

# SUPREME COURT, CIVIL TERM RICHMOND COUNTY

## PROTOCOL ON COURTHOUSE PROCEDURES FOR ELECTRONICALLY FILED CASES

This Protocol shall apply to all e-filed cases in Richmond County. For information about the New York State Courts Electronic Filing System (“NYSCEF”), see the NYSCEF website ([www.nycourts.gov/efile](http://www.nycourts.gov/efile)).

### **A. E-Filed Cases Generally**

**Please Note: In e-filed cases working copies of all motions, Orders to Show Cause and proposed orders must be submitted.**

1) **Cases Commenced via NYSCEF**: Cases commenced by filing of the initiating papers with NYSCEF are identified as e-filed cases by a special index number issued by the County Clerk. Index numbers are grouped by type of case. E-filed cases shall be further identified by the addition of a suffix “E” to the index number in the court’s case history computer program, the Civil Case Information System (“CCIS”); the index number with the suffix shall be used on all documents filed with the court in e-filed matters. See the County Clerk’s protocol for further information regarding the issuance of index numbers.

2) (a) **Mandatory E-Filing**: E-filing is mandatory in all types of cases (other than Art 70 proceedings, Art 78 proceedings, election law, matrimonial, mental hygiene law matters, residential foreclosures as defined in RPAPL 1304, applications to extend mechanics lien, and consumer credit transactions as defined in CPLR 105(f)) that are commenced in this court on or after October 19, 2016. All such cases must be commenced by filing with the County Clerk electronically through NYSCEF and all subsequent documents in such cases must be e-filed. An attorney who certifies in good faith that he or she lacks the equipment or knowledge needed to e-file and has no staff member or employee under his or her direction who has such knowledge and equipment may opt out of participation in e-filing in a mandatory case by filing a form (EFM 2) available on the forms section of the NYSCEF website or at the Civil Term Office at 26 Central Avenue, Staten Island, NY 10301.

(b) **Opt out**: If in an e-filed case an attorney opts out to e-filing (Form EFM-2), the case shall remain an e-filed case. Parties that did not opt out shall still e-file all documents to be filed with the court and serve one another electronically as provided in the e-filing rules. Parties that opt out must serve and be served in hard copy format. Affidavit or affirmation of service must be supplied to the court. Parties that did not opt out must upload their affidavit or affirmation of service.

3) **Consensual E-filing**: All cases authorized of e-file may be commenced by e-filing, however non-consenting parties must indicate such in writing to the court. Excluding self represented litigants, all papers filed by the non-consenting parties must have a completed “Notice of hard copy submission” placed on top with the front page facing up. See Uniform Rule 202.5-b for more information regarding consensual e-filing.

## **B. Filing of Papers Generally**

1) **Documents Must Be E-Filed**: All documents to be filed with the court in a consensual or mandatory NYSCEF case, including all documents on motions and all letters, must be filed with the NYSCEF system. Documents that attorneys would not ordinarily file with the court in a hard-copy case need not be e-filed. Unless otherwise provided by the E-Filing Rules or this Protocol, in e-filed cases the County Clerk and the court will not accept documents filed in paper form.

2) **Notice of Hard-Copy Submission**: Excluding self represented litigants, where in accordance with the E-Filing Rules a party submits a document in hard copy in an e-filed case, the document must bear, as the front page facing up, a Notice of Hard-Copy Submission - E-Filed Case (accessible on the NYSCEF website). Under the Rules, an emergency filer must e-file documents that initially were filed in hard copy form within three business days of the emergency filing; the originals will be discarded after the documents have been processed and the failure to e-file as required will therefore lead to an incomplete record.

3) **Working Copies of Documents for Judicial Review**: All parties must submit working copies of e-filed documents that are intended for judicial review. Working copies are not required of documents that are only processed (e.g., preliminary conference request, note of issue.) Generally, documents intended for judicial review must be filed with the NYSCEF system first and any required working copy must be delivered to the court expeditiously. Working copies shall include exhibit tabs and backs and, for motion papers, the Motion Sequence Number. In addition, the filer of a working copy must **firmly bind** thereto, as the front page facing up, a copy of the Confirmation Notice that was generated by NYSCEF when that document was e-filed. Proposed orders or judgments shall be submitted as a separate binding. Working copies that are submitted without the related Confirmation Notice will not be accepted. The official record of a document in an e-filed case is the electronic record of the document stored by the Clerk. Working copies are intended only for the use of the Justice and will be discarded after the Justice has finished with them. Thus, **in the event that counsel fails to e-file a document, it will not be part of the court record.**

## **C. Motions on Notice**

1) **Adjournments on Motions/Petitions**: Stipulations where permitted must by rule be e-filed and a working copy provided to the Court. Refer to each individual Judge's part rules regarding adjournment on motions/petitions.

2) **Working Copies on Motions including opposition papers**: After documents on motions/opposition papers have been e-filed, working copies thereof, with Confirmation Notice **firmly attached** as the front page facing up, must be submitted to the Motion Support Office in all cases. The motion sequence number must be indicated on the Confirmation Notice. Copies lacking the Notice will not be accepted. (Each document or group of documents that is separately bound shall bear a Confirmation Notice.) Working copies must not be delivered to the Part or Chambers as doing so will cause administrative confusion and possible misplacement of papers. Attorneys should use e-Track to receive e-mail notification (see <http://iapps.courts.state.ny.us/webcivil/etrackLogin>) or consult the listing in the Law Journal regarding the motion calendar. Attorneys may submit working copies on motions by mail or overnight delivery as long as the court receives them at least five days prior to the return date. Any such submission shall be sent in a timely manner to the Motion Support Office and be conspicuously marked on the outside "NYSCEF Matter"; lack of such marking may delay processing.

3) **Exhibits:** Attorneys submitting exhibits in NYSCEF cases should make each exhibit a separate attachment to an affidavit/affirmation in the system; i.e., exhibits should not be filed as a single PDF-A together with the affidavit/affirmation or grouped together as a single PDF-A attachment because either format makes it difficult for the Justice to locate particular exhibits as needed. Counsel must also include appropriate descriptive language in the “additional Document Information” field in NYSCEF.

## **D. Long Form Orders/Judgments on Motions**

1) **Submission of Proposed Documents via NYSCEF; Working Copy Required:** If the court directs that an order or judgment be settled or submitted on a motion in a NYSCEF case, the proposed order/judgment, with notice of settlement where required, and any proposed counter-order/judgment shall be filed with the court via NYSCEF. Where the decision directs that an order be settled, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Notice of Settlement - w/Proposed Order/Counter Order.” If the decision directs that a judgment be settled, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Notice of Settlement - w/Proposed Jdgmt./Counter Jdgmt.” If the decision directs that an order or judgment be submitted, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Order - (Proposed)” or “Order - (Submitted per judges direction)”. In all these situations, a working copy of a proposed order/counter-order or judgment (affixed with a binder clip or one staple) must be submitted to Motion Support with a copy of the confirmation sheet front page facing up. **Failure to submit the unbound working copy will prevent the proposal from being reviewed.**

## **E. Orders to Show Cause**

1) **Proposed Orders to Show Cause and Supporting Documents to be Filed On-Line:** Except as provided in the following paragraph, Proposed Orders to Show Cause and supporting document in all NYSCEF cases must be submitted by filing with the NYSCEF system; original documents will not be accepted by the Clerk. Counsel must comply with Uniform Rule 202.7 (f)<sup>1</sup> regarding notice of the application. The Court may make changes to the Proposal as it deems appropriate. A working copy of the proposed OSC (affixed with a binder clip or one staple) must be submitted to the judge assigned with a copy of the confirmation sheet front page facing up by the submitting party. The working copy must be a separate binding from any accompanying documents.

2) **Exception: Permissible Submissions in Hard Copy:** Notwithstanding the foregoing, if a party seeking a TRO submits an affirmation/affidavit demonstrating significant prejudice from the giving of notice (see Rules 202.7

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<sup>1</sup> Uniform Rule 202.7 (f) - Any application for temporary injunctive relief, including but not limited to a motion for a stay or a temporary restraining order, shall contain, in addition to the other information required by this section, an affirmation demonstrating there will be significant prejudice to the party seeking the restraining order by the giving of notice. In the absence of a showing of significant prejudice, the affirmation must demonstrate that a good faith effort has been made to notify the party against whom the temporary restraining order is sought of the time, date and place that the application will be made in a manner sufficient to permit the party an opportunity to appear in response to the application. This subdivision shall not be applicable to orders to show cause or motions in special proceedings brought under Article 7 of the Real Property Actions and Proceedings Law, nor to orders to show cause or motions requesting an order of protection under section 240 of the Domestic Relations Law, unless otherwise ordered by the court.

(f)<sup>1</sup> or if in accordance with the Rules a party to an e-filed case is exempt from participation or seeks to submit documents in a defined emergency, the proposed order to show cause and supporting documents may be presented to the Civil Term Office in hard copy form ( affixed with binder clips or one staple) rather than filed on-line in the first instance. A completed [Notice of Hard Copy Submission - E-Filed Case](#) (form accessible on the NYSCEF site) indicating why the documents are being filed in hard copy form must be placed on top as the front page facing up. In all situations described in this paragraph, **documents submitted in hard copy form must thereafter be e-filed within three business days after service by the party seeking the relief.**

## **F. Ex Parte Applications (Other than Orders to Show Cause)**

Proposed ex parte orders in any matter must be E-Filed. A working copy (affixed with a binder clip or one staple) with confirmation sheet on top, front page facing up must be submitted to the Civil Term Office (Room 302) expeditiously. Supporting papers shall be firmly bound separately. If the working copy is not submitted per this section, the proposed ex parte application will not be reviewed. If the circumstances underlying a proposed ex parte application make it necessary that advance notice to the other side be avoided (e.g., ex parte order of attachment), the application may be submitted in hard copy form with a completed Notice of Hard Copy Submission - E-Filed Case (EF 20) as the front page facing up. **The filer shall e-file the application within three business days after service.**

## **G. Requests for So-Ordering of Stipulations**

If an attorney wishes to submit a stipulation to be “so ordered,” he or she should file the document with NYSCEF, designating it on the filing menu as a “STIPULATION - OTHER - (REQUEST TO SO ORDER).” A working copy (affixed with a binder clip or one staple) with confirmation sheet on top, front page facing up must be submitted to the Civil Term Office. It will then be forwarded to the Judge for consideration. **If the working copy is not submitted per this section, the stipulation will not be forwarded for signature.**

## **H. Judgments**

**Judgments Signed by Court:** A party seeking the entry of a judgment signed by the court shall choose the following NYSCEF document type: Judgment-To Court (Proposed). The judgment shall comply with statutory requirements and all necessary supporting pleadings must be filed as separate documents. A working copy of the submission should be provided unstapled (affixed with a binder clip or one) with the confirmation sheet on top, front page facing up to the Civil Term Office. **FAILURE TO SUBMIT A WORKING COPY WILL PREVENT THE PROPOSED JUDGMENT FROM BEING REVIEWED.** Upon signature by the Court, the judgment will be forwarded to the County Clerk by the Court for taxation and interest calculation, and the entered judgment will be uploaded by the County Clerk into the NYSCEF site.

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ANY ATTORNEY OR UNREPRESENTED LITIGANT WHO REQUIRES ASSISTANCE IN A NYSCEF CASE IN THIS COURT IS ENCOURAGED TO CONTACT THE COURT WITH QUESTIONS VIA EMAIL AT [RichmondSupremeEFiling@nycourts.gov](mailto:RichmondSupremeEFiling@nycourts.gov) OR TO CONTACT THE NEW YORK COUNTY E-FILING OFFICE AT (646) 386-3033 WITH ANY QUESTIONS ABOUT THE NYSCEF SYSTEM. COMPUTEREQUIPMENT IS AVAILABLE AT THE COURTHOUSE FOR THE USE OF ATTORNEYS WHO MAY NEED TO MAKE FILINGS IN NYSCEF CASES AND WHO FROM TIME TO TIME ARE UNABLE TO MAKE THE FILINGS FROM THEIR OWN OFFICES.

## **I. OTHER**

- 1) **Requests for adjournment of motions or conferences:** Refer to each judge's individual part rules.
  
- 2) **Stipulations to adjourn motions or conferences:** Refer to each judge's individual part rules.

**ELECTRONIC FILING OFFICE  
SUPREME COURT, CIVIL TERM  
RICHMOND COUNTY  
26 Central Ave, 1<sup>st</sup> floor  
Staten Island, NY 10301  
Phone: 718-675-8700**

**NEW YORK STATE COURTS  
ELECTRONIC FILING  
RESOURCE CENTER  
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