

202.5-bb. Electronic Filing in Supreme Court; Mandatory Program.

(a) Application.

There is hereby established a pilot program in which all documents filed and served in Supreme Court shall be filed and served by electronic means in such classes of actions and such counties as shall be specified by order of the Chief Administrator in accordance with chapter 367 of the laws of 1999, as amended.

Except to the extent that this section shall otherwise require, the provisions of section 202.5-b of these rules shall govern this pilot program.

(b) Commencement of Actions Under this Section.

(1) Mandatory commencement in general. Except as otherwise provided in this section, every action specified by subdivision (a) of this section shall be commenced by electronically filing the initiating documents with the County Clerk through the NYSCEF site.

(2) Emergency exception. Notwithstanding paragraph (1) of this subdivision, an action otherwise required to be commenced electronically may or shall be commenced by the filing of initiating documents in hard copy where permitted or required by statute or court order, and may be so commenced provided such documents are accompanied by the affirmation or affidavit of the filing attorney or party stating that: (i) the statute of limitations will expire on the day the documents are being filed or on the following business day; and (ii) the attorney, party or filing agent therefor is unable to electronically file such documents because of technical problems with his or her computer equipment or Internet connection. In the event a filer shall file initiating documents in hard copy pursuant to this paragraph, each such document shall include the notice required by paragraph (1) of subdivision (d) of section 202.5-b of these rules, and the filer shall file those documents with the NYSCEF site within three business days thereafter. For purposes of this section, such an action shall be deemed to have been commenced electronically.

(3) Service of initiating documents. Personal service of initiating documents upon a party in an action that must be commenced electronically in accordance with this section shall be made as

provided in Article 3 of the Civil Practice Law and Rules or the Real Property Tax Law, or by electronic means if the party served agrees to accept such service. Such service shall be accompanied by a notice, in a form approved by the Chief Administrator, advising the recipient that the action is subject to electronic filing pursuant to this section. A party served by electronic means shall, within 24 hours of service, provide the serving party or attorney with an electronic confirmation that the service has been effected.

(c) Filing and Service of Documents After Commencement in Actions Under this Section.

(1) All documents to be filed and served electronically. Except as otherwise provided in this section, filing and service of all documents in an action that has been commenced electronically in accordance with this section shall be by electronic means.

(2) Addition of parties after commencement of action. Notwithstanding any other provision of this section, a party to be added in an action that has been commenced electronically in accordance with this section shall be served with initiating documents in hard copy together with the notice specified in paragraph (3) of subdivision (b) of this section. A proposed intervenor or other non-party who seeks relief from the court in such an action shall make his or her application for such relief by electronic means as provided by the NYSCEF system.

(3) Emergency exception; other hard copy filings. Notwithstanding paragraph (1) of this subdivision, where documents are required to be filed and served electronically in accordance with such paragraph (1), such documents may nonetheless be filed and served in hard copy where permitted by paragraph (1) of subdivision (d) of section 202.5-b of these rules. In the event a filer shall file and serve documents in hard copy pursuant to this paragraph, each such document shall include the notice required by paragraph (1) of subdivision (d) of section 202.5-b, and the filer shall, as required, file those documents with the NYSCEF site within three business days thereafter.

(d) County Clerk and Clerk of Court Not to Accept Hard Copies of Documents for Filing Where Electronic Filing Is Required. As provided in section 202.5(d)(1) of these Rules, a County Clerk and a Chief Clerk of Supreme Court, as appropriate, shall refuse to accept for filing hard copies of documents sought to be filed in actions where such documents are required to be filed

electronically.

(e) Exemption From the Requirement of Electronic Filing.

Notwithstanding the foregoing, an attorney or a representative of a property owner designated as such as provided in Real Property Tax Law § 730 (“small claims assessment filing agent”), or a party who is not represented by an attorney in an action that is required to be commenced electronically, or a person who is a proposed intervenor or other non-party who seeks relief from the court in such an action, may claim exemption from having to file and serve documents electronically in accordance with this section by filing with the County Clerk and the clerk of the court in which the action is or will be pending a form, to be prescribed by the Chief Administrator, on which:

(1) if an attorney or small claims assessment filing agent, he or she certifies, in good faith that he or she:

(i) lacks the computer hardware and/or connection to the Internet and/or scanner or other device by which documents may be converted to an electronic format; or

(ii) lacks the requisite knowledge in the operation of such computers and/or scanners necessary to comply with this section (for purposes of this paragraph, the knowledge of any employee of an attorney, or any employee of the attorney's law firm, office or business who is subject to such attorney's direction, shall be imputed to the attorney); or

(2) he or she indicates that he or she is not represented by an attorney and wishes to be exempt from having to file and serve documents electronically in accordance with this section.

Nothing in this section shall prevent a judge from exempting an attorney from having to file and serve documents electronically in accordance with this section upon a showing of good cause therefor.

Where an attorney, party, proposed intervenor or other non-party who seeks relief from the court in an action that is subject to this section is exempt from having to file and serve documents electronically in accordance with this section, he or she shall serve and file documents in hard copy, provided that each such document shall include the notice required by paragraph (1) of subdivision

(d) of section 202.5-b of these rules. The County Clerk or the court, with the approval of the Chief Administrative Judge, may require a person who is exempt from having to file and serve documents electronically to submit an additional, unbound hard copy of the documents being presented in hard copy to the court. Notwithstanding the foregoing, all other attorneys, parties and others seeking relief from the court in such action shall continue to be required to file and serve documents electronically, except that, whenever they serve documents upon a person or party who is exempt from having to file and serve electronically in accordance with this section, they shall serve such documents in hard copy, bearing full signatures, and shall file electronically proof of such service.