice programs and legal services organizations lack the capacity to train and support consumers in the use of e-filing, therefore this support needs to come from the court itself if the court wants to make e-filing universally available.

If the court wants to expand e-filing, it needs to invest in resources and support to make it equally accessible to plaintiffs and unrepresented litigants. This means conducting trainings for new *pro se* participants that explain not only the system, but the legal vocabulary used by it; making NYSCEF more user friendly by defining the different document categories and what they mean; and clarifying when a defendant can ask for a fee waiver and how. It also means providing additional access to public computers where *pro se* defendants live. Current court computers are insufficient to meet the need and most *pro se* litigants do not live near a courthouse.

E-filing must also be equally accessible to those with disabilities and those who are Limited English Proficient. The e-filing menu should be expanded to allow litigants to inform the court of the accommodations they need; list the accommodations available; and provide clear instruction on how to obtain accommodations.

The court seems most comfortable with accommodations related to mobility impairments and less prepared to provide accommodations for other types of disabilities. Although the court has information posted on its website regarding disability coordinators, that information is not kept up to date.

Example:

I contacted the court to ask how a pro se litigant could obtain an accommodation. I called the number posted on the website and in the courthouse as well as sending an e-mail to the address provided. After leaving multiple messages and sending multiple e-mails, someone contacted me months later and said he had not received the e-mails because the e-mail address on the website was not one they checked often. He gave me a different e-mail address and then referred me to the judge, who was the one who had referred me to the disability coordinator in the first place. Neither were aware of information on the court website which was relevant to my application which I had to cite to them in order to get relief for my client.

From speaking to clerks at the courthouse, my understanding is that once an e-filing status has been assigned to a party, it is impossible to change it, making opt-ins permanent. The court must put in place an easy mechanism for *pro se* litigants to be able to opt-out of e-filing after they have opted in should the *pro se* litigant find he or she is unable to use e-filing successfully, or if he or she were able to do so initially, but no longer can because their computer no longer works, or they can no longer afford payments for internet, or due to other changes in circumstances.

Please feel free to contact me at mmccune@lsnyc.org or 646-442-3143 if you need further information.

Sincerely,

DocuSigned by:

27007D36E9854E3...

Mary McCune
Senior Staff Attorney and
Consumer Law Specialist

From: Johnson, James E. (Law) <jajohnso@law.nyc.gov>
Sent: Monday, February 01, 2021 3:25 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Cc: Goode-Trufant, Muriel (Law) <mgoodetr@law.nyc.gov>; Rehman, Asim (Law) <asrehman@law.nyc.gov>; Yarde, Ann-Marie (Law) <ayarde@law.nyc.gov>
Subject: NYC Law Department Comments on New York State Courts Electronic Filing Program // Mandatory e-Filing

Dear Mr. Carucci,

As Corporation Counsel for the City of New York, I write in response to your December 22, 2020, invitation for comments regarding e-filing.

The City of New York supports the proposed amendment to CPLR Article 21-a to make e-filing mandatory in all courts.

NYSCEF has proven itself an efficient “one-stop shopping” system that allows litigants to simultaneously file and serve court documents from the convenience of their home or office. NYSCEF eliminates the need for copies of court submissions and in-person service and filing of papers. In so doing, NYSCEF conserves judicial and party resources, while also making the practice of law a greener and more environmentally friendly enterprise.

As one of the largest institutional litigants in the State, the City has faced tremendous operational challenges during the COVID-19 crisis. The Law Department was able to keep much of its state court legal operations smoothly afloat because of the significant contribution of NYSCEF to our overall efficiency. E-filing provided a safe and socially distanced mechanism to continue the practice of law and the important work of government. Even in a pandemic, access to the courts remains essential to the common good and the rule of the law. NYSCEF supported (and continues to support) those salutary ends.

There is no question in my mind that NYSCEF should be available to all courts in New York State. The COVID crisis will continue to present operational challenges, and an extension of NYSCEF will only assist the courts and litigants as we navigate uncharted waters. And were another crisis to occur, an expansion of e-filing to all courts would greatly aid continuity of operations, and the important public policy of unfettered access to the courts.

The proposal provides that further extensions of e-filing will still require the input of stakeholders and consent of the County Clerks. And exceptions to an e-filing mandate are made for unrepresented parties and attorneys without sufficient technological resources. These safeguards will ensure that new extensions of e-filing proceed in a judicious manner.

Thank you for the opportunity to provide these comments.

Sincerely,

James E. Johnson
Corporation Counsel
Law Department
100 Church Street New York, NY 10007

From: Mervine, Leah R
Sent: Friday, January 22, 2021 7:29 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments regarding e-filing

Dear OCA Division of E-Filing,

Our bureau is concerned that the e-filing system as it currently exists does not take into account the way large-volume government offices work. Currently, every case that is e-filed at the Appellate Division must be put into my name as a placeholder until an appellant perfects a brief—it is only then I am able to assign the case. Once a case is assigned, the attorney registers his/her appearance and then I must manually go back in and remove my name from the case. This is an onerous process. We are hopeful that moving forward, with more and more cases being subject to mandatory e-file, e-filed cases can be registered to an office or whole bureau, rather than an attorney. The system, as it exists now, is akin to having every piece of department mail manually opened and filtered personally through me.

Secondarily, our bureau has had adverse experiences with e-filing at the Appellate Division, Fourth Department. We just successfully argued a motion to hold a case in abeyance and for an extension to file a respondent's brief where, in contravention of 22 NYCRR 1000.17 (a) (3), e-filings were accepted by the Court and generated by the Court for the appeal despite the fact appellant inadvertently did not serve entry of initial information for electronic filing notice on us pursuant to 22 NYCRR 1245.3 (c) (4). The case was on the argument calendar when one of our ADAs happened upon it. We were unaware that appeal was perfected, let alone on for argument. The thought that a case could be inadvertently decided without our input is extremely unsettling.

We have also had an issue with consistency. Some items are still sent in hard copy, and some e-filed. In one of our People's appeals (where we are appellant) we are currently having difficulty. The Seventh Judicial Court Reporter's Analyst who is responsible for fulfilling transcript orders informed me in an e-mail: "No transcripts are being efiled from the Court Reporter's office. Hard copies are delivered to the County Clerk's office and I don't know what happens from there."

We hope this feedback will help to improve the system.

Sincerely,
Leah Mervine

Leah R. Mervine
Assistant District Attorney
Chief, Appeals Bureau
Monroe County District Attorney's Office
47 South Fitzhugh Street

CARDOZO LAW

BENJAMIN N. CARDOZO SCHOOL OF LAW · YESHIVA UNIVERSITY

Charles Altman
Adjunct Professor of Law

Phone: 646. 837. 0500
Email: charles.altman@yu.edu

January 24, 2021

Jeffrey Carucci
Director E-Filing Division
Office of Court Administration
25 Beaver Street
New York, NY 10004

Re: 2021 Annual Report and
Mandatory Electronic Filing Program

Dear Mr. Carucci:

I write in regard your request for comments, dated December 22, 2020. Issues related to internet access and e-filing of court documents are not new¹ but they have gained even greater significance with the Coronavirus pandemic and the implementation of virtual court proceedings.² While, the Unified Court System's NYSCEF is very different than Facebook, Twitter or Gizmodo, there are issues regarding the public perception of online security that are similar.

NYSCEF should clarify its policies regarding redaction, confidentiality and access control. This could be done with appropriate web pages and directories that are easily navigable, and SEO optimized, and with the full text of rules and a Frequently Asked Question section. Please see Exh. A for further details.

Thank you for the opportunity to offer public input on these important matters.

Sincerely,

Charles Altman

Charles Altman

¹ "Lawsuit's Lurid Details Draw an Online Crowd" NY Times, Feb. 22, 2015

² "It's Time to Fix the Fine Print", NY Times, Editorial, January 24, 2021

EXHIBIT A

SAMPLE NYSCEF INTERNET DISCLOSURES & FAQs

RE PRIVACY, REDACTION & SEALING

- A. Disclosure that all NYSCEF documents are generally available to the public instantly on the internet upon submission and without any monitoring (except to the extent that Appellate Divisions or others review documents for compliance with PDF bookmarking and other rules).
- B. Explanation of the differences between rules of redaction, public and restricted access to certain types of documents in certain categories such as mental hygiene, child welfare and matrimonial cases.
- C. A statement as to whether NYSCEF or OCA will disclose to filers of sealed or restricted access documents if there should be any hacking or security breaches of NYSCEF computers which compromise the confidentiality of sealed or restricted access documents.
- D. The availability of procedures to remove public NYSCEF documents that do not comply with sealing and procedures for redaction of specific data elements within previously filed documents.
- E. Distinction between sealing of documents by virtue of a judicial sealing order and de facto sealing or public access restriction of categories of case files by County Clerks.
- F. Procedures (or lack thereof) for removing or redacting intentionally scurrilous material from NYSCEF filed documents.
- G. Procedures for submitting Records on Appeal for documents or in cases that are sealed or have restricted public access.
- H. Procedures when one party files via NYSCEF and the other party, a pro se party, does not consent to NYSCEF filing.
- I. Procedures for removing material from NYSCEF filed documents intended to, or deemed likely to, incite physical harm or violence.

- J. Method for filing Complaints regarding filings that violate NYSCEF rules.
- K. Remedies against attorneys who knowingly or recklessly make NYSCEF filings in violation of NYSCEF rules, including suspension of NYSCEF filing privileges.
- L. Remedies against attorneys who knowingly or recklessly file sealed documents or NYSCEF restricted access documents in other NYSCEF litigation, without court approval.
- M. Disclosure of the signing of any agreement for the sale by OCA of NYSCEF civil documents in bulk, or on an automated basis, to private data aggregation companies (see Exh. B Item 1) and any ability to opt-out of any such future programs.
- N. Any methods that citizens of other countries (e.g. European Union countries) may utilize to restrict or protect access to NYSCEF disclosure of confidential information within those countries in violation of local laws.
- O. Any methods or procedures by which all parties to a NYSCEF civil matter may request that their filings, other than reported judicial decisions, NOT be publicly available on NYSCEF.
- P. Any methods or procedures by which NYSCEF civil matter documents, other than reported judicial decisions, would be automatically removed from general NYSCEF public access after a set number of years (e.g. 15 to 20 years after filing).

EXHIBIT B

1. EXCERPT FROM 2019 UCS ANNUAL REPORT

Criminal History Search Revenues

A portion of court system-collected revenue includes fees for services provided by UCS' Criminal History Search Unit, which, since 2003, has **sold criminal history public records** that include felony and misdemeanor convictions from all 62 counties. By law, the Office of Court Administration is solely responsible for the sale of these records produced by a search of its electronic database, charging a \$95 fee per name and date of birth searched. The fee was increased by the State Legislature in April 2019 from \$65 to benefit the Indigent Legal Services Fund. ...In 2019, the Criminal History Search Unit collected \$284.7 million for criminal history search records. (emphasis supplied)

2. INFORMATION REGARDING COMMENT SUBMITTER

Prof. Altman has a background in computer programming, systems design, and the application of computer technology to the legal process. He served as Chair of a NYC Bar Association Subcommittee on Computer Crime and Abuse (1984) and is the Co-inventor of an automated legal negotiation and document creation system - US Patent 6,366,892 (2002).

From: James S. Hinman

Sent: Saturday, January 23, 2021 5:13 PM

To: eFiling Comments <efilingcomments@nycourts.gov>

Subject: Attn: Jeffrey Carucci, Director, OCA Division of E-filing - Re: New York State Courts Electronic Filing Program

Dear Mr. Carucci:

As a member of the Monroe County Bar Association, I was made aware of your letter of December 22, 2020 soliciting observations and comments with respect to "a proposed amendment to CPLR Article 21A and other relevant statutes to authorize the Chief Judge and Chief Administrative Judge to make e-filing mandatory across the state - in any or all of the State's trial courts."

I am writing to express my opposition to the proposed amendment insofar as it would make electronic filing mandatory in any or all of the State's trial courts. While I understand that there are many benefits to e-filing, especially for the courts and that it does not pose a burden for the majority of my colleagues, who have technological capabilities and the ability to avail themselves of that option, there are many of us, admittedly fewer in number, for whom electronic filing poses burdens and obstacles that are detrimental to our practice and threaten our ability to continue to practice our profession..

I am a solo practitioner and have been a practicing attorney in New York State for over forty years. I moved my office to my home eight years ago and have had no assistants or staff in over twelve years. I am familiar with many who practice under similar circumstances. I practice mainly in Family Court and criminal defense but, in order to provide complete service to clients, also have occasional matters in Supreme and Surrogate's Courts. Although I attended a training seminar and thought that I would be able to acquire the necessary skills and proficiency to coexist with this process, that has not proven to be the case. I have, therefore, taken advantage of the opt-out provisions in those instances. I did, however, have an appeal, in a retained case, in which electronic filing was required and found it necessary to utilize a third party service in order to meet the filing requirements and, even with their assistance, four attempts were made before the papers were accepted. In total, the electronic filing requirements resulted in substantial additional costs to my clients - over \$1,000.00 in all, when taking into account the fee for the outside assistance and the additional time expended by me meeting the additional requirements. My clients were not wealthy individuals and have three small children - this was a burdensome requirement for them and they derived absolutely no benefit whatsoever over what would have resulted from filing in the traditional manner - appropriate copies of the briefs being filed with the Appellate Division. As a result of that experience, I am no longer willing to handle appeals. If electronic filing is made mandatory in all courts, I will most likely find it necessary to severely curtail my practice stop practicing altogether. That is not something I wish to do at this point in my life, at least not yet.

Lest you think that I am alone in my beliefs, I assure you that I have talked with many of my colleagues who also find electronic filing to be burdensome and problematic. They, however, are disinclined to express themselves for fear of running afoul of the pressure being exerted to implement mandatory electronic filing. While I realize that electronic filing has many benefits for court staff as well as large firms, corporate clients and public agencies, and recognize it is a process that is increasing in popularity, it is not advantageous for everyone, especially citizen litigants and many solo and small firm practitioners. I have always felt that the practice of law is about serving the needs of the clients, not the courts or those who serve the courts. Quite frankly, I see absolutely no benefits that accrue to my clients from electronic filing.

I realize that electronic filing is here to stay and will most likely expand; however, I am hoping that the opting out provisions remain intact so that those small firm and solo practitioners, such as myself, who lack the capability and necessary abilities to successfully comply without added impediments, can continue to practice the profession we love and help our clients navigate the already difficult process of interacting with the courts and the justice system. The additional time and expense attendant to electronic filing for us could be much better expended in other endeavors.

Thank you for your consideration and for affording me the opportunity to express a contrary opinion. If you would like to discuss my concerns in greater detail, I would welcome the opportunity to do so at your convenience.

Very truly yours,

James S. Hinman
James S. Hinman, P.C.
Post Office Box 67160
Rochester, New York 14617
Telephone: (585) 325-6722
Cell/Text: (585) 704-9954
Fax: (585) 325-4496
jshatty@frontiernet.net

From: info@renscobar.org <info@renscobar.org>
Sent: Saturday, January 16, 2021 10:32 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Fw: RE: Proposed Mandatory E-Filing Across NYS-Request for Comments

Good morning

Following are comments from Hon. Elizabeth M. Walsh regarding mandatory e-filing. These comments were originally sent to the Rensselaer County Bar Association.

Sincerely,
Beth Muller
Executive Assistant, RCBA

> -----Original Message-----
> From: Hon. Elizabeth M. Walsh <emwalsh@nycourts.gov>
> To: Rensselaer County Bar Association <info@renscobar.org>
> Subject: RE: Proposed Mandatory E-Filing Across NYS-Request for
> Comments
> Sent: Jan 14 '21 09:41
>
> Dear Executive Committee of the RCBA,
>
> I have had a chance to review the memo in connection with the
> proposed mandatory e-filing across NYS. The concerns I have would be
> for the exceptions that seem to be included (i.e. pro se litigants who
> may not have access to the technology needed for e-filing, and
> attorneys who may lack the technology, as well). In my experience
> during the pandemic in Family Court, there are many litigants who do
> not have access to the technology necessary to participate in
> e-filing. Family Court litigants are often poor, sometimes homeless,
> dealing with addictions, mental health issues, etc. So long as an
> exception exists in the mandatory e-filing legislation for pro se
> litigants, and the small number of attorneys who do not have the
> technology needed to participate in e-filing then I believe it would
> be beneficial legislation to pursue.
>
> Thank you.
>
> Respectfully yours,
>
> J. Beth Walsh

JOHN MICHAEL MOWRY
ATTORNEY AT LAW
MAIN STREET, BOX 310
MEXICO, NEW YORK 13114

JOHN B. MOWRY (1912-2011)

(315) 963-7268
FAX (315) 963-7268

January 18, 2021

Amy Chadwick, Attorney
Oswego County Bar Association
c/o 26 East Onaída Street
Oswego, New York, 13126

Fax 315-343-0134 ✓

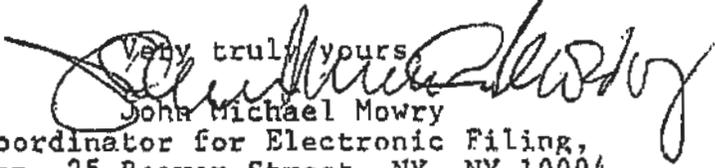
Dear Amy:

Re. Proposed 21(A) CPLR-Electronic Filing

I respond to an email I found on my handheld I-pad from Jeffrey Carucci, Statewide Coordinator for the Office of Court Administration. He solicited opinions from bar associations and members on the subject of mandated statewide filing by electronic means in proceedings in Supreme Court. A week or two ago I happened to note a similar note regarding statewide filing by such means in the Lewis County Surrogate's Court.

I oppose it because it will very much impact my ability at age 80 to practice law in the State of New York despite the possibility of "opting out" by filing a statement to the effect that I have no means of emailing, do not use a computer, do not have employees, much less employees who are skilled at the use of such electronic means and, further, because I feel that it will prejudice those lawyers who are in my boat when it comes to competing against those who are versed in and can use or have facilities and means to use electronic filing.

The State Bar, Office of Court Administration, et al still mandate completion of 24 hours of continuing education every two years and also require payment of \$300. every two years for me to continue to practice law. Neither of these were required when I was admitted to practice in 1965. Both were added in later years, probably by votes or ukase of those younger than I by a good bit. I rather expect that those now advocating for electronic filing are also alot younger, probably grew up using a computer in grade school and/or have advanced to a level where they have clerks paid by the public to make these rules and also do the electronic communication.

Very truly yours,

John Michael Mowry

cc. Jeffrey Carucci, Statewide Coordinator for Electronic Filing,
Office of Court Administration, 25 Beaver Street, NY, NY 10004
Chair, Assembly Judiciary Committee
Chair, Senate Judiciary Committee
My representatives in Assembly and Senate

From: Michael Furlano <mfurlano@lasroc.org>
Sent: Friday, January 08, 2021 4:32 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E-Filing Comment

I am very happy with how NYSCEF works, and would like to see it expanded to major city courts like Rochester, NY.

Michael A. Furlano (he/him)

Attorney

The Legal Aid Society of Rochester, NY

One West Main Street

Rochester, NY 14614

Tel: (585) 295-5763

Fax: (585) 232-2352

mfurlano@lasroc.org

From: Joch & Kirby <jochnkirby@aol.com>
Sent: Tuesday, December 29, 2020 10:53 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject:

I fully support eFiling, but I also understand that some older attorneys, like my partner, cannot or choose not to learn and depend on supporting staff to do the filing. So what do you do when someone like him needs to file and the supporting staff is not here, but the courthouse is only a block away and he would gladly deliver his documents there directly.

Also, what about the pro se individuals? Some do not always have the means to file electronically, nor the funds to hire an attorney. I guess my bottom line is that you cannot make filing exclusively electronic and need to keep the door open for those who cannot do it by themselves.

Susan C. Kirby, Esq.

Joch & Kirby

319 N. Aurora St.

Ithaca, NY 14850

607-272-7279

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From: lobolenskylaw@gmail.com <lobolenskylaw@gmail.com>
Sent: Tuesday, December 29, 2020 1:09 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: New York State Courts Electronic Filing Program

Good afternoon – I support without reservation the lifting of the current restraints upon the discretion of the Chief Administration Judge to introduce mandatory e-filing programs in any court and/or action.

LARISA OBOLENSKY
Attorney-at-law
P.O. Box 494
Delhi, New York 13753
607-832-4256

From: Bart <bartdiv@aol.com>
Sent: Tuesday, December 29, 2020 1:38 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Input concerning efilng

Jeffrey Carucci,

I saw that you are requesting input on the subject of efilng. Before I directly give you that, a little of my background. I have been admitted to practice in NY for over 45 years, while in law school, everything was done the "old fashioned way", from research to filing of papers, etc. I was not one of the first to email, coming somewhat late to that also. Yet, I have learned to modernize, so to speak. From online research to service with digital copies and so on. My practice has been primarily limited to matrimonial and family law matters for over 40 years.

My first introduction to efilng came in Westchester county and I learned that it had a number of advantages. At this time, I have actively utilized efilng when and were available; it was, pre-pandemic, voluntary in Nassau; not done at all in Queens and Suffolk(the 3 counties I primarily practice in). With the pandemic, that has changed and it permits my office to function more efficiently, filing papers, paying fees, etc., from my office, without having to "run" into the Courthouse or the County Clerk's office to do so. It also gets me copies of additional papers filed by others from my desk or wherever my laptop is up and running with internet. Again, no need to wonder when a Judgment is signed; no need to "run" into a county clerk's office for a copy(although getting a certified copy, when necessary, requires more).

So, from this dinosaur, you get only positive input from me.

Bart Resnicoff
Law Office of Barton R. Resnicoff
Barton R. Resnicoff, P.C.
3000 Marcus Avenue, Suite 1E5
Lake Success, New York 11042
(516)829-2940
bartdiv@aol.com

From: Saul Cohen <scohen@thecohenlawfirmllp.com>
Sent: Tuesday, December 29, 2020 4:14 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Hi--for the report

Hi. This is Saul Cohen, Esq. I support making efilng mandatory throughout New York State (with the exceptions in place). Before efilng, I used to run around personally filing papers in courts etc. Efilng is time saving, more efficient and more convenient. Thank you, Saul

From: Jeffrey Triz <jtriz@venzon.lawyer>
Sent: Thursday, December 31, 2020 10:33 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Mandatory eFiling

As the individual responsible for eFiling in our office, I find it to be far more cost-effective than having to take time to go to the local clerk's office, stand in line and hand-file a document. This is a waste of resources and most importantly, client money.

The eFiling system should be mandatory, for all individuals (except pro se litigants who opt out of it) as in today's day and age there really is no excuse for not having the proper equipment or knowledge to efile. There are frequent training sessions and excellent help for learning how to efile. Computers and printers, as well as internet connectivity is a crucial and vital part of doing business today.

I would definitely encourage the expansion of this program and the powers of the chief justice to make eFiling mandatory.

Jeffrey S. Triz
Senior Paralegal
Venzon Law Firm
300 Delaware Avenue
Buffalo, NY 14202
(716) 854-7888 (office)
(716) 854-0294 (fax)

From: sternandsternesq@aol.com <sternandsternesq@aol.com>
Sent: Thursday, December 31, 2020 12:52 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on eFiling

I am writing specifically about the landlord -tenant system conversion to eFiling, however some of the comments also apply to the general eFiling system.

With respect to the landlord-tenant conversion, in my opinion, it has been very badly handled and designed and made unnecessarily onerous. The filing system is made way too burdensome and is designed in such a way that it is impossible to file anything efficiently or to be in compliance with what, as least formerly, the RPAPL required.

Old cases:

The EDDS system and the process of conversion to eFiling is absolutely ridiculous and unnecessarily time consuming and burdensome. We are forced to efile everything anyway so all cases should automatically be converted at either party's request which should be a simple email and then the court should send out notifications. When we have to do it, you have to reenter your information into the EDDS system every time. It does not automatically save it. It does not allow you to upload anything other than applications to efile, but then we get rejected if, for instance, a notice of appearance or a substitution is missing. If we want to file a motion, we have to wait until the case is converted before eFiling and this often takes several weeks. When it is converted, filing a motion is really time consuming as it makes you upload every document separately and the default position is not that it is a nonconfidential document, so you have to keep going back and rechecking that box every time.

New cases.

The system of eFiling is extremely time consuming and onerous and wastes valuable attorney time as effectively only an attorney can efile. I know you allow us to delegate but it is our names on the account and our credit cards which are used. There is no reason why we should have to enter the property addresses or the names of parties. There is no reason why we should separately have to upload the petition and notice of petition or all the documents on a motion. Again, the default position is not that each document is a nonconfidential document, so you have to keep going back and

rechecking that box every time. There is no mechanism for storing your credit card information so that has to be reentered every time. Then it takes days or weeks to issue an index number and the clerks sometimes reject the document much later even after the index number has been issued.

It is also impossible to keep track of a firm's cases and find things easily as they are listed chronologically without regard to the type of case or the court where it is filed. There is no way to print a list of our cases and no way to search within our cases, The filters that the site does offer do not work.

There is absolutely no one you can contact to ask a question or to easily correct a misfiling. We have had a couple of cases where we accidentally uploaded the wrong document or typed in the wrong designation, immediately realized the error, but had no means of correcting it. The process is too complicated for most of our secretaries and the older attorneys to learn so it winds up being a single attorney at each firm having to spend their entire day e-filing and keeping track of the cases due to the repeated rejections and additional unnecessary procedures. It appears as if they have deliberately made the entire process more complicated than it needs to be, all without a reduction in the filing fees due to the fact that we are now doing 50% of the clerks' work.

From: Joseph Faraldo <faral@me.com>
Sent: Thursday, December 31, 2020 1:40 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Suggestion

Is it possible to purge some of the cases that I have that have been settled from my list. I am on 4 pages of cases and some of them thankfully have settled and without a way to delete them, unless that exists, then they only take up space and cost time ferreting through them to get to the actives.

Joseph A Faraldo # 1283316

From: Lance Cimino <ciminolaw@msn.com>
Sent: Thursday, December 31, 2020 3:16 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: e filing

I am a long-time practitioner. I practice in the Federal Courts also where electronic filing has been in place since 2004 in all aspects, best decision ever, it should be available in all courts in New York State and all calendars should be available online on the court website. Criminal County Court calendars as well as Justice Court Calendars are not available, they should be, it is time to come into the 21st century with total electronic filing and information access in each and every court.

This message, as well as any attached document, contains information from the law office of **ATTORNEY STEPHEN LANCE CIMINO**, that is confidential and privileged, or may contain attorney work product. The information is intended only for the use of the addressee named above. If you are not the intended recipient, you are hereby notified that any disclosure, copying, or distribution of this email or attached documents, or taking any action in reliance on the contents of this message or its attachments is strictly prohibited, and may be unlawful. If you have received this message in error, please (1) immediately notify me by reply email, (2) do not review, copy, save, forward, or print this email or any of its attachments, and (3) immediately delete and destroy this email, its attachments and all copies thereof. Unintended transmission does not constitute waiver of the attorney-client privilege or any other privilege.

From: dschwarz@optonline.net <dschwarz@optonline.net>

Sent: Thursday, December 31, 2020 4:11 PM

To: eFiling Comments <efilingcomments@nycourts.gov>

Subject: Wish for a "Place holder" when filing documents, to be filled after other documents, e.g. exhibits, have been filed, to facilitate insertion of hyperlinks and references .

I believe it would be big help to the Court if there could be some way that exhibits referenced in a document could be filed first so that hyperlinks could be inserted into the document which referenced the exhibits which could then be filed, say, in connection with a particular motion, last.

For example, most affirmations submitted on motions reference documents filed as exhibits. It is the usual practice to file the affirmation first and then the exhibits. That does not make the insertion of hyperlinks possible.

When putting motion papers physically together before there was electronic filing, the affirmations went on top with the exhibits beneath and the filing system assumes that order.

I wonder whether some measure could be taken to allow the filing of the exhibits first so as to make their web addresses and document numbers available for the creation of hyperlinks and or document number references in the affirmation referencing the exhibits.

After exhibits were filed, each would have a web address which could be referenced in hyperlinks inserted into the affirmation which references them.

Then, it would be nice if the affirmation with hyperlinks could be inserted ahead of exhibits.

In other words, it would be nice if the system could, on request, create a place holder for an affirmation to be filled in its usual position above, or ahead of, the exhibits referenced in it, on the filing of the affirmation after the exhibits were filed, given document numbers and web addresses.

I have, in preparing papers to be filed which oppose a previously filed motion, inserted hyperlinks to the previously filed documents and believe that has been a help to the Court.

I hope this “wish” is clear and might even be considered for implementation.

If you have any questions, you are welcome to call me.

David M. Schwarz

dschwarz@optonline.net

(631) 251-7600

From: Marty Borrás <mjborras99@yahoo.com>
Sent: Saturday, January 02, 2021 8:27 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Cc: Rebecca Borrás <singbeccab@gmail.com>; molina.lewis10@gmail.com
Subject: E-filing with no clear guidance

The e-filing system needs a step-by-step instruction guide for those filing "pro se" that includes the exact order in which the documents must be filed so that the filer can obtain the Index Number otherwise cases will be kicked back as many times as necessary for incorrect order and there is no one person to actually speak with for guidance.

A laymen's instruction guide should read as follows:

1. Fill the Order to Show Cause
2. Pull the Verified Petition and upload the packet in this order: Verified Petition, Order to Show Cause, Exhibits
3. Upon receiving the Index Number, add it to the RJI and upload the RJI

The Order to Show Cause packet does not direct the filer to pull the "Verified Petition" portion out and upload it as the first document. This caused the case to be kicked back. The assumption is that everyone has internet access and some sort of savvy in the days of COVID because offices are not allowing people in for questions or guidance for that matter.

Nowhere does it indicate exactly what a "Caption" is or what it means. For example, we filed for the Supreme Court to release my brother's remains to my mother and a funeral in the Bronx (as opposed to an ex girlfriend from 15 years ago who tried to claim his remains with no vetting, which under the 4201 law, caused the ME's office to hold the body), we were supposed to add ourselves, the decedent's sisters, in addition to our mother (as we would be speaking on her behalf because without us and as a senior citizen, she would never have been able to navigate this process). Finally, as the defendants, we were supposed to include the OCME and not ust the ex girlfriend.

Nowhere can an instruction be found to the online link where the RJI can be filed. This lack of guidance lead to wasted time and trips to both Supreme Courts in Brooklyn and NYC only to be turned back and given incorrect instruction that

these documents needed to be *mailed in*. If not for divine intervention, we would still be running in circles and hitting walls every step of the way. The average person in NY may not be able to afford legal guidance, Legal Aid Society was of no use as they don't handle cases like these, no one does. There is no category for a case like this as this is most definitely not a Surrogate case according to the attorney for the ME's office.

Clear guidance could save a grieving family much time and added anguish. We hope to amend the Public Health Law 4201 once this nightmare is over.

Respectfully,

Marty Borrás

From: Stephen Dewey <enforcer@bestweb.net>
Sent: Saturday, January 02, 2021 3:02 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Suggestions

Mr. Carlucci:

It is respectfully requested that we be allowed to file Transcripts of Judgments from Lower Courts into NYSCEF, and requests for Transcripts of Judgments / Exemplified Judgments be requested online as well.

Given the budgetary constraints to befall our Courts, there really cannot be a better time for the **City** Courts to move into NYSCEF. The Attorneys input most of the documentation anyway. The EDDS was simply a waste of time and is tedious (having to fill out my name and information each time. The City Courts can certainly be transferred into NYSCEF at this stage. Even the Bronx and Manhattan have brought over Landlord/Tenant matters electronically. The Clerks are requesting that paperwork (motions, Oppositions, Reply, etc.) be sent by .pdf to the Clerk's email and not by EDDS to expedite matters. It's ridiculous that we cannot purchase an Index Number, file the pleadings and Affs of Service to commence the action through EDDS, so why wait?

Given that **Justice** Courts are each on "their own", at this stage there really is no reason they too cannot have their **Civil** matters brought over to NYSCEF for civil matters. You are generally only training one or two clerks at the most, and it would expedite the matters and reduce physical traffic having to file Complaints and Affidavits of Service in person (which is their "concern" given the Covid Crisis).

Thank you.

Looking forward to a better year 2021!!!!

Respectfully

Stephen P. Dewey, Esq.

From: Donna Burnett <dburnetty@gmail.com>
Sent: Sunday, January 03, 2021 10:59 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: NYCEF system

I stumbled upon the May 28,2020 you-tube user training video. I found it quite helpful. However, I am wondering if there is a you-tube matrimonial training video?

If so, I think that would cut down on the questions to staff. Having it advertised that its out there to be viewed would also be helpful.

I think its great to be able to file.

Thank you,
Donna

From: Irwin Weinstein <iweinstein@burnsharris.com>
Sent: Monday, January 04, 2021 9:35 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: NYSCEF Comments

The eFiling is generally a great system.

One of my issues is that with the multitude of cases, there seems to be no way to just view 'open' cases and not include disposed cases.

If one narrows by "Active" cases, e.g. "Restored" cases will not be included.

There should be a category of "Open" matters.....

Irwin J. Weinstein

BURNS & HARRIS

233 Broadway, Suite 900

New York, NY 10279

212-393-1000

From: ALVIN SPITZER <alslaw275@gmail.com>
Sent: Monday, January 04, 2021 10:43 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject:

I find e-filing convenient and a time saver. It also allows me to access original documents,. I totally favor this amendment.

ALVIN L. SPITZER

From: Mitchell Dranow <mdranow@hotmail.com>
Sent: Monday, January 04, 2021 11:02 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: NYSCEF Filing Comments

My only issue with the system is that, on occasion, I'll get an error warning (a copy of which is attached) about an appellate brief or record that I've tried to e-file. This screen appears and leads me to believe that whatever I've just attempted to file has not been accepted by NYSCEF. Yet, when I review the particular appeal/case filings moments after I get the warning, the document list indicates that the brief or record has been submitted and is pending review. Needless to say, the warning causes great anxiety when it first appears.

Sincerely,

Mitch Dranow

Mitchell Dranow, Esq.
Dranow Appellate Printing, Inc.
Serving the Needs of the Small Firm and Solo Practitioner
75 Main Avenue
Sea Cliff, New York 11579
(516) 286-2980

From: James J Sexton <sexton@rocklanddivorce.com>
Sent: Monday, January 04, 2021 11:04 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on NY State Courts Electronic Filing Program

Sir/Madam-

I am an attorney practicing matrimonial and family law in the Rockland and New York County areas for approximately twenty years. Prior to my legal career, I obtained my Master of Arts degree from New York University in the field of Media Ecology (the study of technological change on cultural systems) and taught undergraduate courses in technology and ethics at NYU and other colleges. As such, I believe I am uniquely qualified to comment on the issue of technological change in the New York State Court system and the discretion of the Chief Administrative Judge to introduce mandatory e-filing and other similar programs.

For the reasons set forth herein, I fully endorse the removal of the current restraints in place on the Chief Administrative Judge's discretion to introduce mandatory e-filing programs as well as other similar technological solutions/programs.

While the COVID-19 pandemic has created unprecedented challenges for the entire world, as well as unique challenges for our New York State legal community, the level of technological innovation we have seen over the last 9 months has been astounding and a testament to our State's commitment to protecting the integrity and efficiency of the legal system. Changes I believe were well overdue (the expansion of e-filing and the incorporation of videoconference technology into Court proceedings) have "rolled out" impressively - changes that would likely have taken years to see happen in the absence of this tragic virus.

The Court Administration has demonstrated bold leadership during this difficult time and moved swiftly to leverage technological advancements to ensure the swift administration of justice. Attorneys and litigants are fortunate to have forward-thinking people "at the helm" and making changes that, even absent the pandemic, were necessary to maintain efficiency and improve access-to-justice. Attorneys (a traditionally curmudgeonly group) have also "risen to the occasion" and quickly adapted to the changes implemented. We are ALL capable of more innovation and adaptation than we realize. It's hard to move out of our "comfort zone" but, ultimately, it is the only way our systems improve.

While I share the hope that the COVID-19 pandemic will soon be behind us, I hope that the "new normal" that will come after continues to utilize the innovations we all "discovered" during the last 9 months. Mandatory electronic filing creates a more efficient, organized and streamlined process for all

of us (bench and bar). Our leadership and the Chief Administrative Judge have demonstrated, in 2020, that they are not only qualified to "handle" the discretion to make broad and long-term decisions related to the incorporation of electronic filing and other technologies - they have shown that they will use the authority provided to improve the system for all of us.

I would respectfully urge the Legislature and Governor to grant the Chief Administrative Judge broad authority to implement mandatory electronic filing throughout New York State and make other similar decisions related to the implementation of electronic / virtual "tools" to maintain and improve the efficiency and integrity of our legal system.

Thank you for your consideration.

Respectfully-

James J. Sexton, Esq.
M.A. Media Ecology (NYU 1997)
J.D. (Fordham Law School 2001)

James J. Sexton, Esq.
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From: Wendy Samuelson <wsamuelson@samuelsonhause.net>
Sent: Monday, January 04, 2021 12:45 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E filing comments

E filing and videoconferencing has been a great new development! We should definitely keep both in tact, even after the pandemic.

Wendy B. Samuelson, Esq.
Samuelson Hause & Samuelson, LLP

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"We're the calm beneath your storm."

From: Andrew Miller <Armillar@millerlawny.com>
Sent: Monday, January 04, 2021 1:40 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on E-Filing

E-filing has the potential to be helpful and an improvement for the small practitioner, but as implemented it is more of a burden.

First, since most of the part judges require paper copies, e-filing has simply increased the burden imposed on small firms. Now in addition to filing a paper copy like we always have had to do, we have to scan, redact and e-file a copy. The burden of having to scan and file with the e-file system is not inconsiderable as it is cumbersome and time consuming.

Second, the e-file system as implemented unfairly allows large firms to pass the cost of printing out their litigation papers to their adversaries. Specifically, before e-file, if litigation papers were served in Court a hard copy would also now have to be served on your adversary. But now, firms are using e-file as a means for serving litigation papers. While this sounds good in theory, in practice it means that you get notice of the filing of an electronic copy of say, a summary judgment motion, or similar litigation papers, along with a thousand pages of supporting exhibits, which you now must print out and organize on your own, forcing you to bear costs that were formally those of your adversary. Clearly, for the large firm this may not be much of a big deal, but for the small practitioners, these costs add up.

Law Offices of

Miller & Miller

26 Court Street

Suite 2511

Brooklyn, New York 11242

From: Lee Miller <nylaw@live.com>
Sent: Monday, January 04, 2021 1:54 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E-filing comments

Dear Director Jeffrey Carucci;

As one of the early users of the e-filing system as an appellate attorney in family court, I am a supporter of it. It is easier, and it eliminates the problem of disposing with briefs (shredder) that piled up under the hard-copy system.

I only write to ask the committee to consider one thing, and that is making instructions about hard-copy filing more clear. *Despite* the e-filing system being mandatory for family court appeals in the third department, I continue to receive hard copies of briefs, hard copies of affirmations of service, hard copies of motions for an extension of time to perfect, etc. from attorney users. The message hasn't been clear - *do not send anything hard copy*, other than the initial e-filing notice, to other counsel on the case. I find that I still need shredder services because, after all this time, people are still sending things - and these are not attorneys who have received special permission to send hard copies, because they simultaneously upload documents. It seems that they believe that service is improper via uploading, and if the committee could make that more clear to practitioners, we could at last eliminate the need for shredding services.

Thank you for soliciting our input.

Lisa Miller, Esq.

Box 456

McGraw, NY 13101

From: Matthew Porges <mspedesq@mspedesq.com>
Sent: Monday, January 04, 2021 2:46 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on E-Filing

Thank you for this opportunity to be heard on e-filing. I really appreciate the ability to e-file and hope it will continue to expand to all matters in all courts. It makes filing and payment so much easier, especially in the time of COVID, but also under normal circumstances. I don't have to run from court to court with papers and checks or pay someone to perform those tasks. I can do it all from my laptop, wherever I may be at the time. It also alleviates so many lines in court and, if the entire file is electronic, the paper files do not have to be pulled and re-filed. I would ask that the NY Court do everything it can to have universal e-filing, as in federal court, as soon as possible. Thank you.

Matthew S. Porges, Esq.

New Address:

26 Court Street, Suite 1200

Brooklyn, New York 11242



Avvo.com Rating of 10.0

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From: Edward Virshup <edvirshup@gmail.com>
Sent: Monday, January 04, 2021 2:58 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: EFS Comments

To Whom It May Concern:

I am a non-attorney Court Examiner and do not have an "attorney registration number" to file my examinations or any other court papers using the EFS system. I suggest setting up private and confidential numbers for those of us (5 or 6 in NY County) similarly situated throughout NYS.

Thank you for consideration of this request.

Sent from my iPhone

From: Joseph Dash <joelaw11220@yahoo.com>
Sent: Monday, January 04, 2021 3:10 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on E-Filing

Dear Mr. Carucci;

As a practicing attorney I have found e-filing extremely easy and convenient. I strongly recommend mandatory e-filing for all cases.

Sincerely,

Joseph M. Dash, Esq.
480 39 Street, 2R
Brooklyn, NY 11232
Of: 718439-3600
Fx: 718-439-1452

From: Brendan P. Hall <BHall@HarrisBeach.com>
Sent: Monday, January 04, 2021 6:15 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Mandatory E-Filing is a Great Idea

Dear Mr. Carucci,

I write to express my strong support for mandatory e-filing in New York State. As a younger attorney, it boggles my mind why we are still exchanging paper in litigation. It is an antiquated and inefficient practice due to the advent of computers, tablets, and smart phones. I can understand a few select exceptions. But on the whole, e-filing is advisable to reduce litigation costs, reduce mounds of paperwork for courts and practitioners alike, and preserve documents, including when exactly a party or court transmitted a particular document.

Please do not hesitate to contact me if you think I can provide any additional information or assistance as part of this process.

Sincerely,

Brendan P. Hall
Attorney

HARRIS BEACH PLLC

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100 Wall Street
New York, NY 10005
212.912.3635 Direct
585.813.8253 Mobile
212.687.0659 Fax
212.687.0100 Main

From: Dennis B. Laughlin, Esquire <dennis@donovanlaughlin.com>
Sent: Monday, January 04, 2021 9:10 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Input on mandatory e-filing

Greetings.

I think that each court should have the opportunity to have everything efiled.

I understand that 18-b clients, before they become clients, may be technology-challenged. I understand that some attorney are also technology-challenged.

That challenge should not prevent the rest of us from being able to file electronically in each court. The e-file system should be extended to receive filings for each court. The use of the EDDS system is a step forward, but, there is no compelling reason not to use the e-file system for say Family Court matter. Family Court matters are no more confidential than an action for divorce, and our office files all divorces electronically.

Thus, require each court to provide the option to e-file, understanding that some litigants and some attorneys cannot use that option.

Thank you.

Dennis B. Laughlin, Esquire

Donovan Laughlin and Laughlin, LLC

77 Alden Street, Post Office Box 217, Cherry Valley New York 13320-0217
15 South Main Street, Suite 103, Oneonta New York 13820
(607) 432 6959 ~ Facsimile (607) 264 9094

From: Nissan Shapiro <nissan@nshapirolaw.com>
Sent: Monday, January 04, 2021 11:46 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on E-Filing

Dear Office of Court Administration,

As a Landlord-Tenant attorney who has recently become familiar with the NYSCEF filing system, i greatly appreciate the effort put in to make the system work.

There are a couple of arrears where I would suggest changes.

1. Provide us the opportunity to add/amend names without going through multiple steps and emails. Especially when it can be done prior to serving any Petitions.
2. Provide a search function within our own cases, that is actually useful. A firm with hundreds of cases can easily get lost trying to find a specific case, unless they use the general search feature.
3. Provide an actual calendar feature so that when i look at a case i know when it is scheduled, instead of then having to go to Ecourts to look for it.
4. Require Respondents who file answers to include emails on their answers.

Best,

Nissan



Sheldon Siporin, Esq.
52 Clark Street, 6F
Brooklyn NY 11201
718-624-3726; juriswrite@gmail.com

January 5, 2021

Jeffrey Carucci, Dir.
Statewide Coordinator for
Electronic Filing
Office of Court Administration
25 Beaver Street
New York, New York 10004
efilingcomments@nycourts.gov

RE: New York State Courts Electronic Filing Program

Dear Director Carnucci:

This replies to your letter dated December 20, 2020. In that letter, you solicited comments about proposed amendments to CPLR Article 21A, and other relevant statutes, to authorize the Chief Judge and Chief Administrative Judge to make e-filing mandatory across the state. I fully endorse your recommendation. This is based on my experience as a member of the New York Bar for more than two decades. The judicial system has been slow to adapt to the 21st Century but the pace of change has been accelerated by the recent pandemic.

As you state in your letter, Covid-19, and the new variants of that virus, have compelled our court system to expand e-filing as well as virtual appearances for health reasons. But technological advances also impel change. We are in the age of the internet and virtual conferencing. In-person paper filing is as slow and cumbersome as mail delivery by the pony express. There was a time when legal research was done laboriously by parsing through paper volumes and supplements. Now similar research is done expeditiously and efficiently by computer. Younger lawyers would be dismayed if we maintained that old fashioned and time-consuming research method.

Paper filing requires attorneys (or their associates) to shuffle to the courthouse loaded down with valises of stapled documents to be stamped and stacked on shelves. Courthouse staff must then organize and file those materials. As noted in your letter, this is wasteful and burdensome for both law firms and judicial personnel. Paper filing is as outmoded and unproductive as research done by hand. No lawyer trained in computer research would return to prior, arduous methods. Neither do lawyers competent in e-filing lament the "good old days" of trekking to the courthouse.

I commend Chief Judge Difiore and the Commission to Reimagine New York Courts for endorsing e-filing, and I fully join in their endorsement.

Respectfully,
Sheldon Siporin Esq.

Member, Brooklyn Bar Association
Member, New York State Bar Association
Member, New York County Lawyers Association
Member, New York City Bar Association

January 5, 2021

Jeffrey Carucci
Dir. Statewide Coordinator
for Electronic Filing
Office of Court Administration
25 Beaver Street
New York, New York 10004

Dear Mr. Carucci:

I am writing to provide comments regarding the Court's electronic filing system.

An Order was issued by the Chief Administrative Judge directing that the court shall not request working copies of documents in paper format. Several judges still request that paper copies be provided to them. This Order should stay in effect even after the pandemic.

Thank you.

Legal Staff at a Law Firm in NY

From: Elizabeth Eilender <eeilender@lawjaros.com>
Sent: Tuesday, January 05, 2021 12:52 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: New York State Court Electronic Filing System-response to request for comments

Love the eFiling system and generally it works great.

Below are my comments/suggestions:

There should be a filing option for "stipulation to adjourn motion in Room 130-Request to So-Order" so that the stip to adj is combined with the so-order request. the way it is now, is that a request to so-order is a separate option from the stipulation to adjourn the motion.

2. There should be a filing option for a filing (such as opposition/cross-motion/stipulation to adjourn) to be able to be applied to more than one motion at a time; for example, when 3 defendants file separate motions for summary judgment, and there is one plaintiff, the plaintiff should be able to file ONE filing in opposition to all 3 motions at the same time instead of having to re-file the same document and all exhibits 3 separate times. same goes for a stip. If one stip covers 3 motions within the text of the stip it should not have to be filed 3x (ie; Mot. Seq. no. 3; Mot. Seq. no 4 and Mot. Seq. no 5).
3. when opening/accessing a completed filing for a motion (or any document in the same filing), there should be an option to open ALL documents concerning the same motion at the same time; for example, open the Notice of Motion, Aff in support and all exhibits in one .pdf document. instead of what we have now which is we have to open every single document separately. (NJ state courts have the system where you can open the motion and all the associated documents filed with that motion at the same time if you choose "select all").
4. re: representation and/or closed cases-is there a way to remove the old/closed case from "MY CASES" without having to "un-represent" the client in the NYSCEF system.

Happy to discuss at any time. Please feel free to call me.

Elizabeth

Law Office of Elizabeth Eilender, PC
225 Broadway, 24th Floor
New York, New York 10007
Telephone: (212) 227-2174
E-mail: eeilender@lawjaros.com

From: Weishaar, Peter <pweishaar@mccmlaw.com>
Sent: Tuesday, January 05, 2021 1:25 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: NYSCEF Comments

I understand that you are looking for comments regarding our experience using the NYSCEF system.

I have two general comments to share:

1. The NYSCEF system is very well done. It is far superior to the federal ECF system. It is generally more intuitive than the federal system, and it is easy to use and accessible by anyone without charge. One of the major drawbacks of the federal system is the barrier that PACER imposes on attorneys and members of the general public who want to search for and view case filings. The system should remain free to access and use.
2. From time to time, I have commercial cases where the parties have exchanged business-confidential information. Under the paper filing system it was much easier to file documents under seal. I have yet to have a case in the NYSCEF system that requires filing documents under seal, but this process seems far more cumbersome under the NYSCEF system and there seems to be a risk that confidential documents end up not being properly sealed. This may simply be due to my own lack of understanding about how this should work. Perhaps there could be training modules or explanations available online, setting forth how to do this in a commercial case?

Thank you.

Peter J. Weishaar, Partner
McConville Considine Cooman & Morin, P.C.

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 **MCCONVILLE CONSIDINE
COOMAN & MORIN P.C.**
ATTORNEYS & COUNSELORS AT LAW

From: Lee Beck <lheit@lawyerladies.com>
Sent: Tuesday, January 05, 2021 6:04 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: response to mandatory e filing

Jeffrey Carucci, Dir. Statewide Coordinator for
Electronic Filing
Office of Court Administration 25 Beaver Street
New York, New York 10004
efilingcomments@nycourts.gov

Dear Mr. Carucci,

This email is in response to the request I received for my opinion regarding mandatory e-filing. I'm very excited someone actually asked for my opinion- I don't think that's ever happened before! First, I hope you are healthy and safe.

I worked for a large firm before e-filing existed, then for myself for a very long time, and then for a defense firm for about one year before Covid. I have learned that e filing can be very time consuming, especially when it involves a long motion with many exhibits. Defense attorneys can NOT bill for that time as it's deemed a paralegal/secretarial function. Many times paralegals get it wrong. I've noticed many attorneys do their own efile and either find inappropriate ways to bill for it or have to make up the time. I have seen, on lengthy motions, multiple attorneys and paralegals all working late to get this done. However, it does have its benefits. It is an incredible help to have the ability to be able to access everything online. In fact, I would love it if all courts' computer systems were online. I never understood why attorneys were required to bring a hard copy to court that was also efiled as some of these motions take up boxes that are too heavy for me. I hope you can continue only requiring one method be utilized.

After losing my job in May (as well as my husband losing his job) we are struggling to make ends meet. As I have an underlying health issue and can't leave this house until I am vaccinated I have been looking for a job that is either remote or considering going back out on my own. I do NOT have the money to invest in equipment that would allow me to efile without enduring a battle with my printer/scanner. I hope other attorneys are doing better than I am. If there was a simplified way to efile that would make it much easier. Should that not be possible, perhaps donations to help attorneys who need the necessary equipment or allowing motions/pleadings to be mailed in with an affidavit that efile was not available at this time would be helpful.

Thank you for taking the time to read my thoughts/experience on this matter.

Best wishes,

Lee

Lee Heit, Esq.

From: Sam Rosenberg <samuelinjurylawyer@gmail.com>
Sent: Tuesday, January 05, 2021 10:08 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: mandatory efilng

I am from an older generation that does not want mandatory efilng for many many reasons. I hope you don't make this mandatory. It is a step closer to the BigBrother State. Samuel L. Rosenberg 15 Astor Place Wesley Hills,NY10952

From: Doug Henderson <dhender499@aol.com>
Sent: Wednesday, January 06, 2021 12:41 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E-Filing Comments

Dear Mr. Carucci:

I welcome the opportunity to comment on the e-filing system in the Unified Court System. To get straight to the point, the pandemic has placed the statewide court system in a crisis. As President Kennedy noted, when the word "crisis" is written in Chinese, it consists of two characters. One character represents danger, the other opportunity.

The danger has cast an ominous shadow over the entire world that has infiltrated the courts statewide. There is no need to elaborate on the havoc that it has wreaked. However, there is a dire need to delve into opportunity, the other Chinese symbol, as it holds the key to not only allowing the courts to function as they had before the pandemic, but to operate on an even higher level.

To achieve this, seemingly, loft ambition, e-filing must be made mandatory for all those for whom it is not unduly burdensome. Those who are technologically challenged should be excused. But for all others, including *pro se* litigants, e-filing should be mandatory. In doing so, the UCS would save countless hours of attorneys appearing in person to file one form or another, or sitting in a courtroom, waiting hours for their case to be called. This would save invaluable time for clerks, court officers, secretaries, etc., to utilize their time more effectively.

It has been my experience that many represented clients and *pro se* litigants are intimidated simply by being in court. The judges in their black robes sitting high above everyone else, the court officers with their guns strapped to their sides, going through the magnetometers, etc., each can be individually intimidating but together they can be overwhelming. I have spoken to several *pro se* litigants who much prefer e-filing to in person appearances.

Lastly, I have utilized e-filing much during the pandemic. Initially, I was skeptical, as I preferred being in court. However, it is so much easier to either sit in my office or at home and to e-file documents than taking the subway to court. This saves clients' money and is much safer from a health perspective. In addition, I am quickly notified when my e-filed document(s) has been accepted. Plus, the court personnel don't have to be present in the courthouse to answer questions that I email to them.

Therefore, e-filing must be made mandatory.

Respectfully,

Douglas Henderson Jr., Esq.

CHIARIELLO & CHIARIELLO

ATTORNEYS AT LAW
147 GLEN STREET
GLEN COVE, NEW YORK 11542
516 801-8100
718 261-5200

January 6, 2021

VIA EMAIL - efilingcomments@nycourts.gov

Hon. Jeffrey Carucci
OFFICE OF COURT ADMINISTRATION
25 Beaver Street
New York, New York 10004

Re: Comment on Mandatory E-Filing

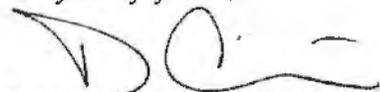
Dear Director Carucci:

I am an early proponent and adopter of electronic filing in our courts and I support the expansion of mandatory electronic filing with the current exceptions for *pro se* litigants and technologically challenged attorneys.

While I believe electronic filing *per se* is more convenient, the requirement in various courts to provide a "working copy" removes almost all of the convenience of electronic filing since essentially the same work of compiling the papers, appropriately tabbing them, and affixing a proper back, and sending them to service or having an attorney appear in court for filing still must be done. This actually makes electronic filing *an additional step* for a lawyer or law office to process papers for filing with the court. Anecdotally, lawyers resistant to electronic filing tell me it is the fact that they still have to perform the same tasks and add yet another that forms the basis for their resistance.

COVID has temporarily freed lawyers from the requirement of filing "working copies." The best reform for electronic filing in our courts, to reduce the waste of attorney time and client money, would be the permanent elimination of the requirement for filing "working copies" except in limited circumstances.

Very truly yours,



DOMINIC L. CHIARIELLO
dc@chiariello.com

DC:dc

c: Queens County Bar Association
Clifford M. Welden, Esq., President (jruiz@qcba.org)

From: Denise Munson Esq. <munsonlaw@verizon.net>
Sent: Wednesday, January 06, 2021 2:21 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Cc: Denise Munson Esq. <munsonlaw@verizon.net>
Subject: Efiling comments

My concern with e-filing in the AD 4th Department is that I do not have the bookmarking technology required. There is a cost to purchase the same. As an attorney who handles primarily AFC & assigned counsel cases, this is an additional expense. Can the software be purchased by the state and licensed to counsel? That would be helpful.

Denise R. Munson, Esq.

Law Offices
MICHAEL A. CERVINI, P.C.
40-09 82nd STREET
ELMHURST, NY 11373
(718) 779-8910

January 6, 2021

Hon. Lawrence K. Marks, Chief Administrative Judge
John W. McConnel, Esq., UCS Executive Director
Nancy Barry; UCS Chief of Operations
Eileen D. Millett, Esq. UCS Counsel
Marc C. Bloustein, UCS First Deputy & Legislative Counsel
Hon. George J. Silver, Deputy Chief Administrative Judge

Re: New York State Courts Electronic Filing Program

Dear Sirs:

Please accept these comments per the UCS letter of December 22, 2020.

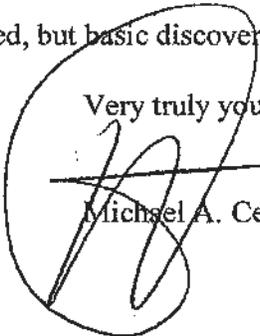
I have been a litigation attorney practicing in Queens County for over 30 years.

I am hopeful that a truly Uniform set of forms; PC(s), CC(s), etc. can be established for all NYC Counties and also Westchester, Nassau and Suffolk.

I cannot understand why each County seems to be issuing their own forms and guidelines.

I realize that some flexibility is required, but basic discovery should be Uniform.

Very truly yours,


Michael A. Cervini

From: Mary Beth Heiskell <MHeiskell@kileylawfirm.com>
Sent: Thursday, January 07, 2021 10:37 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: e-filing experience with Queens Surrogate

My experience with e-filing in surrogate's courts is that it would be helpful to list somewhere with the filing instructions the name of a person to whom one could contact with questions or problems. I am still seeking to receive refund of a fee I paid to Queens Surrogate's for a new index number filing when I could not file needed documents for an emergency hearing request of an already active guardianship matter when E-filing was just beginning in April, 2020. No one, to this day, can answer my questions and direct me to someone who can assist.

Thank you,

Mary Beth

Mary Beth Heiskell, Esq.
Kiley, Kiley & Kiley, PLLC
Attorneys at Law
3000 Marcus Avenue, Suite 3W07
Lake Success, NY 11042-1009
(516) 466-7900 ext. 21
(718) 224-5100
(516) 466-7903 (fax)
mheiskell@kileylawfirm.com
www.kileylawfirm.com

From: Josh Miller <josh@thechaseagency.com>
Sent: Friday, January 08, 2021 10:25 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: EFILING

I am very much in favor of a unified efilng system throughout the state. Physical filing of documents is cumbersome and unnecessary when the technology exists to allow such filing to be done electronically.

I would also like to see it opened up to legal support agencies such as ours. I understand the hesitation to open it to non-attorney filers, but there are many process service companies across the state that are already efilng on behalf of their clients. Allowing such companies to have their own Efilng credentials would keep a smooth system and prevent sharing of login and passwords that is currently occurring between many attorney's offices and their process serving partners.

I would also like to see all Town and Village Courts transitioned into the EFILE system. With the development of EDDS, it has shown that this is possible. The EDDS interface is not nearly as smooth as the Efile interface and I would love to see the EDDS folded into the EFile system.

Thank you,

Josh Miller
Phone: (585) 747-5402 Direct: (585) 515-0101
12 South Main St, PO Box 2, Avoca, NY 14809

ADDITIONAL OFFICE LOCATIONS

168 Water Street, Suite 4A, Binghamton, NY 13901
69 Delaware Ave, Suite 1101, Buffalo, NY 14202
16 East Main St, Suite 265, Rochester, NY 14614
224 Harrison St, Suite 218, Syracuse, NY 13202

If you have been happy with our service, please click on the closest office location and leave us a 5 star review!

From: Jessica Sola <jsola@bfclaws.com>
Sent: Friday, January 08, 2021 11:01 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments

Please allow sorting by the parties' last names. As a matrimonial practitioner, this would be vastly easier to quickly find my cases.

Yours,

JESSICA A. SOLA, ESQ.



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T: 516.280.7105
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E: jsola@bfclaws.com
W: www.blodnickfaziolaw.com

Rated as a Rising Star by Super Lawyers

From: Jasmin Sutherland <jsutherland@zwickerpc.com>
Sent: Friday, January 08, 2021 11:18 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Cc: 'jasmin.sutherland@outlook.com' <jasmin.sutherland@outlook.com>
Subject: NYSEF COMMENT

Good Morning,

I have a couple of suggestions on how to improve NYSEF filing system.

1. Allowing the reprint or an automatic email for Summons and Complaint filings.
2. Clear instructions with an attachment on refund request including if filed in wrong county or if wrong document is uploaded and the court accepts it.

Thank you for your time. These suggestion will also free up the clerk from receiving calls from Attorney's offices.



Jasmin Sutherland
Litigation Assistant
jsutherland@zwickerpc.com
1.866.348.9020 ext.70103

Zwicker & Associates, P.C.

Attorneys at Law
1225 Franklin Avenue
Suite 260
Garden City, NY 11530
1.516.299.9909 fax

A Law Firm Engaged in Debt Collection

From: Gismondi, Jeffrey <Gismondi@ruppbaase.com>
Sent: Friday, January 08, 2021 12:19 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: COMMENT ON ELECTRONIC FILING PROGRAM

To: Jeffrey Carucci, Dir.
OCA Division of E-Filing
25 Beaver St, Room 823
New York, New York 10004

Mr. Carucci:

The e-filing system allows people to consent to represent a party. Sometimes I am involved in cases but I do not represent a party. For example, I may be a court evaluator or guardian for a ward, rather than an attorney for a party. Another issue arises when the case is sealed from public view, such as with Article 81 guardianship matters. Specifically, I do not believe there is an option for a court evaluator to access an Article 81 case on NYSCEF. Access is restricted to parties and their attorneys. And I don't believe there is an option for a court evaluator to be recorded in the NYSCEF case file as a person who is entitled to notice of all filings. I have a similar observation for guardians. If an attorney or lay person is appointed as a guardian, there is no option to access or "sign on" to the NYSCEF case file as a necessary person.

Lastly, I suggest that the rules be expanded to allow an attorney to "Remove Consent/Representation" in a NYSCEF case if the case is resolved as to my client. Currently, the NYSCEF system allows me to be removed from the case if new counsel is substituted, or if I change firms, or if I obtain a court order. I would like the option to remove consent if I settle the case as to my client, but the case remains pending as to other parties.

Thanks for your attention to these comments.

Geff

Geffrey Gismondi

Partner



From: Jeffrey_Klein Esq. <jiklaw@hotmail.com>
Sent: Friday, January 08, 2021 12:23 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E-filing

I am very happy with this system. I use the Federal Court system as well, and this New York system is drastically easier to use.

JEFFREY I. KLEIN, Law Offices
25 Rockledge Avenue, Suite 713
White Plains, NY 10601
(914) 946-8855

From: Josh Friedman <JFRIEDMAN@DBLAWNY.COM>
Sent: Friday, January 08, 2021 1:13 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Attorney Comment on E-Filing

Mr. Carucci:

I offer this comment regarding e-filing in response to your request dated December 22, 2020. I am an attorney in a private law firm located in Albany, New York. My practice includes representing clients in both criminal and civil matters in a broad range of practice areas.

NYSCEF has provided wide-ranging, impactful benefits to litigants, attorneys, county clerk and court staff, and judges. Among other things, it reduces inefficiencies in the antiquated and obsolete traditional service of process provisions of the CPLR, enhances efficiency, improves security, and provides for clear, concise case and docket management.

We now live in a fully online world. Internet usage and access is effectively universal. Attorneys are required to attain basic proficiency with technology as a matter of professional responsibility. In the year 2021, our world now moves at the speed of email, not first class mail. For these reasons, I respectfully submit that e-filing should be expanded and mandated to the maximum extent possible.

Thank you for your time and attention.

Regards,



Joshua R. Friedman, Esq.

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Albany, NY 12210

T: 518.463.7784

F: 518.463.4039

jfriedman@dblawnny.com

www.dreyerboyajian.com

From: Stonee Yeung <Stonee@theyeunglawfirm.com>
Sent: Friday, January 08, 2021 1:13 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on electronic filing program--

Dear Jeffrey Carucci. Dir,

My experience with NYSCEF has been great for the Housing Courts. I really appreciate the Courts and judges open to the public to seek comments from users to share their experiences and opinions.

Comment #1

I would like to make a comment on ex parte Order to Show Cause. Traditionally (non-electronic cases), the proposed ex parte OSC is filed with the Clerk without informing other parties. The OSC is required to serve all parties only after it is signed by a judge. However, any proposed ex parte OSC file through NYSCEF will be seen and notified by all parties even if it is not being signed. I am just hoping NYSCEF will not inform other parties when the proposed ex parte OSC is at the filing stage, without being signed into an order.

Comment #2

The following comment is for matters in Housing Courts--

It is a good idea not to make electronic filing mandatory for the pro se litigants, especially if they are not comfortable or familiar with the system.

Traditionally (non-electronic cases), pro se tenants will go to the clerk office in Court in-person to file an Answer/Order to Show Cause to Stay execution of a warrant, the Clerk will fill out a standard form of Answer/Order to Show Cause by asking the pro se tenants questions, such as questions for process service, defenses and counterclaims.

I would suggest it may be helpful if the clerk can scan and file any Answer/Motion/Opposition to Motion/Order to Show Cause or any documents filed by pro se litigants in-person in Court to the NYSCEF system so that all attorneys and parties in the case can review the documents filed by the pro se litigants even if the pro se litigants choose to opt out for electronic filing. This would help to review all documents under the NYSCEF system no matter whether they are filed by electronic means or non-electronic in-person means. The NYSCEF system will have a complete record of all documents for all cases.

Thank you for your time and continuous effort on improving the NYSCEF system.

Best regards,

Stonee Yeung

From: Jon-Paul Gabriele <jpg@guccilaw.com>
Sent: Friday, January 08, 2021 2:21 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comment on NYSCEF

I suggest that in all emails from NYSCEF, there be a direct link to access the case so that you can just click it to access the whole case. Now, the only clickable link is to the specific e-filed document(s).

Thank you

--

JON-PAUL GABRIELE, ESQ.
THE GUCCIARDO LAW FIRM, PLLC
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www.guccilaw.com
O: 516-280-7100
F: 516-280-4111
C: 516-528-7778

From: Nick Rivera <nick@servesmarter.net>
Sent: Friday, January 08, 2021 5:10 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on Electronic Filing

Hello,

We currently file hundreds of documents each week using NYSCEF. We also file hundreds of documents per week in paper form. In speaking with the clerks in various Civil, District, and City Courts, many have indicated that they are short staffed and cannot handle the document load. Since the pandemic, this has led to delays sometimes of up to a month in getting documents filed. Even before the pandemic it would be a couple of weeks in some courts. Moving these courts to NYSCEF would reduce the burden on the clerks and expedite the filing process.

Nick Rivera

Progressive Legal Support
99 W Hawthorne Ave Ste. 418
Valley Stream, NY 11580
Tel: 516-218-2050
Direct: 1-516-629-0396
Fax: 1-866-541-2848
nick@servesmarter.net

From: Edward Graves <attorneygraves@gmail.com>
Sent: Saturday, January 09, 2021 11:35 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Wasting Time On Shoddy System

I have spent over five hours attempting to use this horrendously constructed filing system.

The system repeatedly asserts that my PDF files, created on Adobe, are not valid PDF's.

After confirming that all drivers and my approved Firefox browser was up to date, your system continued to reject my submissions. Repeated reboots and signing back in repeatedly solved nothing. Using an alternate scanner did not help.

Moreover, your system is apparently designed for civil practice. If you are offering a system not suited for criminal law practice, why force criminal law practitioners to use it? For example, would it be so hard to create a system that refers to "defendants and appellants" rather than various civil designations?

I accept assigned criminal cases despite the low compensation because I believe justice should be available to all.

Now, I am forced to donate hours to deal with this poorly designed filing system.

It amazes me that the OCA can offer such a deficient system and COMPEL attorneys to suffer through it.

Perhaps you should have made it workable before imposing it.

--

Sincerely Yours,

Edward S. Graves, Esq.
P.O. Box 668
Indian Lake, New York
12842
Tel.: 518-598-8048
518-648-6441

From: Walter E Beverly III <mvpschief@yahoo.com>

Sent: Saturday, January 09, 2021 12:29 PM

To: eFiling Comments <efilingcomments@nycourts.gov>; New York State Professional Process Servers Association <admin@nyspps.org>

Subject: Comments RE eFiling

This is a program designed to "save money" and "cut down paperwork" as I understand it. The problem is I do not see any savings at all.

First, the Attorney still have to print out his copy, his client's copy and the copy for service by a process server.

Second, the fees have not been lowered to pass on these so called savings.

Third, the County Clerks still have to maintain hard copies of filings.

Please tell me; what does this accomplish?

Hope this helps,

Walter E Beverly III
Chief of Service,
Mohawk Valley Process Service
6622 Seville Drive
Rome, NY 13440
315-336-2391 Office
315-525-7397 Cell

From: Joel H. Rosner <jrosner@tarterkrinsky.com>
Sent: Saturday, January 09, 2021 8:32 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comment re electronic filing

Hi,

I support making e-filing mandatory throughout the state. While it requires a little bit of knowhow to accomplish, I question whether an attorney can legitimately claim lack of knowledge as an excuse without also running afoul of their ethical obligation to be competent in the use of technology.

In fact, I would go further: I would mandate that all formal legal communications, such as discovery demands and responses, be sent via the e-filing system. I do not think those documents should be filed on the docket of a case, but there is little reason for parties to insist on received mailed hardcopies of legal communications. I cannot recall a single case that I have litigated in the past 5 years (and likely more) where the parties communicated by means other than email -- even if we also sent hardcopies -- and the past year has shown the benefits of electronic communications. All my document productions during that period have also been made in electronic form. Why should we mail a discovery demand and have to add several days of time to the response deadline to account for delays in mail service, when we can send a demand that is received immediately by the opposing side? Why spend time and money printing large sets of documents, when PDFs are free and instantly created? Establishing a system whereby attorneys can deliver documents through the e-filing system would resolve all disputes over when (or if) papers were served or received and ensure that all attorneys of record in the case get their own set of the papers. This could be accomplished with relatively few changes to the e-filing system, which is already set up to send documents to the attorneys of record -- all we really would have to do is eliminate the filing stage of the process. While this would place some administrative burden on the system, it would not otherwise take up resources because there would be no need to retain or otherwise process the documents merely being sent through the system to other attorneys.

Regards,

Joel Rosner



Joel H. Rosner | Counsel
D: 212-216-1187 | F: 646-893-5016
jrosner@tarterkrinsky.com | [Bio](#)

Tarter Krinsky & Drogin LLP
1350 Broadway | New York | NY | 10018
www.tarterkrinsky.com | [LinkedIn](#)
[COVID-19 RESOURCE CENTER](#)

From: Patricia Biazzo <pbiazzo@nycourts.gov>
Sent: Monday, January 11, 2021 8:49 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments

I work in the e-file system extensively every single day of the week. I want you to know that the changes implemented a few months ago which put the index number in the right hand column furthest away from the left is unacceptable.

The most important data in my opinion is that the index number should be the closest, clearest, first piece of information in the to do list needed right after the process document column. The type of document that it is is not as important as the index number in this list. Fellow co-workers have also commented on this change and it is not conducive to the way we work and move through the list.

Please consider changing the list back to having the index number and title/type of action/judge back to the center column.

Thank you for your consideration.

Patricia Biazzo

Special Term Office

Suffolk County Supreme Court

631-852-2402



From: Goosby, Laura <Laura.Goosby@ag.ny.gov>
Sent: Monday, January 11, 2021 11:14 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: My Comment Regarding Access to Mental Hygiene Documents

Good morning:

Thank you for this opportunity to leave a comment regarding the electronic filing program.

My only request is to have access to mental hygiene documents for service purposes.

In my office, in addition to handling sex offender cases for the Sex Offender Management Bureau, I also handle mental hygiene cases such as Assisted Outpatient Treatment/KENDRA, Court-Ordered Psychiatric Medication (COPM), Civil Commitments (MHL 9.27), Order of Conditions (MHL 330.20), and Parole Revocations. On many of the cases, I serve the orders to show cause, final orders, etc. to the opposing parties.

Although I have permission to file, I do not have permission to access the documents once the orders are signed. In fact, I have to ask the assigned attorney to log onto NYSCEF and download the documents for me.

I believe if I have permission to file, I should also be able to access the necessary documents in order to proceed with servicing the respondents.

I would be willing to fill out a special form granting me access by the attorney. The form can then be uploaded to NYSCEF while I'm filing.

I believe this is a reasonable request that can be narrowly tailored for this particular type of filing for a specific purpose.

Thank you for your consideration.

Laura L Goosby
Administrative Assistant 1
Sex Offender Management Bureau
New York State Office of the Attorney General
1 Civic Center Plaza, Suite 401 | Poughkeepsie, NY 12601
Work Tel: (845) 485-3922 | Fax: (845) 452-3303 | Work Cell: (845) 743-2825
Email: laura.goosby@ag.ny.gov

From: Jayme Mancini <mangojugo@gmail.com>
Sent: Monday, January 11, 2021 7:30 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Impossible system for tax payers to use

I have repeatedly submitted a request for an index number and file for action to annul a marriage. However, I keep getting my case and documents removed for reasons that do not involve legal procedures or other logical or appropriate issues. The first recommendation was to use a lawyer, however, I can't afford a lawyer and I took the time to study what is supposed to be included in the case. No, I am not a lawyer, but in the USA we are not required to hire a lawyer or legal representative. I used standard legal templates to prepare my document, and I notarized the verification. However, there is always some reason that the case keeps getting removed.

I think that the system is problematic, but I'm not sure if it is just the legal system on Long Island.

"Clerk's Comment: Captions ****must**** match ***EXACTLY*** on all documents AND what is entered into NYSCEF. For this reason, your case is being removed from the system, documents deleted and your fee will be reversed back to your credit card. You must restart your case anew, ****WITH**** all fees, and remembering to make sure your caption matches ***EXACTLY*** on all documents and the NYSCEF system . Please check ****all**** your work... pdf's, doc titles, return dates, captions, fees... ****prior**** to committing to NYSCEF."

Jayme Mancini, DO, PhD, FAWM

631-223-5167

From: Daniel Schneider <dschneider@fsflp.com>
Sent: Monday, January 11, 2021 10:18 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments About NYSCEF

I am admitted in NY, MA, CA and IL as well as in Federal Court. I use efilng systems from four states and ECF. NYSCEF far exceeds any of the others. It is much more intuitive and an easy to use interface. Though improvements might be available, based upon the alternative, I would not change a thing. I also like the fact that all NYSCEF cases are easily searchable and the documents are readily available. So, I am putting in a hearty endorsement for the system.

Many thanks.

Very truly yours,

Daniel J. Schneider
Farber Schneider Ferrari LLP
261 Madison Ave, 26th Floor
New York, New York 10016
(212) 972-7040 (o) | (212) 922-1939 (f) | (646) 531-1831 (c)
dschneider@fsflp.com | www.fsflp.com

From: David Arpino <david@arpino.legal>
Sent: Tuesday, January 12, 2021 9:56 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on Electronic Filing Program

Dear Mr. Carrucci,

Comments on the NYS Electronic Filing Program:

I support the expansion of mandatory e-filing in every county in New York State. Having the ability to e-file in some counties but not others put an administrative burden on my practice. As a result, I am a supporter of the proposal to lift the restraints upon the discretion of the Chief Administrative Judge to introduce mandatory e-filing program in any count and/or action. To better prepare the court for the future, the ability to e-file should be expanded to all NYC Civil Courts, City Courts outside of NYC, and the District Courts on Long Island.

DAVID ARPINO

david@arpino.legal



P: 631.724.5251 | arpinolaw.com

F: 631.724.5527 | Associate Attorney
380 Townline Road, Suite 180
Hauppauge, NY 11788

From: michael cervini <cervini07@yahoo.com>

Sent: Tuesday, January 12, 2021 12:27 PM

To: CC-NYEF <CC-NYEF@nycourts.gov>; nyscef <nyscef@nycourts.gov>; eFiling Comments <efilingcomments@nycourts.gov>

Subject: Various

Good day,

I hope everyone is safe and healthy!

I have filed PC requests; Consent to e-filing requests which in some cases are over 30 days old without any response.

What can I do?

Thank you.

From: Charles Baron <CBaron@mclaughlinstern.com>
Sent: Tuesday, January 12, 2021 1:28 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on eFiling

I have efiled two proceedings in the Bronx and apart from the following issue, the filings proceeded uneventfully.

*****PDF ISSUE*****

I scanned documents on two occasions, in August 2020 and in December 2020 using an HP 3830 printer/scanner. PDFs were created from the scan and in both instances NYCEF rejected the PDFs (this was not the case with PDFs created from an iPhone.)

The rejection notice was as follows: "The PDF cannot be added to NYCEF because it is corrupt. The file did not end with the end of file (EOF) marker as required by the PDF standard (ISO-32000 7.5.5)"

I have no clue how to deal with this. I have no clue how the pdf could be accepted by NYCEF. There is to my knowledge, no specific instructions in the eFiling handbook as to how to mitigate this problem. There is no explanation as to why this problem occurs.

Instruction and direction to remedy this issue would be greatly appreciated..

Charles B. Baron
McLaughlin & Stern LLP

From: Romanelli, Chris <CRomanelli@weitzlux.com>
Sent: Tuesday, January 12, 2021 2:09 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: My experiences with NYSCEF

A very intuitive and solid system. By far the best electronic filing system I have used. Beats Pacer by miles.

It's easy to figure out, very stable, very-well staffed (when we need an index number in a rush). And I use it for a very busy tort practice and I am filing motion opps with dozens of exhibits all the time.

I give it a grade of A+.

Chris Romanelli
WEITZ & LUXENBERG, PC
700 Broadway
New York, NY
10003
(212)-558-5815

From: Gary Tsirelman <gtsirelman@gtmdjd.com>
Sent: Tuesday, January 12, 2021 11:11 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Please accept my comments about E-filing on behalf of the firm.

Our firm files thousands of civil court cases in Kings County. E-filing system, if done right, can save us a tremendous amount of time and decrease overhead. But the key is, if done right. Currently, it is not. The current system is unusable, awful and serves only to waste our time. If the current E-filing system is implemented without change, we will either have to hire an army of people to E-file thousands of cases and go out of business (because of the enormous overhead) or just go out of business. Moreover, the amount of errors that would be entered into the court system by an army of people is unimaginable. We are already suffering because of COVID, because everything is delayed, because our clients are not working and because legislative changes adversely affect our business. Adding this to our burden will crush us.

So how should this E-filing system work in order to save us and not waste us time? Our servers must be able to communicate with each other just like our servers communicate with clearinghouses now when, for example, one submits bills to an insurer. Our digital data gets uploaded to our unique "incoming folder" on their server and their program reads the data and places the data into their own system (in our case it would be the court's system). If they (or the court system) wants to send some data back, the data is placed in our unique "outgoing folder" and our program will read the data and place it in our software. This way people are not involved. Everything is done by computers, at the press of a button, there are no errors, and no overhead. This is an ideal system.

If you would like more information on how to do it, I would be very happy to explain it to you as I develop software for clients and attorneys. I and many of my clients use the software I developed.

Sincerely,

--

--

Gary Tsirelman, Esq.

GARY TSIRELMAN P.C.

129 Livingston St 2nd Fl

Brooklyn, NY 11201

(Tel) 718 438-1200 (ext.105)

(Fax) 718 438-8883

From: Dan Crespo <dan@ppservers.com>
Sent: Wednesday, January 13, 2021 10:54 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E-Filing in NYC Civil Courts

Good Morning,

My company e-files in both Supreme and Civil Courts in New York City. The Supreme Court E-Filings give you access to the case, you can print anything you need from that case. Civil Court you are unable to. Why can't both Supreme and Civil have the same access? That is my suggestion.

Best Regards,

Dan Crespo

Preferred Process Servers Inc

166-06 24th Road, LL

Whitestone, NY 11357

718-362-4890

From: ita@itafluglaw.com <ita@itafluglaw.com>
Sent: Wednesday, January 13, 2021 11:03 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: recommendations

Hi,

These suggestions are for housing court only:

1. There should be a way to put multiple items in cart and pay 1x instead of paying \$1.05 90 separate times for postcards on multiple cases.
2. Motions should be able to be filed as 1 document without splitting up into parts (nom, aff in support, exhibits, etc..)

Thanks.

Ita R. Flug, Esq.

672 Dogwood Avenue, #311

Franklin Square, NY 11010

516-612-7034

From: Caroline Moran <carodave92@yahoo.com>
Sent: Wednesday, January 13, 2021 11:33 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments/survey on eFiling procedures

Hello,

Since I never pass up an opportunity to give my opinion...here are a few thoughts from my experience using the eFiling system to submit my father's estate for probate. I think this is a great idea and am extremely grateful to have this option, especially in times of covid, but I do have some suggestions, below. My entire experience has been with the Surrogate's Court of NY County, in case that matters.

Additionally, I would like to comment that I reached out for assistance numerous times via both calls and emails. Your team is extremely well-trained, well-informed, and very helpful.

Thank you for the chance to weigh in!

Caroline Moran

- Survey button does not lead anywhere!
- Email confirmation of new user account asks user to change password - there should be a link to do so - or instruction explaining that a second email is forthcoming.
- Confirmation email requests that the user send hard copy of the documents to the Court - email should also contain mailing address for the Court.
- Confirmation email should contain a timeline or a ballpark timeline so user can gauge how long the process will take - it can be very general - ie, check back in 2 weeks/1 month/3 months - otherwise there is no way to tell if your application is missing details, etc.
- To set up a new account, user is asked to create a password between 6-10 characters, in a later spot, it says that password needs to be a minimum of 10 characters. This should be uniform throughout the website and all communications. (And it appears that 10 char minimum is the correct instruction).
- I had to create multiple accounts due to errors with the password and other user-error related reasons...I'm sure this is clogging up the system. There should be a way to delete accounts from the user side.Or ideally, a way to use a single account for all interactions, but I suspect there's a security reason why that is not possible.
- Buttons with instructions (continue, log in, etc.) should be larger and colorful. They are currently tiny and blend in with the page. The survey button is a great example of good practice, it is large and colorful and stands out well.
- You might consider including a glossary of legal terminology - using links - since the site is intended for people with no legal training, it would be helpful. For example, when the form requests 'party role' that phrase could be hyperlinked to a definition of party role. (Am I the petitioner? Or is there a more appropriate choice for me? Not really sure...)
- You might consider creating sample documents, to at least give an idea of how the forms need to be completed. This sounds like a big project, but in fact, you could simply redact confidential info from existing forms that have been submitted correctly, and house them as pdfs. Obviously with a large warning that everyone's answers will be subject to personal circumstances, but to give users an idea of what the final should look like.

From: claudette@michaelcolelaw.com <claudette@michaelcolelaw.com>
Sent: Wednesday, January 13, 2021 12:24 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Efiling System

Hello

Just some thoughts on the e-filing system.

First, I love being able file papers this way. I hope more Courts get approved for this way of filing papers.

Can the EDDS filing link be located on the main page somewhere..permanently. I have difficulty finding it. Typically I have to go to forms and click the link under the Stip/Consent description.

When converting an existing case, is there a way to list the cases I am waiting to be uploaded so I can then consent to it. As it is set up now, I have to choose through the screen menus and enter the index number. It would be quick to just have a list of my pending cases.

Is there a way to streamline the emails I receive..for example when I file a judgment for divorce..the documents are acknowledged, then a control number assigned, then a notice the case will be assigned to a judge, then it is confirmed. It's just alot of emails for one project.

As I have not been able to participate in any online how to's because they are held during my work hours, are there links I can find when I am at home. My boss would be fine with me learning how to do this during the day, but I just don't want to take the time with the volume of work we have at the office.

Thank you.

Claudette

--

Claudette M. Roese, Paralegal
LAW OFFICES OF MICHAEL W. COLE, PLLC
13349 Broadway Street
Alden, NY 14004
(716) 937-9150
(716) 937-9580 fax

From: Michael Pollok <michael@crimdef.com>
Sent: Wednesday, January 13, 2021 11:30 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Inconsistencies in systems

It appears that different courts use different systems to file documents. It also seems pointless to have an e-file system and then still require the same number of hardcopy documents be filed like in the Court of Appeals where we are required to file the same number of expensive hardcopy briefs after spending a great deal of time and resources converting the briefs into searchable and bookmarked PDF's:

Rule 500.2 Submission of Companion Digital Filings.

(a) The Court requires the submission of filings in digital format as companions to the required number of copies of paper filings required under sections 500.10, 500.11, 500.12, 500.14, 550.20, 500.21, 500.22, 500.23, 500.24, 500.26 and 500.27 of this Part.

I refer you to the federal ECF system which is countrywide and easier to use than the various systems we have in the state.

Very truly yours,

Michael S. Pollok, Esq.
Law Offices of Michael Pollok, PLLC
Tel. 845.758.3676
E-Fax. 845.853.1628

Dutchess County Office:
7468 S. Broadway-Suite 2
Red Hook, NY 12571

Ulster County Office:
44 Main Street-Suite 8
Kingston, NY 12401
<https://www.crimdef.com>

From: james bacon <baconesq@yahoo.com>
Sent: Thursday, January 14, 2021 7:29 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on e-filing

Dear Sir or Madam,

I am thrilled with the new e-filing system. Although the mandatory filing choices are sometimes limited, I have adapted. Please do not change anything. - James Bacon - admitted NYS bar 1992

From: David Scott Heier, Esq. <dheier@familylawyer-ny.com>
Sent: Thursday, January 14, 2021 3:28 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E-filing

I enthusiastically endorse and support a proposed amendment to CPLR Article 21A and other relevant statutes to authorize the Chief Judge and Chief Administrative Judge to make e-filing mandatory across the state — in any or all of the State's trial courts. The implementation of mandatory universal e-filing of all cases in the State should be expedited.

NOTE: No attorney should be exempt from the requirements of e-filing if lacking the equipment or knowledge to participate. This exemption should be addressed in the future. E-filing is not rocket science and the cost of equipment is inconsequential. This is no longer the era of typewriters, whiteout, and carbon paper. It is a challenge to logic and common sense that a New York lawyer is so lacking in knowledge of technology that such ignorance cannot be remedied by training and education. It is a disservice to clients and a hinderance to the courts and other attorneys.

David Scott Heier, Esq.

HEIER LAW OFFICE

David Scott Heier

Attorney at Law

20 Gorham Street

Canandaigua, NY 14424

(585) 412-2334

www.familylawyer-ny.com

From: Marybeth Bevan <mb@markagreenpc.com>
Sent: Thursday, January 14, 2021 4:08 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments

Good Afternoon:

Overall eFiling has been terrific. One suggestion on Matrimonial cases – our office is the Attorney for the Children on many matrimonial matters. Often we have to request special permission to be added to eFiling if the plaintiff and defendant have already filed their consent to efile before an Attorney for the Children has been assigned. Maybe there can be a field for an Attorney for the Children to consent on the eCourts site rather than having to ask the judge's part to add us as an efile user.

Thank you.

Marybeth M. Bevan Esq.

Marybeth M. Bevan, Esq.
Law Office of Mark A. Green, P.C.
1305 Franklin Avenue, Suite 200
Garden City, New York 11530
(516) 345-8080
(516) 345-1616 (fax)
mb@markagreenpc.com

From: Robert Palmeri <rpalmeri@nycourts.gov>
Sent: Thursday, January 14, 2021 5:31 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: My comments

Greetings,

My name is Bob Palmeri and I am the Senior Court Clerk assigned to the Motions and Appeals Desk in Suffolk District Court.

When the e-filings began I took it on myself to learn both of our e-filing programs and handle all of the e-filings in the District Court Criminal Division. I can honestly say that the e-filing system is user friendly and a pleasure to work with. It pairs magnificently with UCMS! The biggest hurdle we have is getting more attorneys on board to use it. The complaint I hear most often from both lawyers and Judges is that "I need papers in my hand!". I think if someone in OCA was to reach out to all of the local Bar Associations, that might assist in even more use of the e-filing system.

The e-filing system combined with UCMS can truly take the NY into the paperless, 21st century.

Sincerely,

Robert Palmeri, Senior Court Clerk
Suffolk County District Court
Motions and Appeals Desk
631-208-5810

From: William J. Brennan <William.Brennan@kennedyslaw.com>
Sent: Thursday, January 14, 2021 4:37 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: NYSCEF User experience comment - Problem with Unwritten "Rules"

Dear Mr. Carucci:

I write in response to your request for user comments for your office's annual report on e-filing. I am an attorney and practice in federal and state courts around the country so I believe that I have some basis for comparison for the following comment.

The court clerks have too much discretion to reject NYSCEF filings because they are enforcing unwritten rules in an arbitrary fashion. Therefore the e-filing rules should be changed to require the clerks to specifically cite to a written rule in order to reject a filing.

Let me give you an example of my recent experience in the Appellate Division of the First Department. My appellate printer filed through the NYSCEF system an appellate brief that I drafted. My brief included two (2) bullet points. Both bullet points were part of a single block quotation from my opponent's brief. The clerk rejected the filing and directed me to remove those bullet points without any explanation as to why this was required, but merely said: "Reason for Returning: Remove the bullet points found on page 15 of your brief." The notice of rejection was sent at 4:56 PM, so it was impossible to seek further information that day. My opponent's brief, which contained the original bullet points, had been filed without any issues raised about bullet points.

When I called the following day, I was told that the First Department has a rule against "too many" bullet points. When I asked where this rule could be found, the clerk politely directed me to 22 NYCRR Part 1250.8(f). When I noted that Part 1250.8(f) does not mention bullets (let alone explain how many bullets are acceptable), the clerk paused briefly and then informed me that that the rule was "implied" by Part 1250.8(f). The clerk did, however, concede that because "only" two bullet points appeared in my brief, it should have been fine and that he personally would not have rejected the filing. The clerk then directed my to refile the brief without any changes. I did. My brief, however, was immediately rejected again with the following note: "Reason for Returning: See previous return for correction comment. The change was not made and the bullet points are still on page 15. This isn't considered proper formatting within the contents of your brief."

When I called the clerk's office again, I learned that the clerk who answered the phone hadn't warned the clerk who was reviewing filings that my brief should be allowed through. The phone answering clerk then shouted at the reviewing clerk to stop bouncing my brief and directed me to re-refile. This time my filing was accepted.

Needless to say, this unnecessary back and forth was frustrating for me and costly for my clients. It is also entirely inappropriate - different rules were applied to different briefs in the same case and the

clerks could not even agree among themselves as to what the unwritten rule required for the same brief. If the Justices of the Appellate Division wish to impose new formatting rules, they should be added to Part 1250.8, which addresses the form and content of briefs. (I am aware of at least one other unwritten rule that the First Department clerks intermittently enforce.) Unwritten rules should not be permitted for obvious reasons of due process and fair notice to litigants. Written rules also create the added bonus that they can avoid loud disputes between clerks with different opinions about what an unwritten rule requires. The obvious solution is to inform the court clerks not to reject filings unless (1) a written rule has been clearly violated, and (2) they provide a written notice to the litigant in the email rejecting the filing that specifically identifies the written rule at issue.

Please feel free to contact me if you have any questions.

Best regards,

William J. Brennan
Associate
for Kennedys

Kennedys

T +1 646 625 4036

M +1 917 435 9315

F +1 212 832 4920

www.kennedystlaw.com

From: Maureen - Basch & Keegan Injury Lawyers <mak@baschkeegan.com>
Sent: Friday, January 15, 2021 9:57 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Electronic filing

My office-BASCH&KEEGAN
307 Clinton Avenue
Kingston NY 12401
835-338-8884
We SUPPORT E-Filing.
Thank you

Sent from my iPhone

From: James Montgomery <jmontgomery@drdllplaw.com>
Sent: Friday, January 15, 2021 10:09 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E-filing Comments

Dear Mr. Carucci:

I have some comments to make regarding e-filing in state court actions:

1. For me, simplicity is the key - clear and understandable fields and a user-friendly site should be always the goal, I respectfully suggest. I find the state court site much better than the federal ones, so top marks to state court there.
2. E-filing should be extended where possible to new areas: civil court, divorces, criminal actions, are obvious candidates.
3. The need to provide hard copy should be eliminated (it has been suspended because of covid19, and this should become the norm).
4. Where possible, Judges should lose the power to make individual part rules which depart from standardized rules of procedure. Uniformity of procedure makes legal practice easier, saves time and money and helps everyone involved in litigation.

I remain,

Sincerely,

James Montgomery

Good afternoon –

In the NYSCEF Notification emails we receive, I think it would be helpful if there was a direct link to the login screen for quicker access to the docket. For example, create a link to the index number that will open the login screen, and possibly save the index number for quicker view/access to the docket of that case.

Hope that makes sense.

Thank you,



Cheri Fiordeliso
Paralegal
145 Culver Road, Suite 100
Rochester, NY 14620
P: 585.232.5300 ext. 263
F: 585.232.3528
Email: cfiordeliso@boylancode.com
Website: BoylanCode.com

From: James Bartosik <jamesabartosikjr@gmail.com>
Sent: Friday, January 15, 2021 9:46 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: e-filing comments

Good afternoon,

I just wanted to express some of my frustration with using the e-filing system. Some parts of it make sense in my opinion, such as serving notice of appeal number on the DA's office, but it doesn't make sense to me that assigned attorneys need to upload and file a copy of the Notice of Appeal and Assignment Letter, since it was the court that provided that information to us. We are essentially submitting that information back to the court.

Also, even when an appeal is already pending and has a case number, you must wait for approval and for the system to assign the case number. It is also frustrating that the initial case information entry can time out on your web browser, meaning that you then have to input all of the information again. it would be better if there was a save function prior to submitting the case info for system approval.

In addition, I work for a public defenders office and have many appeals through my office, but I also have a couple appeals from other counties for which I am assigned counsel privately. I do not like the use of my attorney registration as the method for filing appeals because it fails to separate the capacity for which an appeal is being filed and, to the extent that I could have someone in my office assist with e-filing documents, it would require that I provide that person with my private registration number and password.

Overall, e-filing is smart in 2021 and I'm sure it can be effective, but the current system is not very user friendly and, to me, requires too much time just to initiate e-filing on a matter that already exists and has been assigned and for which hard copies still need to be served and filed.

--

James A. Bartosik, Jr., Esq.

From: appellatelaw <appellatelaw@bellsouth.net>
Sent: Friday, January 15, 2021 3:28 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject:

E-filing is good. Some suggestions to maybe improve it:

* eservice should be the norm and should not require counsel's consent to receive eservice instead of mail/ and or all counsel should furnish designations indicating the email addresses they wish to be served via email.

* would it be possible to only file papers by eservice and not need to file physically as well?

* All attorneys who participate in litigation involving eservice should be required to provide their emails on the attorney registry database on nycourts.gov and or see above.

Thanks

From: Michael Brunetto <brunetmj01@mail.buffalostate.edu>
Sent: Friday, January 15, 2021 3:56 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Re: Comments / Critique / User Experience

NY Courts,

Critique:

(1) Organize the submitted documents (simultaneously on a different tab) with the rules and regulations of all Appellate Courts in NYS.

That way, an appeal is as easy as pressing submit (or allowing access) to the desired Appellate Courts.

(2) This is 2021, there is no reason an appellant should reprint a 20,000 page record on appeal to submit to 11 judges and 5 Respondents in order to appeal a decision made in error or authorized by a Justice of the Supreme Court.

(4) NYS Courts should set forth an initiative to GO GREEN, and reduce paper waste with the above critiques.

(5) NYS Courts should allow all parties (who are joined as a party to an e-filed case) to be served papers via the e-filing system. (as invoked during the pandemic)

(6) There should no longer be a requirement to hand serve subsequent motions and papers ("courtesy copies") upon parties or justices. (as invoked during the pandemic)

(7) These critiques should be set forth by the New York State GO GREEN initiative involving the NYS Court's systems.

(8) Skype or Microsoft Teams should remain a viable option (after the pandemic) to reduce cost of a lawsuit for clients and attorneys who may be far away from the location of the Court's.

The above will reduce carbon footprints of cars and reduce gasoline waste.

Comments/User Experience:

(1) The new e-filing system is user friendly.

(2) The new e-filing system is easy to navigate.

(3) NYS needs to GO GREEN in 2021! (please set forth an initiative to make this happen by 2023)

(3) The new e-filing system is easy to submit documents.

Respectfully,

M.B.

From: Justin Brusgul <brusgul.law@gmail.com>
Sent: Friday, January 15, 2021 4:50 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Appellate Division e-filing

Greetings:

I have used NYSCEF for Surrogate's Court filings for several years, without issue.

My general criticism of the AD system is the requirement of paper-filing e-filed documents: this, for the attorney, eliminates the utility of e-filing in general, and consumes more time and resources.

Surrogate's Court does not require this for most filings.

In addition, the AD rules are rarely on point, up to date, or clear.

Thank you, and stay well.

Justin C. Brusgul

From: Edward Graves <attorneygraves@gmail.com>
Sent: Friday, January 15, 2021 5:53 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Poorly Conceived

To Whom,

My experience with this system has been frustrating. The system contains, I think, a 60 some page manual, written in tiny print and full of cross references to itself--none of these are easily accessible from within.

I've not previously formatted searchable PDF's as are required for the simplest operation. The NYSCEF instructions as to how to do so are unintelligible.

I finally found online the material offered by the Federal 9th Circuit Court of Appeals. Their guide was simple to use.

Why could not NYSCEF provide simple guides, that don't require plowing through 60 plus pages of tiny font to do the beginning steps??? After going through your endless and meandering instructions, I could still get nowhere. PLEASE!!!, if you have not, go online and attempt to find useful information in the endless pages pretending to answer "FAQs"

I fear that you have a group of teenage computer geeks writing everything that is supposed to instruct on usage. Why must it all come across as gibberish?

I am an older attorney and feel sure that the older attorneys in OCA and on the bench would find your directions and website pages incomprehensible. But, those parties have State staff to deal with the mess. **Most other attorneys do not, except those in big money firms. So, you are once again preserving the court system for wealthy people and leaving the majority out on a limb.**

I have heard from other older colleagues that your system is the **last straw** for them. They will instead retire and take with them decades of knowledge and wisdom on what practicing law is supposed to mean, in terms of actual reverence for law and the courts. This undermines the judicial system.

By imposing on every attorney the condition that they can practice law only if they commit to become **computer secretaries** you are hollowing out the legal profession. Can you believe that this is good?

Maybe you are thinking that you are saving money by making EVERYBODY who interacts with OCA provide the clerical labor that used to be part of your responsibility. It sounds rather like off-shoring jobs. OCA will save money at the expense of the courts fulfilling any assumed mission of providing "justice" and social cohesion.

MAYBE, you could consider that NYS needs jobs. That OCA could instead of foisting madness across the system, have a staff that attend to scanning, etc., like responsible enterprises used to?

--

Sincerely Yours,

Edward S. Graves, Esq.
P.O. Box 668
Indian Lake, New York
12842
Tel.: 518-598-8048
518-648-6441

I write to comment on the NYSCEF system which seems designed to disrupt the courts of New York.

I have spent some hours attempting to initiate/create a new case file. I am shocked at how difficult it is to get anywhere through your system. I am also impressed at how much money I would be required to assess clients to satisfy the time requirements of this chaotic system.

Attorney colleagues have expressed opinions ranging from rage to complete contempt at having this mess foisted on them.

It seems that the designers of this system have chosen to make EVERYONE who deals with the courts responsible for the work that previously would be done by specialist office staff--staff employed and paid by OCA.

So, you have decided to presume to expect EVERYONE who needs to file documents in New York Courts to become an expert in your complicated and arcane computer system. I assume you have computed how much money OCA will save by requiring others to do its work.

Instead of having a staff in-house who organize documents filed by litigants into digital format designed to be accessible to those needing to access them, you have decided to make EVERYONE your digital secretaries.

Is this supposed to be anything but an economic saving measure for OCA? To, instead of paying trained OCA staff to format and organize digital records, you think to off put the work onto everyone else who deals with the courts?

It is a plan that can only create chaos and be navigable only by wealthy litigants.

So, all those who cannot decipher the dozens of "How To" pages randomly linked through this system will be required to hire others to do it for them. And many who do not officially qualify as indigent, etc., will be foreclosed from the Courthouse because they cannot afford to hire experts.

The concept behind this system, that is, presuming to foist onto litigants the secretarial tasks of the OCA, is both deficient and subversive of the mission of New York State Courts.

I would not be surprised to find an enterprising attorney sue OCA on Equal Protection grounds.

Please stop this and assume your own administrative responsibilities.

Sincerely Yours,

Edward S. Graves, Esq.
P.O. Box 668
Indian Lake, New York
12842
Tel.: 518-598-8048
518-648-6441

From: Geoffrey Luan <geoffluan@gmail.com>
Sent: Saturday, January 16, 2021 9:58 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on NYS Courts Electronic Program

Mr. Jeffrey Carucci -- There is an urgent need to make electronic filing an option to be available to use at as many courts as possible. Thank you.



Geoffrey Luan, Esq.

LAW OFFICE OF GEOFFREY LUAN

Phone: 347-491-2154

Email: GeoffLuan@gmail.com

131-07 40th Road, Suite E26

Flushing, New York 11354

From: Flor Betancourt <fbetanco51@icloud.com>
Sent: Saturday, January 16, 2021 8:15 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: eFiling comments

eFiling Comments

I am an unrepresented litigant. The following are comments regarding my e-filing experience:

1. The site should post the average turnaround times for the various categories of e-filed applications.
2. The customer representatives at the Surrogates Court level are not knowledgeable regarding the eFiling system. One told me that all he can tell me is that you can file a petition in the system and not to ask him anything about the system.
3. The eFiling system is not user friendly and is very convoluted like a myriad of highways with no signs.
4. My application for a letter of limited administration is still pending since 11/21/2020 and no updated status is available in the system nor an expected status.

From: Sanderson, Joseph <joseph.sanderson@kirkland.com>
Sent: Sunday, January 17, 2021 1:36 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: E-Filing Comment

I strongly support the extension of mandatory e-filing (subject to exceptions for pro se litigants) throughout the state, for all trial and appellate courts. Aside from reducing cost and time compared to paper filings, e-filing serves a critical role in allowing the public and attorneys access to court records, assisting in transparency and research.

To that end, I hope that any reform allowing OCA to make e-filing mandatory statewide for all trial courts is also accompanied by a requirement for clerks to gradually digitize court records over a reasonable time period, with the costs of such a digitization program offset by modest increases in filing fees (especially in high-value commercial disputes, where the parties can likely afford it most). Many states, including ones with highly complex court structures such as Texas, have successfully transitioned to statewide electronic filing and records digitization, with significant benefits for efficiency and transparency.

Joseph Myer Sanderson

KIRKLAND & ELLIS LLP
601 Lexington Avenue, New York, NY 10022
T +1 212 446 4759
F +1 212 446 4900

joseph.sanderson@kirkland.com

From: Peter Lomtevas
Sent: Monday, January 18, 2021 6:41 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Strongly Support

It bedevils me how fort years after the first microcomputers, the nation's legal system still requires paper filings at a counter in a clerk's office. I strongly support electronic filing for the savings in client fees, the lessening of traffic congestion in the streets around the courthouse and the lower carbon footprint that efileing provides.

I also strongly support video conferencing of cases for exactly the same reasons.

Peter

www.lomtevas.com

From: B & B Law Office <lawoffice@fairpoint.net>
Sent: Monday, January 18, 2021 11:41 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on eFiling

These comments are for APPEAL filings only. I generally do assigned appeals—both criminal and Family Court.

- 1) There is a substantial difference between criminal and civil (Family Court) appellate work. Rarely are there more than two parties in criminal appeals. It's The People and the defendant. It would be great if eFiling could reflect that the criminal process is pretty simple procedurally.
- 2) Motions: Often, in appeals, both criminal and civil appeals (including Family Court), my entire motion--notice, affirmation and exhibits (if any)--is less than five pages. It would be very helpful if one could file a motion as one document, and not have to file a separate notice, affirmation/affidavit, and exhibits. Maybe have a page limit to allow filing as one document? Or an exhibit limit for a one document filing?

Thank you.

Alex Bloomstein

Baldwin & Bloomstein
Attorneys at Law, LLC
61 Cold Water Street
Post Office Box 248
Hillsdale, New York 12529
(518) 325-3141

From: Bonnie Cohen <bcgallet@gmail.com>
Sent: Monday, January 18, 2021 8:28 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Re: nyscef comments

I have tried, but unfortunately I have not had luck. As a court evaluator on MHL Art 81 cases, there does not appear to be a way for me to see the other documents filed on a case. That is why I sent my comment to NYCEF for consideration before the Jan 25th deadline.

-Bonnie Cohen-Gallet

On Mon, Jan 18, 2021 at 7:00 PM eFiling Comments <efilingcomments@nycourts.gov> wrote:

Please reach out to the NYSCEF Resource center at

NYSCEF@nycourts.gov and they can assist

From: Bonnie Cohen <bcgallet@gmail.com>
Sent: Friday, January 15, 2021 11:54 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: nyscef comments

I am an attorney, handling MHL Art 81 cases. I serve as the Court Evaluator or the Attorney for the AIP in cases in Manhattan and Queens.

As the Court Evaluator, I have great difficulty accessing the documents that have been filed since I am not considered a party to the action. In most cases, I do not have any access to the documents. The most recent example is 500646-2020.

PETER C. MERANI, P.C.

ATTORNEYS AT LAW

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1979 Marcus Avenue
Suite 210
Lake Success, N.Y. 11042
Phone: (516) 622-2270
Not For Correspondence

January 19, 2021

Re: New York State Courts Electronic Filing Programs/Comments

In response to the letter dated 12/22/2020 in regard to NYSC electronic filing programs request for observations, our office would like to bring to your attention the following concerns:

1. NYSCEF requires the firm's file number when filing but when notification is received from NYSCEF, the file number is not included in the notification. This creates an additional burden of having to now search for the file number and depending on the number of cases that are filed for the day, this could require unnecessary search time.
2. When having filing issues, it is very difficult to get a live person on the phone and this issue preceded covid.
3. The court requires that NYSCEF be emailed regarding e-filing issues. However, in most instances, the response time takes weeks.
4. Regarding EDDS you still cannot start lawsuits in civil city court by e-filing, electronic means
5. Under EDDS there is a limited amount of documents you can file.
6. Under EDDS you cannot file a judgment with the court.
7. Under EDDS the system seems to be unresponsive to calls and inquiries.
8. Our office is forced to continue to file documents manually in paper format with limitations under COVID of accessing the court. There is little directive or directions from the court regarding such legal documents as the entry of a judgment. The processes should be expanded to include all possible legal documents and the ability to receive executed documents back from the court such as signed entered judgments.

Thank you for your anticipated cooperation in this matter.

Very truly yours,

Peter C. Merani
Peter C. Merani, Esq.

From: Kurt.Vellek@AllenOvery.com **Sent:** Tuesday, January 19, 2021 11:29 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Cc: mbx404770@ecf.courtalert.com
Subject: Comments in Advance of Annual E-filing Report

We cannot say enough good things about Jeff Carucci and his staff for their steadfast support of the legal community throughout the pandemic. Even in the early days he remained accessible and informative; essential matters moved through the system and enabled us to seek judicial relief when the courthouse was virtually empty.

We have also used EDDS for some of our pro bono matters, with excellent results.

The entire E-filing staff should be highly commended for their hard work and success.

Kurt R. Vellek | Managing Clerk

Allen & Overy LLP

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From: Pallante, Kristi <kpallante@cohenclairlans.com>
Sent: Tuesday, January 19, 2021 11:10 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: RE: NYSCEF comments

It would also save a lot of time if there was an option to download multiple documents at once. Downloading individual files is very time consuming.

Kristi Pallante
Paralegal
Cohen Clair Lans Greifer Thorpe & Rottenstreich LLP
The Lipstick Building
885 Third Avenue, 32nd Floor
New York, New York 10022
212.326.1740 T
212.300.1111 F
kpallante@cohenclairlans.com

From: Pallante, Kristi
Sent: Tuesday, January 19, 2021 11:06 AM
To: efilingcomments@nycourts.gov
Subject: NYSCEF comments

Re: Matrimonial Packets – we have received mixed messages about what documents need to be filed as part of the Matrimonial Packets versus separately as individual files which result in various rejection notices.

It would also be helpful to preview more of the file names for documents that have been uploaded to make sure the intended file was actually the file that was opened. It currently gets truncated to the first and last few letters of a file name when viewing on the upload page.

More support and customer service in the event that something was filed in error and needs to be corrected immediately. For example, a document was uploaded by an attorney in our office to the wrong case, and it took multiple emails over several weeks to get it removed.

Thank you!

From: William Buckley <WBuckley@Garbarini-Scher.com>
Sent: Tuesday, January 19, 2021 10:21 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on experience with e-filing

- (1) Sometimes a document is returned for re-filing, but the reasons for the return are not clear from the message I receive with it. For example, I recently was told to re-file a notice of appeal because there were "pages missing." I poured over the document and was left wondering, "What pages are missing?" It would facilitate e-filing if the persons returning documents for re-filing would identify themselves so that we can speak with them or communicate with them via e-mail.

- (2) Sometimes there is a very long wait between my filing of a document on NYSCEF and the document's status changing from "pending" to "processed." For example, on January 6 I filed a notice of appeal. Today, January 19, I am still waiting for the NYSCEF to mark it "processed" so that I can open an e-file with the Appellate Division. It would help if I knew whom to contact to find out why there is this delay.

Thank you for your attention to these comments.

William D. Buckley
Appellate Counsel
Garbarini & Scher, P.C.
432 Park Avenue South, 9th Floor

From: Colleen Hastie <chastie@tlsslaw.com>
Sent: Tuesday, January 19, 2021 5:24 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on Electronic Filing Program

I have worked as a defense litigation attorney for 18 years and would like to provide the following suggestions comments regarding NYSCEF.

1. It would be beneficial to be able to upload different formats of exhibits on motions. This would be especially useful for exhibits that require zooming to fully appreciate the details, such as photographs and blueprints. Converting these documents to PDF causes the image to pixilate when zooming in to better observe an area. The recent mandate against working copies prevent the parties from submitting a separate CD Rom with the images for the court to better observe the evidence. Similarly, many times parties seek to submit a digital recording (i.e. surveillance footage) to be used on motions, but it is not possible to upload this evidence in NYSCEF's current format.
2. There should be an option to post a document to multiple motion sequences so the same document doesn't have to be uploaded multiple times to attach to multiple motions.

Thank you for the opportunity to comment.

Best,

Colleen

COLLEEN E. HASTIE
PARTNER

TRAUB LIEBERMAN

Seven Skyline Drive | Hawthorne, NY 10532

MAIN (914) 347-2600 | DIRECT (914) 586-7075 | CELL (914) 806-2993 | FAX (914) 347-8898

[Bio](#) | [vCard](#)

www.traublieberman.com



From: Robert Miletsky
Sent: Tuesday, January 19, 2021 6:21 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Cc: 'Robert Miletsky' <rjmiletsky@rjmiletsky.com>
Subject: Comments on e-filing

Hi:

This remains a user friendly system. Much, much easier to use than the Federal ECF system. A couple of comments, since you asked:

One problem is filing documents that were previously filed. For example, when we make a motion, we normally have to include a variety of documents that were previously electronically filed. However, when those earlier filed documents are filed as part of the motion, the electronic receipt for the new filing, overlaps the filing receipt for the older filing – as a result, you cannot read either. I recently filed a Motion for Summary Judgment – and obviously had to include the Summons and Complaint as an Exhibit. When I filed the Summons and Complaint as part of the motion, the filing stamp at top, overlapped the original filing stamp which showed the date the Summons and Complaint were first filed. The overlaps then became a mess and you could not read anything.

It is also extremely difficult to remove an erroneously filed document. I filed a Notice of Transfer of a case to Federal Court – but then realized I filed it in the wrong state court action. Aside from being a traumatic event, it was very difficult and time consuming to try to reverse the filing.

Thank you – hope this is useful

Robert J. Miletsky, Esq.
Contributor: Expert Commentary - Construction Law:
International Risk Management Institute, Inc. (IRMI.com)
Fmr Editor and Writer: Contractors Business Management Report

Please note our new addresses:

For Legal and Related Matters
Law Office of Robert J. Miletsky
275 Merrick Avenue, Suite B
Merrick, New York 11566
Tel. 646.256.7500

From: Anil Babbar <anil.babbar@mac.com>
Sent: Thursday, January 21, 2021 10:51 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: COMMENTS ON ELECTRONIC FILING PROGRAM

Dear Chief Judge:

The e-Filing system that is currently being used is an UNMITIGATED failure.

I am a lawyer and a very savvy technology user. I have used technology such as e-mail and the web before it became widespread in the general population. I am currently there CFO and General Counsel at an Artificial Intelligence company in the health care sector.

The current e-file system suffers from the following defects:

- Unintuitive interface
- Confusing options for gathering input data
- No user experience or user interface logic
- Court clerks and staff giving out conflicting and incorrect guidance (I personally experienced this on 2 occasions)

You should fire the person who implemented this platform. The standard of quality and use should be the average CITIZEN who comes to the site to engage in e-services.

Right now, only an experienced litigator / legal professional who has spent years in the court's convoluted and has spent months navigating your e-file platform has any chance of a meaningful interaction.

You have disastrously failed in providing and value to the public with your current platform. I am surprised how poorly thought out this technology solution is given that this is 2021.

Regards,

Anil

Anil Babbar

From: Noah Blumenthal
Sent: Thursday, January 21, 2021 9:19 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on efilling

I have spent 20 years in the technology industry, as a programmer for most of that. I have worked for the last 7 years specifically on building software for the legal industry. Though I am not an attorney I do have an open case in the nyc court system and so have experience with both in-person and online filing.

I agree with the statement made in <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/NoticeInterestedParties.pdf> that *in person filing wastes attorney time, client money...*". As recently as 2 weeks ago, while much of the country is in lockdown and the NYC court buildings are locked, my attorney attempted to e-file some documents that were rejected and the court told her to file in person. She then sent someone to the court building - on the court's advice and at my expense - who was turned away at the door. Clearly the status quo is broken. Indeed, much of the country recently voted for president without going to a voting place in person and yet in-person filings are the norm in NYC. I cannot see a reason why in this is the case in the year 2021 when so much of our lives are digital already.

However, it is my understanding that the current e-file solution has some pain points too. For example, I understand that exhibits must be uploaded one at a time. This is also a waste of attorney time and client money. Users of modern file storage and sharing systems are used to ease of upload and the technology to support that is readily available. I cannot speak to the current upload system since I have only heard about it from my attorney and never experienced it myself. But I see no reason why there should not be a way to upload multiple files at once either by enabling multi-file-selection and/or drag&drop. Gmail and google drive do this well.

From: Karen C. Kraar
Sent: Thursday, January 21, 2021 11:48 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Efiling comments

Before the pandemic, counties were helpful in offering phone counseling for those not experienced in eFiling, and I believe there was also a state-wide 800# helpline. Those have both been eliminated. Mandatory eFiling has created much frustration without these services, except by email which is often not helpful. I have wasted much time over simple issues that would've taken a few minutes to resolve on the phone, and colleagues have experienced the same. Counties unfortunately have varying requirements. Please, we MUST have active help-lines!

Thank you.

Karen C. Kraar

From: Karen Krogman Daum
Sent: Thursday, January 21, 2021 2:45 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Notification of summons and complaint filed, before answer served

Hello.

Other e-filing jurisdictions have a function to let attorneys get notice when a summons and complaint is filed against their client but *before* an answer is served. For example, Jane Doe files a summons and complaint against ABC, LLC. The attorney signed up for notifications for ABC, LLC, and gets a notice of any new summons and complaint filed against ABC, LLC.

This would be a very helpful function on NYSCEF, as I am seeing a delay in the notice of service from the Secretary of State lately.

Thank you.
Karen

Karen J. Krogman Daum, Esq.*

kjd@benderson.com

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From: Tom Catalano (x298)
Sent: Thursday, January 21, 2021 6:42 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: way to remove old cases from "My Cases"

I have dozens of closed cases in My Cases, the oldest one from 2008

When filing it's bothersome to wade through all those old case to find active one I need to file in.

There must be a way to clear out old, closed cases from "My Cases"

Working from home: (917) 318-8975

Thomas A. Catalano

Partner

Lester Schwab Katz & Dwyer, LLP

100 Wall Street, New York, New York 10005

212.341.4298 (Direct)

212.964.6611 (Main)

212.267.5916 (Fax)

tcatalano@lskdnylaw.com

www.lskdnylaw.com

From: Yuderka Valdez
Sent: Thursday, January 21, 2021 7:37 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: efiling @ nyscef

The experience of being able to electronically file court papers was an exciting prospect. Filing court papers was not very easy for a lay person as some of the terms used were complicated. Trying to add extra required documents such as identifications or birth certificates has been a hard process. The system does not (or I have not been able to find a way to do it) allow you to add these documents. I emailed them as attachments and received the message which I have attached to this email.

--

Respectfully,

Yuderka Valdez
LYLAK Multiservice
Authorized IRS E-file Provider
Notary Public

From: John A. Del Duco, III
Sent: Friday, January 22, 2021 11:35 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: NYSCEF is well formed but can be improved

NYSCEF is easy to use, and it is easy to refer to documentation already filed on the system. I believe that the NYSCEF system represents a massive improvement over serving and filing of hardcopy submissions. It can be improved in the future by upgrading the system to allow the filing of larger, non-pdf exhibits such as video and sound recordings which currently must still be submitted in hardcopy.



John A. Del Duco III, Esq.
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Bronx – Manhattan – Middletown – Monticello
Newburgh – Poughkeepsie – Spring Valley

From: Linda Fry
Sent: Friday, January 22, 2021 10:37 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Re-instate the Efiling Help Desk telephone number

I felt it necessary to voice concerns about the lack of help with e-filing procedures.

On three occasions in recent weeks our office sought direction and guidance with uncommon questions and we were unable to get a timely response. One response took 6 days.

One question involved an Order from the NYS Court of Appeals, one was a repeated "error" message when trying to file motion paper with 32 documents repeatedly uploaded and today trying to get access to a sealed matter in which we have previously appeared.

It would be much appreciated to get immediate help, either by telephone or timely response to an email to solve issues.

We realize the constraints involved with pandemic, but we still have legal deadlines. It would be most helpful to re-instate the help desk telephone number and have people actually available to help as they have in past.

Thank you.

Linda C. Fry
Legal Assistant

Law Office of J. Michael Hayes
Phone: 716.852.1111 Fax: 716.852.0711
69 Delaware Avenue, Suite 1111
Buffalo, New York 14202
Web: www.jmichaelhayes.com
Email: linda@jmichaelhayes.com

From: Richard Lavorata
Sent: Friday, January 22, 2021 11:40 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments

Overall, I think the electronic filing works very well. However, there are some issues that need to be resolved.

For example, There are virtually no drop down menu options for documents on Article 81 guardianship matters.

I needed to file a Final Accounting-which is not an Affirmation or affidavit. I had very little choice where to file it.

There are a number of Reports, one is the Annual Guardian Report, which should be an option. Others are the Court Evaluator's Report and Initial Guardian Report.

Rich

Richard Lavorata, Jr.
Attorney at Law
101 N. Wellwood Avenue
Suite 1
Lindenhurst, NY 11757
Phone: 631-376-1301
Fax: 631-376-2347

From: James S. Hinman

Sent: Saturday, January 23, 2021 5:13 PM

To: eFiling Comments <efilingcomments@nycourts.gov>

Subject: Attn: Jeffrey Carucci, Director, OCA Division of E-filing - Re: New York State Courts Electronic Filing Program

Dear Mr. Carucci:

As a member of the Monroe County Bar Association, I was made aware of your letter of December 22, 2020 soliciting observations and comments with respect to "a proposed amendment to CPLR Article 21A and other relevant statutes to authorize the Chief Judge and Chief Administrative Judge to make e-filing mandatory across the state - in any or all of the State's trial courts."

I am writing to express my opposition to the proposed amendment insofar as it would make electronic filing mandatory in any or all of the State's trial courts. While I understand that there are many benefits to e-filing, especially for the courts and that it does not pose a burden for the majority of my colleagues, who have technological capabilities and the ability to avail themselves of that option, there are many of us, admittedly fewer in number, for whom electronic filing poses burdens and obstacles that are detrimental to our practice and threaten our ability to continue to practice our profession..

I am a solo practitioner and have been a practicing attorney in New York State for over forty years. I moved my office to my home eight years ago and have had no assistants or staff in over twelve years. I am familiar with many who practice under similar circumstances. I practice mainly in Family Court and criminal defense but, in order to provide complete service to clients, also have occasional matters in Supreme and Surrogate's Courts. Although I attended a training seminar and thought that I would be able to acquire the necessary skills and proficiency to coexist with this process, that has not proven to be the case. I have, therefore, taken advantage of the opt-out provisions in those instances. I did, however, have an appeal, in a retained case, in which electronic filing was required and found it necessary to utilize a third party service in order to meet the filing requirements and, even with their assistance, four attempts were made before the papers were accepted. In total, the electronic filing requirements resulted in substantial additional costs to my clients - over \$1,000.00 in all, when taking into account the fee for the outside assistance and the additional time expended by me meeting the additional requirements. My clients were not wealthy individuals and have three small children - this was a burdensome requirement for them and they derived absolutely no benefit whatsoever over what would have resulted from filing in the traditional manner - appropriate copies of the briefs being filed with the Appellate Division. As a result of that experience, I am no longer willing to handle appeals. If electronic filing is made mandatory in all courts, I will most likely find it necessary to severely curtail my practice stop practicing altogether. That is not something I wish to do at this point in my life, at least not yet.

Lest you think that I am alone in my beliefs, I assure you that I have talked with many of my colleagues who also find electronic filing to be burdensome and problematic. They, however, are disinclined to express themselves for fear of running afoul of the pressure being exerted to implement mandatory electronic filing. While I realize that electronic filing has many benefits for court staff as well as large firms, corporate clients and public agencies, and recognize it is a process that is increasing in popularity, it is not advantageous for everyone, especially citizen litigants and many solo and small firm practitioners. I have always felt that the practice of law is about serving the needs of the clients, not the courts or those who serve the courts. Quite frankly, I see absolutely no benefits that accrue to my clients from electronic filing.

I realize that electronic filing is here to stay and will most likely expand; however, I am hoping that the opting out provisions remain intact so that those small firm and solo practitioners, such as myself, who lack the capability and necessary abilities to successfully comply without added impediments, can continue to practice the profession we love and help our clients navigate the already difficult process of interacting with the courts and the justice system. The additional time and expense attendant to electronic filing for us could be much better expended in other endeavors.

Thank you for your consideration and for affording me the opportunity to express a contrary opinion. If you would like to discuss my concerns in greater detail, I would welcome the opportunity to do so at your convenience.

Very truly yours,

James S. Hinman
James S. Hinman, P.C.
Post Office Box 67160
Rochester, New York 14617
Telephone: (585) 325-6722
Cell/Text: (585) 704-9954
Fax: (585) 325-4496
jshatty@frontiernet.net

From: Brenda Geedy
Sent: Sunday, January 24, 2021 12:32 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: EFILING COMMENTS

Good afternoon

I would like to comment as an advocate for mandatory e-filing across the state for both Supreme Court and City Court filings.

In an effort to reduce personal contact during this COVID time, having to file an affidavit of service within 20 days of service, to a non-e-filing court, can become a challenge having to rely on the US mail system.

As far as city court EDDS filing can you clarify what the actual filing date is. Is the filing date the date the document is electronically filed, or is it the date that the clerk receives it? Sometimes it can take anywhere from 1-5 days or more to receive an acknowledgement from the clerk.

Thank you for this opportunity

Brenda Geedy
Office Manager
Smart Serve Process Serving, Inc
1320 French Rd
Depew NY 14043
716-668-2711
Brenda@SmartServeProcess.com

From: Derrick Moore
Sent: Monday, January 25, 2021 1:54:01 PM (UTC-05:00) Eastern Time (US & Canada)
To: eFiling Comments
Subject: E-Filing Public Comment

Good afternoon,

I would like to provide the following public comment on the Unified Court System's e-filing program: Generally, I find the NYSCEF system to be very user friendly and I encourage e-filing to be made mandatory across the state. My comment is with regards to the inability to use multiple emails when consenting in cases. As a solo practitioner,

I am Of Counsel to another firm who practices in New York, a practice that I believe is pretty common among smaller firms and solo practitioners. As Of Counsel to the other firm, I have a separate email address which I use to communicate with my clients and opposing counsel in those cases. Under the current NYSCEF system, while I can have backup or alternate accounts, I can only use one email address to consent in all of my cases, which results in my own firm always being listed as main counsel despite the fact that a different firm is actually the counsel of record. I would request that the court system consider adding the ability to switch your main email on a case by case basis to allow the right firm to be listed as counsel within the system.

Thanks very much for consideration of this comment.

Best, Derrick

Derrick F. Moore, Esq.
Moore Law
M: 315-794-4714derrick@mooreatty.com

From: Smith, Daniel <DSmith2@Venable.com>
Sent: Monday, January 25, 2021 2:32 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Comments on Electronic Filing Program

Good Afternoon,

I just wanted to let you know about some issues that have bothered me over the past couple of years on NYSCEF. I am a paralegal with a law firm in Manhattan, and am one of the primary e-filers in my office, so I filed quite regularly – almost daily.

I filed a Motion to Dismiss back in November. I just wanted to draw attention to something that has happened a few times before over the past couple of years, but I took details and screenshots this time.

Sometimes NYSCEF does not accept PDF documents. It never gives a reason other than that it is not in the correct PDF format. Sometimes this is because of images, or scanned hand signatures, or tables within the documents, and there may be other reasons that I have not encountered, so there is a bunch of guesswork to do to figure out what is wrong with the document.

Because of this, I always test out our exhibits ahead of time to make sure I do not run into this issue. I have attached the below screenshot of the test I ran earlier tonight.

PDF Checker

Review the validation results for each document submitted.

Validation Scan Results

File Name	Message
02-04 - Katsiris Aff - Ferreira Affidavit.pdf	<input checked="" type="checkbox"/> Passed
02-05 - Katsiris Aff - Big Apple Facility.pdf	<input checked="" type="checkbox"/> Passed
02-06 - Katsiris Aff - Vantage Facility.pdf	<input checked="" type="checkbox"/> Passed
02-07 - Katsiris Aff - Guaranty.pdf	<input checked="" type="checkbox"/> Passed
02-08 - Katsiris Aff - Waiver Letter.PDF	<input checked="" type="checkbox"/> Passed

Check more PDF Files

All of our exhibits complied according to the NYSCEF document checker. But when I tried to upload the above batch of five exhibits, I got the following message.



The following errors occurred...

1. Upload files must be in a PDF format.
2. Please reload all the PDF files.

As you can see, it implies that at least one of the documents is not in PDF format, but in the previous screenshot, you can see that they are.

Because NYSCEF does not allow you to upload documents one at a time after a failed attempt, I could not upload them one at a time to try to catch the problematic document. I eventually had to upload five “dummy” documents, and then go into each after the fact and edit, and upload the correct document. It was when doing this that I found that Exhibit 5 was the problematic one. It contains an Excel sheet that had been printed to PDF in color, and I assume that was the problem, but I don’t know, because it did not give any details other than that there was an upload error. I printed the document to PDF again, and re-saved, and then NYSCEF was able to accept the filing.

I just wanted to flag this, as similar things have happened multiple times, and I am sure I am not the only NYSCEF user who has encountered it. I am not sure why NYSCEF has trouble accepting documents like that, but my biggest frustration is when no explanation is given as to what the actual problem with the document is.

In addition to those NYSCEF issues that I have every now and again, I ran into another issue this past week with the Queens County Surrogate’s Court. I am not sure if this is an issue with that particular court, or NYSCEF, or both.

We were joining a case as co-counsel, but could not find out how to file a Notice of Appearance. I know that in pre-pandemic times, we would file a hard copy in person, but as of last summer, everything there is to be e-filed.

I called the court to ask how to find the case, and they told me just to enter the case number on NYSCEF. When I did that, the case was not listed. I called the court again, and I asked if they could tell me if anything had been e-filed to this case before, or if this was going to be the first e-filing in a previously all-paper case. They said they could not check for me, and that I would have to check. I did check, and there is nothing to tell you who uploaded a document, or how. Everything looked like it had been paper filed, but had been scanned in by the court at a later date.

When I asked the court for further guidance on this, they said to call the NYSCEF help desk. When I asked NYSCEF for help with this, they said to call the Queens County Court. Surely someone, even if it’s not their direct responsibility, could give me some guidance, or point me to the correct person. Because it comes off that 1 – they don’t know how things work at their court/on their system, and 2 – that they hate their job and couldn’t care less, or a combination of both of those scenarios.

Here is the response I got from NYSCEF

RE: Surrogate's Court - Queens County



nyscef <nyscef@nycourts.gov>

To ● Smith, Daniel

Retention Policy: Inbox 90 day purge (90 days)

Expires: 4/20/2021

Caution: External Email

Give Queens County a call and ask what file number the case is filed under.

I don't understand why I would call Queens County to ask for the case number when I have listed the case number in my email to NYSCEF.

Here is the response I got, six days later, from Queens County Surrogate's Court



Qnssurr-info <Qnssurr-info@nycourts.gov>

To ● Smith, Daniel

Retention Policy: Inbox 90 day purge (90 days)

Expires:

Caution: External Email

Contact the help desk.

Both responses, especially that of the Surrogate's Court, just emit an energy of "I could not care less about any of this".

There are four screenshots embedded in the body of this email. If they do not come through, let me know, and I could send them as attachments.

Regards with thanks,

Daniel

Daniel Smith | Paralegal | Venable LLP

t 212.370.6213 | f 212.307.5598 | m 682.647.5107

Rockefeller Center, 1270 Avenue of the Americas, 24th Floor, New York, NY 10020

From: June Castellano
Sent: Monday, January 25, 2021 4:40:07 PM (UTC-05:00)Eastern Time (US & Canada)
To: eFiling Comments
Cc: Assistant
Subject: RE: Submission of e-filing comments

Good evening:

The following comments were compiled by my staff. My practice in Supreme Court is primarily matrimonial. Hence these comments address divorce actions. Thank you.

There is no single document that fully explains the e-filing process for a matrimonial case. Several different training documents along with the e-filing protocols for several counties have to be read to understand the process.

Online e-filing training is often too basic. It shows how to sign up and attach a file, but nothing beyond that. The training system could be enhanced to cover start to finish filings. When a user commences a sample case, no index number is ever assigned. Therefore a user cannot keep filing documents so as to practice uploading the needed documents for a case from start to finish. Trainers rarely show matrimonial cases. Developing a training specifically for matrimonial cases would be helpful.

The NYSCEF generated RJI 840M addendum does not include a field for a party's prior name(s). Therefore you always have to upload your own addendum in order to provide the court with a party's prior names. If you don't upload your own form, the court has to contact you for the maiden name(s).

Monroe County requires the RJI 840M addendum to be filed in all cases, not just those with children under 18. The system will not give you the option to create this document unless there are children under 18.

Chambers does not always receive notification of an uploaded judgment roll when a judge has already been assigned prior to submission of a judgment roll. As a result, court staff asked counsel to notify the judge's law clerk after uploading a judgment roll.

It would be helpful if a "what's new" feature could be added to the NYSEF home page or even sent out to NYSEF users periodically. For example, NYSEF users do not know when new document types are added to the document type drop down menu.

Many attorneys close their files and cease their representation, per their retainer agreements, once the divorce is finalized. The inability for an attorney to remove consent/representation of a party once the divorce portion of the case is finished poses a problem for practitioners. Because there is no substitution of attorney, the attorney who handled the divorce has no way to remove his or her consent that they are not the attorney of record for say the QDRO portion of the post-divorce case or subsequent post-judgment litigation.

GREGORY S. GENNARELLI, LLC

ATTORNEY AT LAW
1565 FRANKLIN AVENUE
MINEOLA, NEW YORK 11501
(347) 921-1950

January 25, 2021

Jeffrey Carrucci
Director, OCA Division of E-Filing
Office of Court Administration
25 Beaver Street
New York, New York 10004

Re: New York State Courts Electronic Filing Program
Proposed Automatic Sealing of All Medical Records Uploaded to
NYSECF

Dear Mr. Carrucci:

I have been a practicing personal injury and medical malpractice attorney in New York for the last 21 years.

I write in support of a modification of the current e-filing privacy rules to provide greater privacy protections for individuals and confidential medical records.

In an effort to provide greater protection to patient medical records, I propose and recommend that all medical records that are uploaded to NYSECF be sealed upon filing and only made available to attorneys representing parties to the litigation. Presently, any medical record that is uploaded to the NYSECF system is available for public view by anyone in the world with computer access.

As you know, the HIPAA Privacy Rule established national standards to protect an individuals' medical records and other personal health information. It applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information, and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization. Generally, without the consent of the patient, medical records cannot be released absent Court order or Subpoena.

In the case of civil litigation, medical records are routinely released and obtained from medical providers pursuant to HIPAA authorizations. These authorizations, provided either with the consent of the party or as ordered by the Court, rightfully permit attorneys defending a lawsuit to obtain and review a patient's records in the defense of a case. However, that authorization does not, and should not, give any attorney or party receiving such records in the defense (or support)

of a claim, carte blanche to distribute a patient/claimant's entire private medical history to anyone in the world with a computer. Unfortunately, that is exactly what the NYSECF system currently permits when documents are uploaded.

While Section 202.5(e) of the Uniform Civil Rules of the Supreme and County Courts requires that an individual's date of birth and social security number be redacted prior to any Court filing, no such requirement exists for a patient's medical records, whether related to the subject lawsuit or not.

Similarly, New York General Business Law section 399-dd*4(6) provides that "No person may file any document available for public inspection with any state agency, political subdivision, or in any court of this state that contains a social security account number of any other person, unless such other person is a dependent child, or has consented to such filing..." Further, GBL § 399-dd*4(7) provides that "the court may impose a civil penalty of not more than one thousand dollars for a single violation and not more than one hundred thousand dollars for multiple violations resulting from a single act or incident."

Unfortunately, no such rule or remedy exists with respect to the privacy of a patient's private medical records or medical history. Indeed, Patient privacy rights are routinely violated in civil cases when the electronic filing of medical records in support or in opposition to motions.

While it is true that individuals who bring a claim for personal injuries or medical malpractice knowingly consent to a limited waiver of their right to privacy, related medical records and the physician patient privilege with respect to the claim, they do not agree to waive their entire medical history or privacy rights for the world to see.

Indeed, there is no need or purpose for a party's medical records (including their medical history) to be made available for public viewing or inspection by anyone with a computer. Present or future employers, neighbors, friends, family, or anyone searching for nefarious reasons, should not have unfettered and unauthorized access to a patient/claimant's medical records simply because a claim for compensation is brought. Many injuries, medical conditions, treatments are extremely private. Even though a claimant may agree to waive certain aspects of their privacy as it relates to a person they are suing, that information should not be made available to the masses.

Therefore, I propose that NYSECF adopt a new requirement mandating that all medical records uploaded to NYSECF be sealed upon filing, and only made available to attorneys representing parties to the litigation.

Thank you for your consideration, and I am happy to discuss this matter at greater length.

Very truly yours,

Gregory S. Gennarelli
Gregory S. Gennarelli

From: Samuel E. Kramer <samkatty@bway.net>
Sent: Monday, January 25, 2021 10:09 PM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: Suggest changes to eFiling

I consider electronic filing and the ability to access Court documents 24 hours a day, 7 days a week to be a revolutionary innovation, and all for you the good. I have been electronically filing documents since the early 1990s when it was first introduced in SDNY Bankruptcy Court, in which I have also practiced throughout my career.

The New York electronic filing system is generally excellent and user friendly. In many ways it is superior to the Federal system, although both the Federal and State systems have their good and bad points.

I think that the New York State Supreme Court electronic filing system would benefit from these three simple additions:

1. Do not limit the number of ancillary documents to 4 or 5 items. In other words, when I file an affidavit with exhibits, I can only file 4 or 5 (I forget which) exhibits at a time. After the 4th or 5th document I have to essentially re-start the filing process and include case information again. This requirement repeats itself over and over until all my exhibits are filed. If I have a big case with many exhibits, this can be a confusing, time consuming and, as far as I can tell, unnecessary exercise. I should be able to append an endless number of exhibits to an affidavit
2. Create a separate button for exhibits, rather than requiring using the drop-down menu every time. Again, this will be less confusing and will expedite the filing of exhibits.
3. Create a facility to create Exhibit Tabs. Many times, attorneys do not have time to scan an Exhibit "___" page onto the front of exhibits, particularly long exhibits, or when working with an older scanner. It would be useful to have the ability to have CEF create the cover sheet for an exhibit, much as CEF can create an RJL.
4. Add "Verification" to the list of documents that can be filed. Right now, if I have I want to include a Verification in my filing, as in a pleading or interrogatory, I have to file the Verification as an "Exhibit", which is inaccurate and also confusing.

As I said, the State Supreme Court system is generally good, but the above suggestions should be welcome by most of the Bar.

Thank you, and sorry for the late hour.

- Samuel E. Kramer

Samuel E. Kramer,
Attorney at Law
225 Broadway - Suite 3020
New York, New York 10007
Telephone: (212) 285-2290
Telecopier: (212) 964-4506

From: Cathy Fazio <loudustbuster@yahoo.com>
Sent: Tuesday, January 26, 2021 2:04 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: e-filing issues for NYSCEF Unrepresented Litigants

Dear Mr. Carucci,

Let me preface my comments with some background information on myself so you do not think that the issues that were encountered using the NYSCEF site are coming from a computer illiterate person. I was a Production Manager for a global advertising agency for 25 years before I retired. After retirement I then went to back to work at a local law firm building their internal server file structure, case management system and created forms for the law firm to utilize because the NYS Court System was on the cusp of beginning to utilize PDFs for e-filing.

I am sure your funds are limited but as we all know you buy cheap you get cheap. If your funds are limited they are best spent in the layout, coding and functionality phase. If the base structure is good you can always build on it going forward as opposed to reinventing it every single time.

Here are some suggestions:

1. Have a good idea of what you would like to see done.
2. Hire a good web engineer/developer to reconstruct your site.
3. You should have a good wireframe before committing to a build
4. Beta test the site across the board with your end users: court staff, lawyers and unrepresented litigants (which you can cull from people that responded to your request for comments)
5. Ensure the site works across all platforms before it goes live.
6. Make your training/video tutorials on how to e-file shorter or in snippets (i.e. how to generate a username/password; how to select the right court; how to upload a file) There should also be different tutorials for lawyers and unrepresented litigants if what you require them to do to e-file is different.
7. Stop requiring unrepresented litigants to generate a new user name and password per case (i.e. if I had three different matters in three different courts I should be able to log in and see all my matters in one place).
8. Stop requiring unrepresented litigants to have a document notarized to obtain user name in order to e-file. You should be able to create your own user name and if its already in use your system should state that its unavailable and try again with a different combination

9. Passwords should have the option to be visible if you choose
10. Have staff for help desk support in a that can respond in 48-72 business hours to an inquiry.
11. Roll out e-filing for all the NY State Courts

After using the NYSCEF site in October 2020 and January 2021 to assist my spouse in e-filing Petition for Administration and supporting documents Pro Se for the Queens Surrogate's Court I found the NYSCEF site and support is extremely deficient for the end user. Below are some of the issues encountered:

I spent well over 4 hours today trying to upload the executed requested documents via the NYSCEF site today but their wasn't a hyperlink for the file number 2020-XXXX/A. However there was a hyperlink for file number 2020-XXXX and when I selected the hyperlink the NYSCEF site promptly generated a error message stating that I would have to create a new user name to file additional documents in my existing case. The NYSCEF site now requires a notarized document sent to NYSCEF before they generate a new user name for you do not have an attorney.

In addition, the Queens Surrogate's Court is not listed on the NYSCEF site's list of Surrogate's Courts that you can upload file to and if you don't select a court you cannot advance to the next screen. The NYSCEF site does have a hyperlink directing you to the Queens Surrogate's Court landing page to find out how to upload a file to your court since it's not on their list but there is no information nor hyperlink there.

The only assistance for NYSCEF is via email and considering I have yet to receive a reply from NYSCEF to in response to my email for assistance I sent to them on October 28, 2020 (when I filed the the Petition for Administration) I highly doubt I can get assistance with filing the additional documents the court has requested in a timely manner.

I hope this helps you going forward.

Cathy Fazio

516-205-9124

loudustbuster@yahoo.com

From: Keith Ahlers <kahlers@curanahlers.com>
Sent: Thursday, January 28, 2021 11:14 AM
To: eFiling Comments <efilingcomments@nycourts.gov>
Subject: eFiling comments

Greatest thing ever. Same with e-conferencing. What we help the environment alone is immeasurable!

Keep it up.

Keith J. Ahlers
Curan & Ahlers, LLP
14 Mamaroneck Avenue
White Plains, NY 10601
Phn 914-428-3313
Fax 914-949-5800
kahlers@curanahlers.com

January 31, 2021

Via email to efilingcomments@nycourts.gov

ATTN: Jeffrey Carucci, Director of Statewide Coordinator for Electronic Filing
Office of Court Administration (“OCA”)

RE: OCA Request for Comments (dated Dec. 22, 2020)

Dear Mr. Carucci:

I am an attorney representing indigent clients in the Bronx. The people I serve are low-income [~100% of the Federal Poverty Line (\$26,200 annually for a family of 4)] and most are seniors, disabled, and/or BIPOC. They are the “digital divide,”¹ the “unsophisticated” consumer, the pro se litigant to whom –our Rules of Professional Conduct suggest– we owe a special duty of care. *E.g.* 22 NYCRR 1200.0 R. 4.3 (Comm. 2); R. 2.4(b); *see also* R. 6.1 (Comms. 1, 2B, 3, 9); R. 1.4(b) (Comm. 5, 6). To that end, this Comment reflects the concerns of those in the digital divide, particularly low-income, pro se litigants: the undue pressure to E-File, the resources needed to diminish the digital divide, and the importance of possible procedural safeguards.

1. The 2019 E-Filing Rule resulted in clerks and court attorneys putting increased pressure onto pro se litigants to “Opt In” to E-Filing. That pressure has resulted in litigants enrolling without a true understanding of how to use the E-Filing system² or what their “choice” means for their case, e.g. that all notices will now be sent to them via email (including filed papers, court appearances). Thus, opting in does not mean the litigant gave “informed consent” or made a “voluntary” choice, legally speaking. R. R. 1.0(j); *See also* above cited rules.

2. To be fair and equitable, OCA can provide more internet and technology at courthouses to minimize the “digital divide.” In a financial emergency –common now due to the pandemic– my clients are likely to lose access to technology (e.g. prioritizing a hospital bill over their phone bill). Even with no pressing emergency, they must divert funds needed for necessities like food, shelter and PPE to instead pay to print papers or access the internet. Pre-pandemic, free, reliable, publicly accessible internet, computers, printers, and scanners (together “technology”) were limited. Now, during the pandemic, those places that provided such access (e.g. libraries, senior centers) are closed. OCA can minimize these disadvantages and increase access to the digital courts, by increasing internet and technology at courthouses.

3. OCA should and can plan for contingencies, as the pandemic and digital divide continue. Given the above, it is reasonably foreseeable that low-income, pro se litigants who have opted into E-Filing (voluntarily or not) will miss an important communication or lose access to their E-File at some point– and the more complex the case, the more likely the mistake. OCA can act now to prevent that harm *before* it occurs (e.g. not allowing e-service on pro se litigants). Further, OCA can act now to mitigate that harm *after* it occurs (e.g. no access to internet or technology on a deadline can be a sufficiently reasonable excuse to vacate a default).

Thank you for your service and please feel free to contact me.

Respectfully,
Hazel R. Caldwell, Esq.

¹See generally Anderson & Kumar, *Digital Divide Persists Even as Lower-Income Americans Make Gains In Tech Adoption*, FactTank (May 7, 2019), www.pewresearch.org/fact-tank/2019/05/07/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption; Costa, *Technology Gap Between the Rich and Poor is Deepening US Inequality* (May 4, 2017), www.businessinsider.com/technology-gap-deepening-us-inequality-2017-5.

² The current court websites are confusing to attorneys and especially pro se litigants. The 2019 Report by the Commission to Reimagine the Future of NY Courts referred to the “system” of court websites and E-Filing as “disjointed and decentralized” and a single “redesigned and centralized” website. *Report*, at 8 (Nov. 9, 2020).



February 1, 2021

Jeffrey Carucci, Dr.
NYS Courts E-Filing Division
Office of Court Administration
25 Beaver Street, Room 823
New York, NY 10007

Re: 2020 Request for Comments on New York State Court System Electronic Filing ("NYSCEF")

Dear Mr. Carucci,

I write as one very familiar with the history of electronic filing in the Unified Court System ("UCS") since, as you know, I served for many years as Chief Clerk and Executive Officer of the Supreme Court, Civil Term, New York County, having retired from UCS in August 2019. On January 17th, 2020 I submitted comments to you in anticipation of what would be the February 13th, 2020 Report of the Chief Administrative Judge to the Legislature, the Governor, and the Chief Judge of the State of New York on Electronic Filing. Those 2020 comments of mine are to be found in Appendix G, p. 236 of the February 13th, 2020 Report. I believe the comments below amplify those I made last year on this subject and now, after the Covid pandemic, I am even more convinced than I was a year ago of the need to rapidly expand NYSCEF to all action types in all UCS courts.

I applaud all the progress made to-date in expanding NYSCEF which is such a truly transformative, critically important program. I am familiar with past annual Reports of the Chief Administrative Judge to the Legislature, the Governor, and the Chief Judge of the State of New York on Electronic Filing. Those excellent reports set forth in detail the history of electronic filing in our New York State courts. It is an admirable history in so many ways, but the pace of NYSCEF's expansion in terms of action types in which e-filing is mandated and the number of courts in which NYSCEF exists has been disappointing. As I remarked in my comments on this subject last year, our financial institutions abandoned ledger books many decades ago adopting technological advances which are ubiquitous today in most successful enterprises. The United States Federal Courts started Public Access to Court Electronic Records ("PACER") in 1988 and PACER was made available through the Internet in 2001. I understand that the New York State Court System is the most complex court system in the country, and efforts over decades to simplify this system have languished. So, I do not underestimate the challenges - especially with the limited resources at your and the UCS E-Filing Resource Center's disposal - in expanding NYSCEF to all the State's trial and appellate courts, but that goal should be an absolute priority.

As we know, NYSCEF was first introduced in 1999 in two counties of New York State, New York County and Monroe County, then on a consensual basis only and only in Commercial Division



action types. In 1999 New York County organized a modest (in size) team to advance e-filing and that team, led from the start by yourself, persevered and evolved into the UCS E-filing Resource Center. From those very early days NYSCEF has expanded significantly especially in Supreme Courts and Surrogate's Courts across the entire State. Well over two million actions and proceedings have now been e-filed. In many Supreme Courts e-filing is now mandatory in most action types, but as you know best there is so much more to be done, especially in expanding mandatory e-filing to all action types and introducing NYSCEF in so many other courts beyond the Supreme and Surrogate's courts and the e-filing pilot programs now in progress in the Civil Court of the City of New York and in the New York City Housing Court. Of course, self-represented litigants always need to "opt-in" to NYSCEF, so there is no risk of such litigant's being disadvantaged by this proposal. Further, attorneys who lack the knowledge or equipment to e-file need only file a certificate so stating to be relieved entirely of that obligation. The filing of such a certificate is sufficient in and of itself to relieve an attorney of the obligation to e-file, and no authority is called upon to review the adequacy or accuracy of such a certificate.

In your December 22nd, 2020 memorandum to Bar Associations, etc., you invite general comments on electronic filing for inclusion in the February 2021 Annual Report and you also solicit observations, for inclusion in that Report, on a proposed amendment to CPLR Article 21A and other relevant statutes to authorize the Chief Judge and the Chief Administrative Judge to make e-filing mandatory across the state in any or all of the State's trial courts.

Stating the obvious, the Covid pandemic has changed everything!! Chief Judge Janet DiFiore regularly extolls the transformation of so much of UCS into a "virtual court system." That transformation would not have been possible were it not for NYSCEF and the Electronic Document Delivery System ("EDDS"), the latter developed in recent months. As you understand best, EDDS is only a stopgap measure in the absence of further, very significant expansion of NYSCEF, ideally to be made mandatory in all action types in all trial courts.

All of us look forward to what will hopefully be the containment of Covid through the ministrations of vaccines and other measures, but many operational changes introduced in the last eight months in the courts and beyond to cope with the virus will certainly endure. An article in "The New Yorker" of February 1st, 2021: "Annals of Architecture, Office Space. The post-pandemic future of open-plan work," by John Seabrook, provides much insight into the transformations in progress all around us in all manner of "work," and I would include work in our courts. Digitization, despite the palpable perils of "social media," is and will remain the "coin of the realm," and especially given the dated architecture of so many of our courthouses, county clerk's offices, etc. Storing and transporting vast quantities of paper is no longer feasible. And, immediate access whenever and wherever needed to digitized information is now essential.



As again you know best, technological advances, including the expansion of NYSCEF, are integral to improving the efficiency and effectiveness of our courts. Mandatory NYSCEF needs to be integrated with updated case management systems to enhance the utility and advantages of both. Certainly, we are aware of the serious fiscal constraints now confronting our courts and all our public institutions. Serious monetary savings are to be had through the expansion of NYSCEF, savings for the courts, the county clerk's offices, and the "consumers" of the services of both. Many such saving have already been realized through NYSCEF as it exists today by virtue of no longer needing to store and transport vast quantities of "paper." Service through NYSCEF itself offers vast efficiencies. And, we know that wherever possible, pleadings, etc., in actions and proceedings still being filed in "hard copy" are being scanned/digitized by County Clerk's offices and courts and are now being maintained in digitized form. This is just one more reason to expand NYSCEF, as here suggested, in order to avoid the great burden which exists today in so many instances of having to scan vast quantities of hard copy filed documents.

Finally, I know, as do you, that the E-filing Resource Center and the UCS Department of Technology require a serious infusion of qualified staff if the much-needed expansion of NYSCEF is to proceed apace. Although I know I digress, UCS support staff should also be as technologically adroit as might be possible. New York State and beyond has a vast talent pool suited for modern, 21st century offices, but there is reason to believe that UCS is "selling itself short" in availing itself of that technologically adroit talent pool. That is a discussion for another time and place especially since we know UCS now has a "hard hiring freeze." Because of that hiring freeze and the inability to hire from beyond the Court System, I recommend redeployment of some qualified court staff, to the extent such staff qualified can be found, to the E-Filing Resource Center and as representatives/extensions of the E-Filing Resource Center in Judicial Districts throughout the State so that NYSCEF might be afforded the staffing needs it requires and deserves. This is a thorny problem I know, but again since I believe that so much of the future success of the Court System depends on NYSCEF, I believe that NYSCEF should receive all the support it is possible to muster.

Thank you for your consideration.

Very truly yours,
John F. Werner