

**PROTOCOL FOR ELECTRONIC
FILING IN SUFFOLK COUNTY
SUPREME COURT**

I. Introduction:

This document has been drafted after consultation with Suffolk County District Administrative Judge C. Randall Hinrichs and Suffolk County Clerk Judith A. Pascale, as Clerk of the Suffolk County Supreme Court, for the purpose of promulgating a protocol to assist in using the New York State Courts E-filing system (“NYSCEF” or “system”) in the Suffolk County Supreme Court.

The use of e-filing in Suffolk County Supreme Court is mandatory in all cases except as set forth in Administrative Order of the Chief Administrative Judge of the Courts 224/16 dated October 12, 2016 and as may be authorized thereafter.

This protocol conforms with the program established by the Chief Administrator of the Courts pursuant to the Uniform Rules for the Supreme and County Courts §§ 202.5-b and 202.5-bb and is designed to provide guidance to users of the system on such matters as processing filings, fee payment, and ascertaining the status of filed matters.

Users of the system may consult the NYSCEF User Manual which can be accessed at www.nycourts.gov/efile and may receive assistance through the E-Filing Resource Center at (646) 386-3033. For inquiries concerning local procedures, users may call the Suffolk County Supreme Court at (631) 852-2408. The Suffolk County Clerk’s Office may be reached at (631) 852-2000 ext. 852.

A. Effect of Protocol: The NYSCEF system does not change the rules applicable to civil litigation. As such, the protocols promulgated herein, as well as any additions or amendments thereto, do not change applicable rules or statutes with respect to civil practice as defined by the New York State Civil Practice Law and Rules (hereinafter “CPLR”), or Uniform Rules, nor does the protocol preempt the IAS Part Rules for individual justices.

B. Getting Started: Prior to utilizing NYSCEF, an attorney, party, or filing agent, must register to become an authorized user of the system at www.nycourts.gov/efile. Attorneys admitted to practice in New York State can log into NYSCEF using their attorney registration number and their attorney online services account password. Attorneys who have not created an attorney online services account (usually done when renewing New York State Bar registration), can use the “Create Account” link at the www.nycourts.gov/efile. A firm acting as filing agent for an attorney to a case must also file a form (EF 12-17) authorizing the agent to file on behalf of the attorney or party. Only one such designating form shall be filed in any NYSCEF case. It should be noted that the New York State Courts’ public website provides a wealth of information to those needing assistance.

C. Mandatory E-Filing: E-filing is mandatory in Suffolk County as set forth in Administrative Order 224/16 of the Chief Administrative Judge of the Courts dated October 12, 2016 and as may be authorized thereafter.

(1) **Exemptions from Electronic Filing in Mandatory Actions:** An exemption from electronic filing may be claimed by an attorney by filing the form prescribed by the Chief Administrator (www.nycourts.gov/efile). If an attorney is exempt from participation in e-filing in accordance with the Article 21-A of the Civil Practice Law and Rules and the Uniform Rules, any document filed with the Court in hard copy form **MUST** bear a completed *Notice of Hard Copy Submission - E Filed Case* indicating that the document is exempt from mandatory e-filing. Any emergency filing made in hard copy in accordance with the Uniform Rules must also bear a completed *Notice of Hard Copy Submission - E Filed Case*. Further, under the Uniform Rules, the filer must electronically file the documents which were filed in hard copy form on an emergency basis within three (3) business days of the emergency filing. The originals will be discarded after the documents have been processed so failure to electronically file as required will lead to an incomplete record.

(2) **Parties Not Represented by an Attorney:** Parties **NOT** represented by an attorney are not required to file and serve documents electronically. However, unrepresented parties **MAY** elect to file and serve documents electronically. Information about how to register, start a case and file to an existing case can be found at www.nycourts.gov/efile. An unrepresented party who has elected to file electronically may at any time decline to participate further in the E-filing system upon filing the form prescribed by the Chief Administrative Judge with the County Clerk.

D. Cases Authorized for Consensual/Voluntary E-Filing: In accordance with Uniform Rule § 202.5-b, those matters set forth in Administrative Order 224/16 and as may be authorized thereafter are eligible for commencement by electronic means or conversion to e-filing. Attorneys who do not wish to participate in electronic filing in a consensual/voluntary case must file a declination of consent to electronic filing with the County Clerk. All papers filed in hard copy must have attached thereto the *Notice of Hard Copy Submission - E Filed Case*.

E. Official Record: The official record of documents electronically filed in connection with an e-filed matter is the electronic record of the document stored by the County Clerk.

F. Certified Copies: Certified copies of any documents filed electronically can only be obtained through the County Clerk's Office.

II. The Process:

A. Commencement of a Matter: Cases commenced using NYSCEF are to be identified by the issuance of an index number of 60000 or higher (2013 and 2014), 600000 or higher (2015 and after), as established by the County Clerk. Upon the filing of commencement pleadings and payment of the requisite statutory fee, the Suffolk County Clerk will assign an index number and the filer will be so advised through NYSCEF. The assigned index number shall be affixed to all document submissions, filings and communications with the County Clerk and the Court.

B. Converting a Matter to NYSCEF: A converted case will retain its original index number and contain both the pre-conversion papers and electronic versions of any documents filed post-conversion. The remaining pre-conversion paper documents will remain on file at the County Clerk's office.

C. Commencing an Action in NYSCEF: To commence an action, log into the NYSCEF system at www.nycourts.gov/efile which permits the user to select the Court in which the action is to be commenced and the type of action. Unless otherwise stated in this protocol, each document must be uploaded separately and the correct document type must be selected under the "Document Type" menu. Consent of defendant(s) is not required to commence an action not subject to mandatory e-filing electronically.

D. Exemptions from E-Filing Requirements: Limited exemptions from the requirements of electronic filing are found in CPLR 2111(3) and 22 NYCRR § 202.5-bb.

E. Converting a Case to Electronic Filing: Cases originally commenced in hard copy form may be converted to e-filing upon consent. This may be done by the delivery of an original *Stipulation and Consent to E-file* signed by all parties (with limited exceptions) to the Office of the Suffolk County Clerk with a copy to the Part Clerk if assigned to an IAS Justice. The County Clerk will upload the County Clerk's minutes to NYSCEF. Where the Court requires that a case be converted to electronic filing, the Court will issue an order directing same which shall include a directive to the County Clerk to upload the County Clerk's minutes. In accordance with Uniform Rule § 202.5-b(b)(2)(iii), the Court may require the parties to electronically file all papers previously filed in hard copy. In the absence of such an order, the County Clerk may, in their sole discretion, electronically file all papers previously filed in hard copy. Otherwise, the pre-conversion papers will remain on file at the County Clerk's Office.

F. Paper Documents Not Accepted: All documents required to be filed with the Court in an e-filed case must be electronically filed unless otherwise provided by the Uniform Rules or this protocol. Documents submitted to the **Supreme Court** in hard copy form by an attorney who has opted out of e-filing pursuant to the Uniform Rules in an e-filed case must be bound and bear a *Notice of Hard Copy Submission - E-filed Case* attached to the last page facing out of each document filed and be marked "**E-Filed**" on its face. Any hard copy documents filed by an attorney who has opted out not bearing this form will not be accepted by the County Clerk

or the Court Clerk. Hard copy documents received from unrepresented parties who decline to e-file **DO NOT** require that the *Notice of Hard Copy Submission - E-filed Case* be attached.

(1) When submitting hard copies as provided by the Uniform Rules or this protocol to the **County Clerk** such hard copy shall be the original document and be bound using **ONLY** two prong fasteners **with** un-tabbed exhibit pages to allow for scanning to the NYSCEF system and shall have attached thereto a *Notice of Hard Copy Submission - E-filed Case* attached to the last page facing out of each document filed, if required. Such original shall be retained by the County Clerk and shall not be forwarded to the Court. A working copy of any such document filed in hard copy shall be submitted to the Court. At the sole discretion of the County Clerk, such original hard copy document may be filed electronically as part of the case record and the original discarded thereafter.

(2) Working copies of electronically filed documents filed with the Supreme Court shall have tabbed exhibit pages and shall be discarded by the Court upon completion. Such working copies shall be delivered to the Court and not the County Clerk. The County Clerk will not forward working copies to the Court.

(3) Any document submitted in hard copy for which a fee must be paid shall have the appropriate stamp affixed to the original **AND** the Working Copy by the County Clerk.

G. Rejection of Hard Copy Filings: Unless otherwise permitted by the Uniform Rules, the County Clerk shall refuse to accept for filing hard copy papers in an action subject to electronic filing.

H. Payment of Fees: Payment of any applicable filing fees for electronically filed documents must be made online by MasterCard, Visa or American Express at the time of filing. Payment of fees cannot be made in person at the Suffolk County Clerk's office for e-filed documents.

(1) Effect of payment: Pursuant to CPLR 304, a document is not filed until payment of the fee has been tendered. If payment is not tendered with the filing, it will be rejected and deemed not filed.

(2) Effect of refused payment: If, for any reason, the fee payment is returned or refused, the filer will be required to pay the document fee.

I. Filing a Document where Size, Consistency or Context Prevent E-filing: Should the size, consistency or context of a hard copy document preclude its electronic filing, the user shall electronically file a *Notice of Hard Copy Submission - E-Filed Case*. Any hard copy submitted pursuant to this section shall have firmly affixed to the last page facing out, a copy of the Confirmation Notice received from the NYSCEF site confirming receipt of the *Notice of*

Hard Copy Submission - E-Filed Case. Any party may object to such hard copy filing, and the Court, in response to such objection, may, following the hard copy filing, fashion such relief as it deems appropriate pursuant to and in furtherance of the Uniform Rules and these protocols, including, but not limited to, an Order directing the filing party to file such documents online via the NYSCEF system. When exhibits are impractical to file pursuant to 202.5-b (d) (6), an additional Notice of Hard Copy Exhibit Filing is required to be submitted for each Exhibit.

J. Redaction: (1) All papers electronically filed with the court must comply with Uniform Rule § 202.5(e) and General Business Law §399-dd(6). When uploading a document that contains confidential personal information which has not been redacted, **DO NOT** mark the document as containing a “Social Security Number”. Cancel your filing, redact the document in accordance with § 202.5(e) and re-file.

(2) Redaction cover pages shall be filed as follows:

(i) Documents filed electronically shall **NOT** include the Redaction cover page promulgated by the Chief Administrative Judge.

(ii) The original of a document filed in hard copy by a non-participating party/attorney shall have attached thereto on the first page facing out the Redaction cover page promulgated by the Chief Administrative Judge.

Filers are responsible for the disclosure of any confidential personal information that has not been redacted in accordance with General Business Law § 399-ddd and Uniform Rule § 202.5(e).

K. Errors Upon Submission: Submission of documents which, upon examination, require a correction or addition will result in notification to the filer. The filer shall make the required corrections and/or additions as indicated in the e-mail transmission sent by NYSCEF. The corrected documents **MUST** be resubmitted using the “*Re-file this Document*” link contained in the e-mail received from NYSCEF. The document is to be refiled using the original document type unless advised by the Court or the County Clerk to re-file under a different document type. In such cases, multiple submissions of a document filed simultaneously will be removed from the case record and returned until the document is properly submitted.

When a document is returned by the County Clerk via NYSCEF for correction, **PLEASE BE ADVISED THAT FAILURE TO CORRECT THE REJECTED DOCUMENT WITHIN FIVE (5) BUSINESS DAYS WILL RESULT IN YOUR DOCUMENT(S) BEING REMOVED AND YOUR ENTIRE PAYMENT BEING REFUNDED. IF THE CORRECTION TO THE REJECTED DOCUMENT CANNOT BE COMPLETED WITHIN THE FIVE (5) BUSINESS DAYS AND YOUR DOCUMENTS TO BE PROCESSED INCLUDE COMMENCEMENT DOCUMENTS, TO AVOID THEIR REMOVAL, PLEASE SUBMIT A CHECK FOR THE APPROPRIATE INDEX FEE PAYABLE TO THE “SUFFOLK COUNTY CLERK” AT 310**

CENTER DRIVE, RIVERHEAD, NY 11901, ATTN: COURT ACTIONS, WITHIN THE FIVE (5) BUSINESS DAYS. THE REJECTED DOCUMENT WILL THEN BE REMOVED AND THE PAYMENTS MADE THROUGH NYSCEF WILL BE REFUNDED TO YOU.

L. Technical Failures: If filing by electronic means is hindered by a technical failure, please refer to Uniform Rule § 202.5-b(i).

M. Entry of Orders and Judgments and Notice of Entry: The electronic filing of an order or judgment by the Court Clerk or the County Clerk does **NOT** constitute service of Notice of Entry by any party. Notice of Entry is served by a party as follows: the party shall transmit electronically to the parties to be served a notice of entry containing the requisite language and a copy of the order or judgment under the document type *Notice of Entry*. If service is made in hard copy, proof of service shall be uploaded as a separate document in accordance with Uniform Rule §202.5-b(h).

N. Working Copies: Working copies of documents, as required by Suffolk County Supreme Court Justices, are to be submitted **AFTER** they have been electronically filed. The Confirmation Notice issued by NYSCEF or the *Notice of Hard Copy Submission - E-filed Case*, as applicable, upon filing of each document must be firmly affixed to the last page facing out of each working copy. A working copy unaccompanied by the applicable notice will not be accepted.

(1) **Motions:** Each party to a motion shall submit one full set of their motion papers clearly marked as “E-Filed” to the assigned Justice within the time required by the Judge’s Individual Part Rules.

(2) **Proposed Orders, Judgments, etc.:** Proposed orders, judgments, and other documents requiring a Judge’s signature shall be electronically filed as a separate document. The working copy shall be bound with either one staple or a two-prong fastener. “Working Copy” shall **NOT** be marked on the face of these documents. Such documents shall be marked “E-Filed” and submitted as a separate document.

(3) **Foreclosure Matters:**

(i) Working copies shall not be tendered to the court until the completion of the CPLR 3408 mandatory settlement conference process. Working copies of motions shall not be tendered to the court more than one week prior to the return date of the motion.

(ii) Working copies shall be referred to the assigned Justice, except for those applications specified in subsection (iii).

(iii) Motions for orders of reference, ex parte applications for orders of reference, and motions for summary judgment and order of reference, as well as all Oppositions, reply affirmations and correspondence pertaining thereto, shall be tendered to the court with a blue cover page addressed in bold type to One Court Street, FC-J Department, Room 111A, Riverhead, N.Y. 11901-3090.

(4) **Working Copies Not Accepted by the County Clerk:** Working copies are **NOT** accepted by the Suffolk County Clerk for forwarding to the assigned IAS Justice, nor are they received and filed as part of the case file maintained by the Suffolk County Clerk in their capacity as Clerk of the Supreme and County Courts.

(5) **Printing of Electronically Filed Documents:** Neither the Suffolk County Clerk nor the Court Clerk will print working copies of e-filed documents.

(6) **Delivery of Working Copies:** All working copies of documents shall be addressed to the court part of the assigned IAS Justice or in the manner directed by the Court. Working copies submitted to the Court by mail or overnight delivery must be conspicuously marked on the outside of the package – “Working Copy”.

(7) **Working Copies Discarded:** Working copies are intended only for use by the assigned Justice. The Court will discard all working copies after the Justice has finished with them.

(8) Unless otherwise expressly required by a Judge’s Individual Part Rules or this protocol the only working copies that will be accepted by the court are:

- (i) All papers related to a Motion/Order to Show Cause
- (ii) Proposed Orders and Judgments
- (iii) Stipulations to be so ordered
- (iv) Documents requiring a judge’s signature (i.e. commission, subpoena, approval of bond, etc.)

O. Exhibits: When filing exhibits electronically it is required that the filer **upload each exhibit as a separate PDF**. The NYSCEF system requires that a description of the exhibit be entered in the "additional information area" whenever the filer selects the document type Exhibit(s). This is in addition to the requirement that a user enter an exhibit number or letter in the appropriate field. **Do not simply re-state the exhibit letter or number in the additional information field** but instead give a short, clear and specific description of the exhibit. e.g. “Copy of Contract dated January 1, 2015”. Do **NOT** use generic descriptions such as

“Supporting Documents”. It is important to be sure to place a check mark to the right of “Attach to main document”. Each exhibit should bear a separate cover sheet clearly marked as “Exhibit A”, “Exhibit B”, etc.

P. “Filed” Stamped Copies: (1) “Filed” stamped copies of documents electronically filed will **NOT** be provided by the County Clerk. The Confirmation Notice sent by the NYSCEF system is the equivalent of the “Filed” stamped hard copy.

(2) “Filed” stamped copies of documents filed in hard copy in accordance with CPLR Article 21-A, the Uniform Rules and this protocol will be provided by the County Clerk so long as a copy of the document filed in hard copy is submitted to the County Clerk along with a post-paid, self-addressed envelope.

Q. Withdrawals: Any document purporting to withdraw or settle a motion, Order to Show Cause, or other application made to a court shall be uploaded to the NYSCEF system, and a working copy of same shall be promptly provided to the court.

R. Motions: Unless exempt from e-filing, any moving, opposition or reply papers not filed with the NYSCEF system will not be considered in the determination of the motion.

S. E-Filing of Discovery Materials: Unless permitted by Uniform Rule §202.5-b(j), **NO** discovery materials shall be filed electronically.

T. Referees and Others Appointed by the Court: Any person appointed by a Court to undertake a function and report (such as a referee, court evaluator, etc.) **SHALL** file their oath, consent, report and other documents to the case via NYSCEF as a non-party.

U. Tax Certiorari Matters: (1) Stipulations of Settlement settling more than one tax year **MUST** be uploaded to each case covered by the Stipulation. File the Stipulation in the first listed index number as a *Stipulation – Settlement (Pre RJI) or (Post RJI)* as applicable. The fee will be paid on the first index number and the Stipulation will be uploaded to the remaining index numbers as “Previously Paid”.

(2) Where a Stipulation covers an outstanding hard copy case, the fee should be paid under the hard copy index number and uploaded as “Previously Paid” on the electronically filed cases. The original hard copy Stipulation will be submitted to the County Clerk for filing with the hard copy case file.

V. Return/Removal of Documents by County Clerk: (1) Requests to return or remove documents from an electronically filed case will be treated the same as if filed in a hard copy case. If filed to the correct index number and there is a defect which would not be cause for return by the County Clerk, the document **WILL NOT** be returned or removed. If a filer determines that a document was not redacted in accordance with Uniform Rule §202.5(e) or any other provision of law, the document **WILL NOT** be returned or removed. Exhibits filed to a

case attached to a main document which was properly filed **WILL NOT** be returned or removed. In each of these instances, the filer must either request relief directly from the Court or file an amended document if same is permitted by law or rule.

(2) Documents in which the caption indicates it was filed entirely in the wrong index number or Court will be removed and the electronic case file will be annotated in the “Comments” tab by County Clerk staff accordingly.

W. Amendment of Captions: Where the caption of a matter is amended pursuant to CPLR 1003, a *Notice To County Clerk – Amendment of Caption* must be filed in NYSCEF in addition to the amended pleading. The Notice (found in the forms section of NYSCEF) is electronically filed as a cover page along with a copy of the amended caption as it appears on the amended pleading and any other accompanying document(s) **AS ONE PDF**.

III. Requests for Judicial Intervention (“RJI”): An RJI with the required addendum in a NYSCEF case shall be submitted via the system as two separate documents.

A. Process: (1) When filing an RJI, a series of fields are required to be filled in with pertinent information. The system will not allow you to proceed unless all of the required information has been input. Once all information has been input, the system will generate and upload the RJI and any applicable addendum into NYSCEF or the filer can upload a scan of a previously prepared RJI and addendum. Be advised that the system will only generate an RJI in the event the filer is a party or counsel filing under their User ID. An authorized agent must upload a previously prepared RJI and addendum, if any, signed by the party or counsel as the case may be.

(2) A notice of medical malpractice must be uploaded as a separate .pdf file in the NYSCEF system.

B. Addenda: In the case of an RJI seeking assignment to the Commercial Division, or involving a matrimonial or foreclosure action, the filer must submit the appropriate addendum as a separate .pdf unless generated automatically by the system.

IV. Orders to Show Cause: Proposed Orders to Show Cause (“OTSC”) shall comply with all relevant provisions of the CPLR, the Uniform Rules, Commercial Division Rule (22 NYCRR 202.70), Uniform Rule 202.7(f), and any other applicable provision of the law regarding notice of the application to the opposing party.

A. OTSC with Commencing Documents: Actions commenced with accompanying proposed OTSC filed simultaneously with the purchase of an index number must be filed by selecting the document type *Proposed Order to Show Cause Accompanying Commencement Doc(s)*. Although proposed OTSCs must be filed electronically, proposed OTSCs will not be

reviewed by the assigned Justice until a hard copy is presented to Special Term Clerk's Office for review. **If the assigned Justice is unavailable to hear the application, the proposed OTSC shall be referred to the Special Term Justice.** Once the order has been executed, the moving party must provide a working copy of the motion papers to the assigned Justice's chambers. Only the signed order shall be uploaded to NYSCEF by the Part Clerk. The proposed OTSC and supporting documents submitted in hard copy form, if not previously filed electronically, must thereafter be filed via the NYSCEF system pursuant to the Uniform Rules and this protocol within three (3) business days of its signing ensuring that they are referred to the appropriate OTSC.

B. OTSC in an Existing Action: Where counsel or a party seeks to file an OTSC in an existing action, the proposed order must be electronically filed and then presented in hard copy to the Special Term Clerk's Office for review. **Prior to filing a proposed OTSC requesting interim relief, the moving party must contact chambers to set up a time and date to be heard on the application. If the assigned Justice is unavailable to hear the application, the proposed OTSC shall be referred to the Special Term Justice.** Upon execution, only the signed order shall be uploaded to NYSCEF by the Part Clerk. The proposed OTSC and supporting documents submitted in hard copy form, if not previously filed electronically, must thereafter be filed via the NYSCEF system pursuant to the Uniform Rules and this protocol within three (3) business days of its signing ensuring that they are referred to the appropriate OTSC and payment tendered unless previously made.

C. Hard Copy Service: In cases in which hard copy service is made of documents that were submitted in hard copy form pursuant to paragraph IV(B) and where no party is served electronically, the filing attorney or party shall, not later than three (3) business days after service, electronically file the supporting papers, together with proof of hard copy service.

D. Declination: If the Justice declines to sign the OTSC, the Part Clerk will electronically file the declined order. If the proposed OTSC and supporting documents were filed with the Court in hard copy form and not previously filed electronically, the filing attorney or party shall file the proposed OTSC and supporting documents with NYSCEF no later than three (3) business days after the filing of the declination by the Part Clerk.

V. Sealed Documents: To seal a document or file in a NYSCEF case a party/counsel must apply to the Court for an order directing the County Clerk to seal the document or file. If the motion/application for a sealing order is filed with NYSCEF, the document or file will remain unsealed until the order is issued.

A. Sealing documents previously filed in NYSCEF: Upon issuance of an order directing the sealing of e-filed documents, the Part Clerk shall upload and file the signed order. The County Clerk shall seal the documents or file identified in the order as directed by the Court, both in NYSCEF and any hard copy file. No further action by counsel is required.

VI. Note of Issue and Jury Demand: A case will be deemed ready for trial upon the uploading of a *Note of Issue* to the NYSCEF System and payment of the appropriate fee. Jury demands **MUST** be uploaded as a separate document subsequent to the Note of Issue (*Demand For Jury Trial (N.O.I. Previously Paid)*) along with payment of the appropriate fee.

VII. Consolidation or Joint Trial: Consolidation or joint trial of proceedings shall be at the discretion of the Court as permitted by statute and case law. Upon the filing of an *Order - Consolidation*, all subsequently filed pleadings/papers shall be filed in the case bearing the Index Number assigned unless otherwise directed by the Court. An order directing a joint trial will not result in the consolidation of cases.

VIII. Judgments

A. General Procedures: Filers must submit proposed judgments through NYSCEF as a single transaction. The filer may choose *Judgment - To County Clerk (Proposed)*, *Judgment - To Court (Proposed)*, or *Judgment - Clerk Default (Proposed)*.

(1) Submission: A party seeking the entry of a judgment must submit papers in compliance with statutory requirements. The Statement for Judgment, if applicable, must contain the addresses of the debtors and creditors as well as the name and address of the judgment creditor's attorney, if any, in order to be docketed by the County Clerk and failure to include the addresses will result in the return of the docket to the filer for correction.

(2) Examination: The Judgment Clerk will examine the submission for entry. If the submission is deemed deficient, the deficiencies will be communicated to the filer via NYSCEF.

(3) Judgments signed by the Court: Upon signature by the court, a copy will be forwarded to the County Clerk by the court for taxation of costs and interest calculation whereupon the judgment will be uploaded by the County Clerk into the NYSCEF system under the document type *Judgment*. The entry date shall be the date of the filing stamp affixed thereto. Notification will be sent via NYSCEF.

(4) Judgments submitted to the County Clerk shall be processed in due course and the entered judgment shall be uploaded to the NYSCEF System by the County Clerk. The entry date shall be the date of the filing stamp affixed thereto. Notification will be sent via NYSCEF. Working copies of judgments submitted to the County Clerk **SHALL NOT** be submitted to the court.

(5) All judgments requesting costs must have the bill of costs and the affirmation regarding costs filed in NYSCEF prior to or simultaneously with the proposed

judgment.

B. Entry of Default Judgments: A party seeking the entry of a default judgment by the Clerk shall choose *Judgment - Clerk Default (Proposed)*.

(1) Entry of Default Judgments Based on Stipulation of Settlement: A party seeking the entry of a default judgment by the County Clerk pursuant to a stipulation of settlement or release shall choose *Judgment - Clerk Default (Proposed)*. If the stipulation of settlement which serves as the basis of a judgment has not been filed, or is to be filed simultaneously with the judgment, the filer shall choose the appropriate *Stipulation – Settlement* document type. If the release upon which the judgment is based has not yet been filed, the original or copy must be filed with NYSCEF.

(2) Entry of Default Judgments Based on Decision and/or Order: If the entry of default judgment is conditioned upon a previously signed decision and order, the filer shall choose the *Judgment - To County Clerk (Proposed)*. There is no fee for such judgment.

C. Judgment Signed by the Court: A party seeking the entry of a judgment signed by the Court shall choose the *Judgment - To Court (Proposed)* document type.

D. Entry of Judgments Based on Decision and/or Order: If the entry of judgment is conditioned upon a previously signed decision and order, the filer shall choose the *Judgment - To County Clerk (Proposed)* document type.

E. Confession of Judgment: Entry of judgment by confession shall comport with statutory and regulatory requisites. A party seeking entry of judgment by confession via NYSCEF shall choose the *Confession of Judgment (Affidavit of Defendant)* and *Judgment - To County Clerk (Proposed)* document types.

F. Foreign Judgment: Entry of a foreign judgment must comport with statutory and regulatory requisites. A party seeking entry of a foreign judgment via NYSCEF shall choose the *Foreign Judgment* document type. Foreign divorce decrees **SHALL NOT** be electronically filed. The affidavit of the judgment creditor or the affirmation of the judgment creditor's attorney is to be uploaded as the *Foreign Judgment* and the certified or exemplified out-of-state judgment is uploaded as an exhibit.

G. Judgment Pursuant to CPLR 5003-a(e): Judgments requested to be entered pursuant to CPLR 5003-a(e) must include the following documents filed as separate PDFs:

(1) Proposed Judgment;

- (2) Bill of Costs, if sought;
- (3) Attorney Affirmation or Judgment Creditor Affidavit;
- (4) Stipulation of Discontinuance – if previously filed in the case, file as “Previously Paid” and indicate “Copy” in the Additional Information field;
- (5) Copy of the General Release; and
- (6) Proof of tender.

H. Subsequent Judgment, Order: (1) All requests for an amended judgment, even if the original was issued by the County Clerk, are to be made to the Court.

(2) When a previously entered judgment or entry in the records of the County Clerk is affected by a subsequent order, stipulation or judgment, the County Clerk will make the appropriate notation to the docket entry as follows:

(i) **New or Amended Judgments:** In instances in which the change to an entered judgment is the result of a new or amended judgment, the notation will be made simultaneously with the entry of the new or amended judgment, and notification of same will be transmitted via NYSCEF.

(ii) **Orders:**

(a) In instances in which the change to an entered judgment is the result of an order with County Clerk directive, notation of the docket will **NOT** be made until proper notice is given to the County Clerk. A party seeking the modification of a judgment by order shall choose document type *Notice to County Clerk CPLR 8019(C)*. A hard copy of the *Notice to County Clerk CPLR 8019(C)* and the Confirmation Notice along with a certified copy of the order must be submitted to the Judgments and Liens Department of the County Clerk by the filer.

(b) In instances in which the change to an entered judgment is the result of an order without County Clerk directive, a certified hard copy of the order must be submitted to the Judgments and Liens Department of the County Clerk by the filer.

(iii) **Stipulation:** In instances in which the change to an entered judgment is the result of a stipulation, a certified hard copy of the stipulation must be submitted to the Judgments and Liens Department of the County Clerk by the filer.

(iv) In the case of (ii) and (iii) above, all applicable fees must be paid by cash, check, or money order payable to the “Suffolk County Clerk”.

Submission of documents to the Judgments and Liens Department is by mail or in person. The Judgments and Liens Department is located in the County Clerk's Office at 310 Center Drive, Riverhead, New York 11901.

IX. Discontinuing Actions and Cancelling Notices of Pendency/Lis Pendens:

Discontinuances of actions and cancellations of notices of pendency/lis pendens cannot be combined into one document. Select *Stipulation of Discontinuance (Post or Pre RJI)* or *Notice of Discontinuance*. If also cancelling the notice of pendency/lis pendens, select *Cancellation Notice of Pendency/Lis Pendens* as a second document under the "Accompanying Documents" menu. The affidavit and stipulation required by CPLR 6514 must be attached to the *Cancellation of Notice of Pendency/Lis Pendens*, if applicable.

X. Notice of Appeal:

A. A Notice of Appeal shall be filed online in a NYSCEF case and the appropriate fee paid. The Notice of Appeal, Request For Appellate Division Intervention, a copy of the Order or Judgment appealed from and the Affidavit/Affirmation of Service **SHALL** be uploaded into NYSCEF as **ONE** document in that order under the *Notice of Appeal/RADI/Copy of Order/Proof of Service* document type. Notices of Appeal not strictly complying with this requirement will be returned for correction or removed as the circumstances dictate.

B. Subpoenas and Fees: (1) When an order or judgment in an electronically filed case is being appealed the \$49.10 fee applies as follows:

- (i) Where the entire case has been filed electronically, **NO** fee.
- (ii) Where the case is a hybrid (both electronic and paper documents), the usual fee of \$49.10 applies.

(2) Since there is no specific document type available in NYSCEF for this subpoena, it shall be filed as follows:

- (i) In a full participation case, the filer shall upload the subpoena as *Copy of Subpoena* and indicate in the "Additional Information" field the description of the subpoena.
- (ii) In a hybrid case,
 - (a) If the filer is an E-file participant, they shall upload the subpoena as in subdivision (i) and file with the County Clerk a copy of the

subpoena with the Confirmation Notice attached along with a check for the fee. Once processed, the subpoena will then be discarded.

(b) If the filer has opted out or is unrepresented and has not opted in, the original subpoena and the fee will be processed as it would in a regular hard copy case. The original subpoena shall then be filed with all other paper documents in the case.

XI. Communication with Chambers: Attorneys and unrepresented parties are advised to review the Judge's Individual Part Rules or contact the individual justice's chambers to whom the matter is assigned to ascertain the manner in which that justice prefers to receive correspondence relating to a matter.

Eff. 1/4/2017