



SUPREME COURT CIVIL BRANCH NEW YORK COUNTY

COUNTY CLERK OF NEW YORK COUNTY

PROTOCOL ON COURTHOUSE AND COUNTY CLERK PROCEDURES FOR ELECTRONICALLY FILED CASES (REVISED JANUARY 23, 2019)

This Protocol explains how traditional courthouse and County Clerk requirements for the processing of cases are applied in e-filed matters. For information about the New York State Courts Electronic Filing System (“NYSCEF”), see the NYSCEF website (www.nycourts.gov/efile).

A. E-FILED CASES GENERALLY

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. Index numbers are grouped by type of case. E-filed cases are identified by the number “5” as the second digit of an index number (except in the case of e-filed matrimonial cases, which have “6” as the second digit), although in tax certiorari matters and general cases (“150,000” series) it may be necessary due to the volume of cases filed to expand into use of a “6” as the identifying second digit. E-filed cases are further identified by the addition of a suffix “E” to the index number in the court’s case management system. The index number with suffix should be used on all documents filed with the court in e-filed matters.

2) **(a) Mandatory E-Filing**: E-filing is mandatory in all types of cases (other than election law, matrimonial, Art. 78, and Mental Hygiene Law matters, and Art. 70 habeas corpus proceedings) that are commenced in this court on or after February 19, 2013.¹ 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 (posted on the “Forms” section of the NYSCEF website as Form EFM 2 and available in the back offices of the court) with the Clerk. The executed form shall be served on all parties and shall be filed with proof of service with the County Clerk’s E-File Department in person (60 Centre St., Room 141B) or by e-mail at cc-nyef@nycourts.gov. An unrepresented litigant is automatically exempt from the requirement to e-file, but may choose to participate. For information about participating, such a litigant should consult www.nycourts.gov/efile-

¹ Between May 24, 2010 and February 18, 2013, e-filing was mandatory in various categories of newly-filed cases.

unrepresented. An attorney may also seek an exemption from the Justice assigned upon a showing of good cause. Unless the court otherwise directs, in *qui tam* actions, papers shall not be e-filed until the issue of election has been resolved and the complaint has been served.

(b) Consensual Cases: E-filing on a consensual basis is authorized in this court in matrimonial, Art. 78, and Art. 70 cases. An attorney who does not wish to participate shall file a letter of declination of consent with the County Clerk and serve it on all parties.

(c) Scanning of Certain Hard Copy Filings: When documents are filed with the court in hard copy by non-participating unrepresented litigants or attorneys who have properly opted out of e-filing in an e-filed case, the appropriate clerk, as permitted by the E-Filing Rules, may scan those documents into NYSCEF to ensure that the file is complete. The documents filed in hard copy are public records available for public inspection. It is the responsibility of the filer to ensure that the hard copy documents comply with New York law governing exclusion of social security numbers in documents filed with a state court (see Sec. K (1)) and redaction (Uniform Rule 202.5 (e)). With regard to the latter, the Redaction Cover Sheet (www.nycourts.gov/forms/redaction/index.shtml) should be attached.

3) **Cases E-Filed in Part:** If an e-filed case involves a litigant or an attorney who is not participating in e-filing, the case shall remain an e-filed matter and each participating attorney or unrepresented litigant shall e-file all documents to be filed with the court and shall serve one another electronically as provided in the E-Filing Rules. Non-participating litigants and counsel shall file and serve and be served in hard copy format. Pursuant to the E-Filing Rules, non-participating counsel shall submit to the court the original hard copy documents, and, in addition, an unbound hard copy thereof. Non-participating counsel shall also submit a *Notice of Hard-Copy Submission - E-Filed Case* (see Section B (3) below) at the same time. To assist e-filing attorneys, NYSCEF provides in the “Case Detail” section a listing of all parties and counsel who are taking part in e-filing and any non-participating attorneys or unrepresented litigants.

4) **Security Filters:** Attorneys participating in e-filing should have their staff check to ensure that any “blocklist” or other security feature on their e-mail systems will permit the receipt of e-mails from other parties and the court in NYSCEF matters.

5) **Cases Removed to Civil Court (CPLR 325 (d))(Pilot Project):** E-filed cases that are removed from Supreme Court, Civil Branch, New York County pursuant to CPLR 325 (d) will remain in e-filed status in Civil Court, although any party may decline to participate in e-filing in any such case within 20 days from entry of the order of removal. Administrative Order of the Chief Administrative Judge, Nov. 8, 2017 (AO/292/17).

B. FILING OF PAPERS GENERALLY

1) **Documents Must Be E-Filed:** Unless otherwise provided in the Rules or herein or where a special exemption is granted due to physical requirements (e.g., oversized maps; see Item B (10)), all documents to be filed with the court in a NYSCEF case, including all documents on motions and all letters to the court (where permitted), 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) **Commencement Under Seal or Anonymous Caption:** See Section K (3) hereof.

3) **Notice of Hard-Copy Submission:** Where in accordance with the E-Filing Rules an attorney or an unrepresented litigant who is participating in e-filing submits a document in hard copy in an e-filed case, the document must bear, as the back page facing out, a *Notice of Hard-Copy Submission - E-Filed Case* (a form available in the “Forms” section on the NYSCEF website (Form EFM-3) and in the court’s back offices). Unrepresented litigants who are not participating in e-filing are not required to append this notice. 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. If a fee is required upon the filing of the document in question, that fee will, of course, be paid when the emergency hard-copy filing is made. When the filer thereafter e-files the document, he or she should enter information in NYSCEF about the payment and select the option “Fee Already Paid.” This avoids duplicate fees and eliminates any concern about fee refunds, which are not issued.

4) **Index Numbers; When Issued:** In cases commenced electronically, the County Clerk will issue an index number as soon as possible. Filers who face circumstances that require accelerated assignment may send a request for such assignment by e-mail to the County Clerk at cc-nyef@nycourts.gov (put in the subject line “Request to Expedite”).

5) **Fees:** Court fees in NYSCEF cases must be paid via NYSCEF by a credit or bank card (Mastercard, Visa, or American Express). Fees are not accepted in person in the County Clerk’s Office. NYSCEF itself imposes no user fees.

6) (a) **Working Copies of Documents for Judicial Review:** Various Justices require that, in all NYSCEF cases assigned to them, unless otherwise directed, counsel submit working copies of e-filed documents that are intended for judicial review. Working copies are not required of documents that are only processed by a back office (e.g., preliminary conference request, note of issue). Generally, in these Parts, documents intended for judicial review must be filed with the NYSCEF system first and the required working copy must be delivered to the court thereafter. Working copies shall include exhibit tabs and backs and, for motion papers, the Motion Sequence Number, which is a number given to each distinct formal motion (but not cross-motion) for the purpose of identification. In addition, the filer of a working copy must firmly bind thereto, as the back page facing out, a copy of the *Confirmation Notice* that was generated by NYSCEF when that document was e-filed. 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 County Clerk (Uniform Rule 202.5-b (d) (4)). 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.

(b) **Parts Not Requiring Working Copies:** Notwithstanding any references herein to required working copies, such copies shall not be submitted in e-filed cases in the following Parts unless specifically requested by the Part in a particular case:

- | | | |
|---------------------------|----------------------------|--|
| Part 2 (Justice Freed) | Part 15 (Justice Crane) | Part 38 (Justice Nock) |
| Part 3 (Justice J. Cohen) | Part 18 (Justice Tisch) | Part 39 (Justice Scarpulla) |
| Part 5 (Justice Saunders) | Part 21 (Justice Sokoloff) | Part 41 (Justice Cannataro) |
| Part 6 (Justice Rakower) | Part 23 (Justice Perry) | Part 42 (Bannon, J.)(except for OSC’s) |
| Part 8 (Justice Kotler) | Part 33 (Justice Chan) | Part 52 (Justice Frank) |
| Part 12 (Justice Jaffe) | Part 34 (Justice Marin) | Part 53 (Justice Borrok) |
| Part 13 (Justice Mendez) | Part 35 (Justice Edmead) | Part 55 (Justice D’Auguste) |
| Part 14 (Justice Kahn) | Part 37 (Justice Engoron) | Part 62 (Justice Rodriguez) |

For convenience, the court refers to these Parts as “Paperless Parts.”

7) **Authorization Form - Filing Agent**: A person or entity acting as filing agent for an attorney to a case must file an authorization form (accessible on the NYSCEF website (Forms EF-12 to EF-15)) prior to or together with the first e-filing by that attorney in that action. Uniform Rule 202.5-b (d) (1) (i). An attorney who files through a filing agent must nevertheless have a User ID and password so that filings by the agent can be associated with an attorney of record.

8) (a) **Restriction Based on Error or Failure to Redact**: If a document that has been filed electronically is subsequently found to contain confidential data or otherwise to have been filed in error, the filer, another party, or an affected person may seek to correct the filing. Any filer, other party, or affected person, as the case may be, who wishes to seek correction must follow this procedure:

(i) Notify the parties and any non-party filers of the confidentiality issue or other error raised by the filing and of his or her intention to seek judicial relief to correct the filing. A *Notification of Confidentiality Issue or Error in Filing and Intent to Seek Judicial Relief* (NYSCEF Form EF-24) may be used for this notification; and

(ii) Following such notification, file with the County Clerk through NYSCEF a *Request for Restricted Status* (NYSCEF Form EF-25), asking that the County Clerk, in the exercise of his administrative discretion, place the document at issue in “Restricted” status on the NYSCEF site, meaning that the document shall be made available for viewing by court staff and the parties, but not by the general public. Such a restriction may only be effectuated by the County Clerk when able to do so during County Clerk business hours; and

(iii) Within five (5) business days of the notification referred to in subparagraph (i), file by order to show cause, which must include a request for temporary relief limiting interim disclosure of the document, an application to correct the filing.

(iv) Any document placed in restricted status in response to a request shall be returned to public view upon expiration of the five-day period, unless, upon the signing of the order to show cause, with TRO, a *Notification of Order Extending Restriction* (NYSCEF Form EF-26) is filed with a copy of the order to show cause, signed or conformed, attached.

(b) **Notifying Clerk of Signed Order**: If the application to correct the filing results in an order granting relief, that order must be brought to the attention of the County Clerk for action by means of a completed *Notice to the County Clerk - CPLR § 8019 (c)* (NYSCEF Form EF-22, available on the NYSCEF site), or, in the case of a sealing order, by e-filing a *Notification for Sealing in Electronically Filed Case* (NYSCEF Form EF-7) along with a copy of the order.

9) **Amending the Caption**: If counsel wishes to amend the caption by stipulation or as of right, counsel must e-file a *Notice to County Clerk - Amendment of Caption* (NYSCEF Form EF 23 on the NYSCEF website). If the court by order grants leave to amend the caption, counsel should submit to the County Clerk’s E-File Department via NYSCEF a copy of that order and a completed *Notice to the County Clerk - CPLR § 8019 (c)*. See Par. J.

10) **Submission of Special Exhibits**: If a filer needs to submit unusual exhibits in original form that cannot practically be e-filed, such as oversized maps or electronic recordings, the filer should consult with the County Clerk’s E-File Department by telephone at 646-386-3737 (procedural questions only) or by e-mail at ccnyef@nycourts.gov, which will normally require that the filer retain custody of the original subject to possible future directives of the court. The County Clerk does not retain a copy of such special exhibits. In such instances,

the filing counsel shall file with NYSCEF a “placeholder” in the form of a *Notice of Hard Copy Exhibit Filing* (NYSCEF Form EF 21). The *Notice* should be uploaded to NYSCEF as document type “Exhibit” and the filer should indicate in the “Additional Document Information” field that the filer is retaining custody of the original. Failure to e-file the *Notice* may result in a gap in the official record of the court.

11) **Bookmarking Documents in Commercial Division Cases**: Pursuant to Rule 6 of the Rules of Practice of the Commercial Division, every e-filed memo of law and, where appropriate, affidavit and affirmation in a Commercial Division case shall include bookmarks, which shall provide a list of the contents of the document and facilitate easy navigation by the reader within the document. Bookmarked exhibits need not be uploaded to NYSCEF as separate documents.

C. REQUESTS FOR JUDICIAL INTERVENTION

In a NYSCEF case, a for-fee RJI (2012 version) and RJI addendum where required shall be submitted via NYSCEF if an IAS assignment is sought and a no-fee RJI shall be submitted via NYSCEF in other instances. NYSCEF offers the options to the filer either to create the RJI form and any required addendum electronically and submit same in NYSCEF or to attach and upload a scanned PDF-A version thereof. In the former option, the forms can be created in NYSCEF from data entered therein upon the creation of the NYSCEF case file. Once e-filed, the RJI, addendum, if any, and any accompanying document will be forwarded to the relevant back office for random assignment of the case (for-fee cases) and processing of the document. Counsel need not appear (as to proposed orders to show cause, see below). A filer who seeks assignment to the Commercial Division must submit with the RJI a *Commercial Division RJI Addendum* (Uniform Rule 202.70 (d)(see Form EF-4)); a copy of the pleadings must be submitted only if the document has not previously been e-filed. If the RJI seeks intervention with regard to a document, such as a motion, that is intended for review by an assigned Justice who requires working copies, a working copy of the RJI and addendum, if any, with NYSCEF *Confirmation Notice* attached, must be submitted with the working copy of the document. If an addendum is not being created by NYSCEF but by counsel, the RJI and addendum must be submitted to NYSCEF as separate documents.

D. MOTIONS ON NOTICE

1) **Motions/Petitions Returnable in Room 130; Calendaring**: A motion on notice or a notice of petition in a NYSCEF case, as in others, shall be e-filed no later than eight days prior to the return date and shall be made returnable in the Motion Submission Part Courtroom (Room 130). The General Clerk’s Office will automatically place the application on the calendar of Room 130 for the date fixed; no appearance or other action by the filing attorney is required in order for the motion to be calendared. Motions in these cases appear on a distinct calendar.

2) **Adjournments on Motions/Petitions in Room 130**: E-filed applications may be adjourned in Room 130 if an adjournment complies with Uniform Rule 202.8 (e) and the procedures of the Motion Submission Part Courtroom (for a comprehensive summary of all of the procedures of the Courtroom, consult the following address: www.nycourts.gov/courts/1jd/suptmanh/motions_on_notice.shtml). An adjournment that so complies may be obtained by filing with NYSCEF a stipulation of all parties (designated in the filing menu as a *Stipulation - - Adjournment of Motion - in Submissions Part - Rm. 130*); upon e-filing of the stipulation, the motion number and the current return date of the motion being adjourned shall be set forth in the “Additional Document Information” field in NYSCEF. The Office will effectuate the adjournment without need for an appearance or any other action by the parties. Counsel should not file a copy of the e-filed stipulation with the Room 130 e-mail adjournment address (NYMOTCAL@nycourts.gov), which is for use in hard copy cases only.

3) **“Pending” Marking on Motions/Stipulations:** Counsel may note in NYSCEF a “Pending” marking with respect to motions awaiting initial calendaring or stipulations of adjournment of motions previously calendared. This marking does not mean that the submission has been found problematic, but only that, due to the volume of documents submitted, the Clerk has not yet gotten to the matter. Requested adjournments are routinely granted unless they are in violation of Uniform Rule 202.8 (e) or the procedures of Room 130. The Clerk will process adjournment requests by the return date, and as much before then as possible, and counsel can learn of the action taken by means of the court system’s electronic case-tracking application, *e-Track* (<https://iapps.courts.state.ny.us/webcivil/etrackLogin>). In any event, the Clerk does not “default” any motion, but at most will refer a file to the assigned Justice for such action as the Justice may find appropriate and will not do that without first having checked the NYSCEF docket to see if a stipulation of adjournment has been filed. Correct designation of a stipulation of adjournment for Room 130 when filing same with NYSCEF as set forth in Par. 2 of this section will reduce the risk of delay.

4) **Adjournments on Motions/Petitions in the Part:** E-filed applications may be adjourned in the Part if an adjournment complies with the Part’s procedures (see the Uniform Rules of the Justices (Local Rules) on the court’s website). An adjournment that so complies may be obtained by filing with NYSCEF a stipulation of all parties (designated in the filing menu as a *Stipulation -- Adjournment of Motion -- Before Judge*); the motion number and the current return date of the motion being adjourned shall be set forth in the “Additional Document Information” field in NYSCEF. Absent any problems, the Part will effectuate the adjournment without need for an appearance or any other action by the parties.

5) (a) **Working Copies on Motions in Room 130:** After documents on motions have been e-filed, working copies thereof, with *Confirmation Notice* firmly attached as the back page facing out, must be submitted in cases assigned to Parts that require such copies. Copies lacking the *Notice* will not be accepted. (Each document or group of documents that is separately bound shall bear a *Confirmation Notice*.) On the final return date (but not before), by 10 AM, working copies, including copies of the moving papers, shall be handed up in the Motion Submission Part Courtroom (Room 130). Working copies must not be delivered to the Part or Chambers on motions pending in Room 130 as doing so will cause administrative confusion and possible misplacement of papers. If the Clerk of Room 130 becomes aware that an attorney has failed to submit required working copies on the final return date, the motion may be placed, for one time only, on a special Room 130 calendar to permit submission of those copies. The court will not provide direct notice to the attorney that this has occurred; attorneys should subscribe to *e-Track* (there is no charge to do so) to receive e-mail notifications (see Par. 3 of this Section for address) or consult the listing in the Law Journal regarding disposition of the Room 130 calendar. If the working copies are not submitted on the special calendar, Room 130 staff will transmit the motion file as is to the Justice for such action as the Justice finds appropriate. Attorneys who maintain their office outside the County of New York may submit working copies on motions by mail or overnight delivery. Any such submission shall be sent in a timely manner to the General Clerk’s Office (Room 119) and be conspicuously marked on the outside “NYSCEF Matter;” lack of such marking may delay processing.

(b) **Working Copies in the Part:** On orders to show cause returnable in a working copy Part, working copies of e-filed opposition and (if allowed) reply papers (with backs and tabs) must be delivered to the Part. As to all such documents, and any document the court may allow a party to hand up in the courtroom on a motion/petition on notice beyond those previously submitted in Room 130, the attorney must, in any such Part, file each document with NYSCEF and thereafter submit a working copy bearing, firmly affixed thereto as the back page facing out, a copy of the related NYSCEF *Confirmation Notice*. Documents lacking a copy of the *Notice* will not be accepted.

6) **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 of these two formats 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. In Commercial Division cases, however, counsel shall bookmark filings as provided in Commercial Division Rule 6 and need not file exhibits separately when doing so. See Sect. B, Par. 11 above.

7) **Notification of Decisions and Orders:** See Section L.

E. LONG FORM ORDERS/JUDGMENTS ON MOTIONS

1) **Submission of Proposed Documents via NYSCEF; No Working Copy Required:** If the court in a decision directs that an order or judgment be settled or submitted (i.e., settlement on notice not required) 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) “Submit Order” per Judge’s Decision*. In these situations, even in a case assigned to a Part that is generally a working copy Part, no working copy of a proposed order/counter-order or judgment need be submitted, and no appearance by counsel is required. If the court’s decision directs that a proposed order be presented directly to a working copy Part or Chambers, the attorney should file it with NYSCEF and deliver a working copy to the Justice as directed, including the *Confirmation Notice*.

2) **Processing of Proposed Orders/Judgments.** The relevant back office will process the documents in the customary manner. The Clerk of the back office will print out a copy of the proposed order/counter-order or judgment and, as appropriate, may make changes thereon by hand or otherwise or, if circumstances warrant, may contact the submitting attorney by e-mail or telephone and request therefrom a corrected submission. Any corrected submissions from counsel should be e-filed as well, with no working copy required. Once a proposed order/counter-order or judgment in final form has been arrived at, the Clerk will print out it and the other documents submitted and forward them in hard copy to the Justice. For submissions to Paperless Parts (see Section B (6)), these documents may be received and processed in electronic format. As to notice of signing and entry, see Section L. As to judgments, see Section M.

F. ORDERS TO SHOW CAUSE

1) **Proposed Orders to Show Cause and Supporting Documents to be Filed On-Line; Review On-Line; Working Copy:** Except as noted in the next paragraph, proposed orders to show cause and supporting documents in all NYSCEF cases must be submitted first by filing with NYSCEF; original (hard copy) documents will not be accepted by the Clerk. The Clerk of the Commercial Division Support Office or the Ex Parte Office will review on-line the proposed order filed with NYSCEF and will, as needed, communicate with the submitting attorney about any issues by e-mail or phone. Review and processing of proposed orders to show cause by the Clerk normally take 24 hours. Once a final version of the submission has been arrived at in this way, it shall be e-filed. The Clerk will print out the proposed order in final form. In a case in a working copy Part, the proposed order in final form will be placed in a file jacket and the submitting attorney shall carry the jacket and a working copy of the supporting documents with *Confirmation Notice(s)* to the assigned Justice. In a case in a Paperless Part (see Section B (6) (b)), the proposed order will be reviewed online, no working copy shall be submitted, and the final version will be transmitted to the Part by the Clerk electronically.

2) **Exceptions: 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 Uniform Rule 202.7 (f) and Commercial Division Rule 20) or if the application is being made by a non-participating unrepresented

litigant or if in accordance with the Rules an attorney in a mandatory e-filed case is exempt from participation or if a participating attorney or unrepresented litigant seeks to submit documents in a defined emergency, the proposed order to show cause and supporting documents may be presented to the Commercial Division Support Office or the Ex Parte Office in hard copy form rather than filed on-line in the first instance. A completed *Notice of Hard Copy Submission - E-Filed Case* (NYSCEF Form EF-20, accessible on the NYSCEF site) indicating why the documents are being filed in hard copy form, must be firmly attached to the papers as the back page facing out (except for papers filed by a non-participating unrepresented litigant). If counsel seeks a TRO but does not submit an affirmation/affidavit demonstrating significant prejudice, the documents shall be filed as provided in the immediately preceding paragraph. A proposed order to show cause and supporting documents that must be presented to a Justice outside normal court hours (see “Motions and Applications” under “Case Processing” at www.nycourts.gov/courts/1jd/suptcmnh/) shall also be presented in hard copy. In all situations described in this paragraph (other than those of an exempt party or attorney), documents submitted in hard copy form must thereafter be e-filed, as set forth below.

3) **Hard Copy Service:** When hard copy service is made of documents that were submitted in hard copy form pursuant to Par. 2 of this section and where no party is served via NYSCEF, the filer (except one who is exempt from mandatory e-filing) shall, no later than three business days after service, e-file the supporting papers (designating them in the NYSCEF document filing menu as *Supporting Papers to OSC (After Service)*), together with proof of hard copy service. Failure to do so will cause the County Clerk file to be incomplete.

4) **Declination:** If the Justice declines to sign a proposed order to show cause, the Clerk will electronically file the declined order. If the proposed order to show cause and supporting documents were filed with the court in hard copy form pursuant to Par. 2 of this section, the filing attorney or party (other than an exempt party) shall file the proposed order and supporting documents with NYSCEF (select the “Fee Previously Paid” option) no later than three business days after the filing by the Clerk. Failure to do so will cause the County Clerk file to be incomplete.

5) **E-Service of Signed OSC and Supporting Documents:** If the court directs that the signed order to show cause and supporting documents be served electronically, a conformed copy of the signed order should be designated as *Order to Show Cause – Conformed Copy* in the NYSCEF document filing menu.

G. EX PARTE APPLICATIONS (OTHER THAN ORDERS TO SHOW CAUSE)

1) **Generally, Proposed Applications to Be E-Filed First; When Hard Copy or Working Copy Required:** Except as provided in the next paragraph, proposed ex parte applications in a matter required to be e-filed shall be e-filed and will be reviewed by the clerk online; no hard copy is required at this stage. If any issues arise with regard to the form of the document, the clerk will communicate with counsel by phone or e-mail. Once all issues have been resolved in this way, the clerk will forward the electronic submission to a Paperless Part (see Par. B (6) (b)) if the matter is assigned thereto; in such a situation no working copy is required. If the case is assigned to a Part that requires working copies, the clerk will print out the proposed order in final form and a working copy of the supporting papers must be submitted to the clerk by counsel. If the matter will not be assigned but will be submitted to an Ex Parte Justice, the clerk will print out the proposed order and a working copy of the supporting papers as needed and submit them to the Ex Parte Justice unless the supporting papers are longer than 40 pages; here again, no working copy will be required. If the supporting papers are longer than 40 pages and a working copy is required, the clerk will print out the proposed order and advise counsel to submit to the clerk a working copy of the supporting papers.

In the case of applications by a not-for-profit (e.g., regarding sale or lease of a property, disposition of assets) that require approval by the Attorney General, the application shall be e-filed and will be reviewed in electronic form. The filer shall also submit a hard copy with the original of the approval appended, which shall be transmitted to the Ex Parte Justice by the clerk. The same procedure shall be followed for applications by certain not-for-profits for which approval by the Attorney General is not required. On applications for change of name, the papers shall be uploaded to NYSCEF with appropriate redactions. The application shall also be submitted in hard-copy format with an original birth certificate with raised seal. On certain applications (e.g., seeking continuation of a mechanic’s lien), the papers shall be uploaded to NYSCEF and then submitted in hard copy with the original

County Clerk's "data correct" stamp. In the case of an infant's compromise application, the papers shall be filed with NYSCEF in redacted form. An unredacted copy of the papers shall be submitted for action by the Justice. On various real estate matters (e.g., applications to appoint a referee to compute or a receiver, judgments of foreclosure and sale), the papers shall be uploaded to NYSCEF. If a working copy is required because of the complexity and length of the documents, the clerk may request submission thereof.

Signed orders will be uploaded to NYSCEF. Where an infant's compromise order contains confidential personal information, it will be uploaded under seal.

2) When Applications May Be Submitted in Hard Copy Form: 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) firmly appended thereto as a back page facing out.

H. STIPULATIONS AND REQUESTS FOR SO-ORDERING OF STIPULATIONS

If an attorney wishes to submit a stipulation or a stipulation to be "so ordered," he or she should file the document with NYSCEF, accurately describing the type of "Stipulation" using the document filing menu. If the Justice requires working copies, counsel shall also submit a working copy of the document, together with a *Confirmation Notice*, to the Part.

I. SERVICE ON PARTIES

Pursuant to the E-Filing Rules, service of interlocutory documents is made by posting a document to the NYSCEF site, which automatically and immediately transmits an e-mail notice of the filing, including a link to the document, to all participating counsel and unrepresented litigants on the case. The Rules also authorize service by other methods permitted by the CPLR. If service by such a method is made, proof of service must be filed with NYSCEF.

J. SERVICE OF ORDERS ON THE COUNTY CLERK AND BACK OFFICES

1) **Service on the County Clerk:** If an order in a NYSCEF case directs that the County Clerk take action, a copy of the order must be served on the County Clerk (CPLR § 8019 (c)), as the order will usually expressly provide. This shall be done by filing with NYSCEF a completed *Notice to the County Clerk - CPLR § 8019 (c)* (NYSCEF Form EF-22, available on the NYSCEF site). An exception to this procedure is where the order directs that the file be sealed; see Section K (3) for the procedure in this situation. Sealing is done by the County Clerk. See also Section B (8) (b & c).

2) **Service on a Back Office of the Court:** If an order in a NYSCEF case directs that a back office of the court take action (e.g., striking a note of issue, effectuating a preference), notice of such order must be given to the back office by counsel, as the order will usually expressly provide. The Supreme Court Clerk in the back office will be either the Clerk of the General Clerk's Office (Room 119) or the Special Referee Clerk (also in Room 119). If the court in an e-filed case directs that either Clerk be served through NYSCEF or in accordance with this Protocol, the filer shall post to NYSCEF a copy of the order, with notice of entry if the court requires such notice. If the order directs service on the Clerk of the General Clerk's Office, the filer shall make the submission using the NYSCEF document type "Service on Supreme Court Clerk (Genl. Clerk) w/Copy of Order." If the submission is to be served on the Special Referee Clerk, the filer shall make the submission using the NYSCEF document type "Service on Special Referee Clerk w/Copy of Order." The filer shall also provide as additional information (in the "Additional Document Information" field) a brief description of the type of order being submitted (e.g., "Order of Consolidation," "Order Striking Note of Issue"). NYSCEF will route the submission to the correct Clerk in accordance with the document type selected. Information about the type of order being submitted will assist the clerk to process the order expeditiously.

Where notification needs to be served on the back office Clerk in a hard-copy case, such notice shall be given by transmitting a copy of the order by e-mail, with notice of entry if the court has so directed, to the appropriate e-mail box. Counsel shall put in the subject line “Service of Order” and a brief identification of the type of order involved (e.g. “Order of Consolidation,” “Order Striking Note of Issue”). In addition, counsel shall set forth in the body of the e-mail message a concise description of the action directed by the order. Here again, this identifying and descriptive information will assist the clerk to process the order expeditiously. The relevant Clerk shall once again be the Clerk of the General Clerk’s Office or the Special Referee Clerk. The relevant e-mail addresses are as follows:

Clerk of the General Clerk’s Office, Rm. 119: genclerk@nycourts.gov

Special Referee: spref-nyef@nycourts.gov

3) Service on Both Court Back Office and the County Clerk: If an order needs to be served on both the County Clerk and a back office, counsel should follow the steps set forth in both Par. 1 and Par. 2 of this Section.

K. REDACTION. SECURE DOCUMENTS AND SEALING

1) **Social Security Numbers and Confidential Personal Information:** “No person may file any document available for public inspection ... 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, except as required by federal or state law or regulation, or by court rule.” GBL 399-ddd (6). Regarding confidential personal information, see Uniform Rule 202.5 (e). It is the responsibility of counsel and parties to comply with rules restricting disclosure of confidential personal information. Nevertheless, NYSCEF screens filings and endeavors to identify any that contain social security numbers. When such numbers are discovered through this process, NYSCEF will restrict portions of or all of such documents from public view. Where NYSCEF has redacted what it believes to be a social security number, it will transmit to the filer a notice advising of the action taken and requesting that the filer review the matter and provide notification as set forth in the notice if the redaction has been made in error.

2) **Secure Document Status:** Documents filed in the past in “secure status” under a procedure no longer in place will retain that status unless otherwise directed by the court

3) **Sealing; Compliance with Part 216; Procedures:** If counsel for a party seeks to have documents sealed in NYSCEF, specific steps, set forth below, must be taken and an order pursuant to Part 216 of the Uniform Rules obtained. As indicated below, the uploading of documents sought to be sealed shall be the responsibility of the party. Until the court has resolved the sealing issue, counsel shall file documents in hard copy form, with a *Notice of Hard Copy Submission - E-Filed Case* (EF 20) appended, except where the sensitive document has been e-filed by counsel in “Restricted” status and timely protected by a signed TRO. See below.

(a) **Commencing a New Case Under Seal; Anonymous Caption:** Where counsel seeks to obtain a sealing order for a case file at the outset of the case, the attorney should not simply e-file the commencement document. Rather, counsel should submit, in hard copy form with a *Notice of Hard Copy Submission - E-Filed Case* (EF 20), the commencement document together with a proposed order to show cause seeking a sealing order and a TRO restricting access to the file pending the hearing on the application. The papers should be presented to the Ex Parte Office or the Commercial Division Support Office, which will refer the TRO to an Ex Parte Justice. If the Justice signs the TRO, the attorney must immediately go in person to the County Clerk’s E-Filing Department with the TRO and commencement documents prior to e-filing the commencement documents. Failure to do so will subject any filings to public viewing. The County Clerk’s E-Filing Department will restrict access to the e-file pursuant to the TRO. An RJI should then be submitted by counsel and the matter will be referred to an IAS Justice for action on the full application. The same process should be followed if the applicant wishes an anonymous caption and

a sealing order. Counsel must promptly inform the County Clerk's E-File Department if, upon presentation of the proposed order to show cause and TRO, the court refuses to issue the TRO and after the court acts upon the order to show cause regardless of the outcome. If the relief sought is denied, the applying counsel must, within three business days after the sealing issue is determined, e-file all documents not yet e-filed.

(b) **Application for Sealing Order in a Pending E-Filed Case:** To seal a document or the case file in a pending e-filed case or to file a document or portion thereof under seal in such a case, counsel must move for a sealing order.

(i) Such a motion may be made by e-filing an application or by filing an application in hard copy form, with *Notice of Hard Copy Submission* (EF 20) annexed. If the motion is made in hard copy, any opposition or reply papers must only be submitted in hard copy form, with said *Notice* attached.

(ii) A party that seeks to move for an order allowing the filing of a document or a portion thereof under seal may e-file the application via NYSCEF using a mechanism that will cause the document in question to be filed in "Restricted" status in NYSCEF temporarily pending action by the court. A party e-filing the application and seeking temporary restricted access shall file a proposed Order to Show Cause. The proposed Order to Show Cause and any supporting papers that do not need to be sealed should be e-filed using the normal document identifiers, which will result in their being publicly accessible in NYSCEF. The filer shall at the same time but separately e-file the specific document for which protection is sought by using a document identifier that will cause access to the document to be temporarily restricted to the court and the party that filed it. The document for which protection is sought should be filed with the document identifier *Exhibit – Request to Seal*, or *Affidavit/Affirmation – Request to Seal*, or *Memorandum of Law – Request to Seal*, whichever is applicable to the document in question. Any such designation shall restrict access to the document temporarily in order to permit the court to rule on the sealing application.

The temporary restriction on access to the document for which protection is sought that is given by a special *Request to Seal* document identifier will expire in five (5) business days. The applicant e-filing a proposed Order to Show Cause seeking an order permanently sealing the document should be sure to include a proposed Temporary Restraining Order in the application that would continue the restricted status for the document until the court has ruled on the application. If no signed TRO is obtained and brought to the clerk's attention within the five-day period, the document will lose restricted status and become available to the public. The proposed Order to Show Cause and TRO should include the NYSCEF numbers of the documents that were filed using the *Request to Seal* identifiers. The County Clerk requires that orders contain specific document numbers in order to effectuate sealing.

(iii) Once the court determines the application, the moving party must file a *Notification for Sealing* (Form EF-7) to alert the County Clerk to seal the document. Again, the *Notification* should identify the specific document(s) to be sealed by NYSCEF docket number.

(iv) All documents presented in connection with the sealing issue that have not yet been e-filed must be e-filed within three business days after the County Clerk seals the file if the entire file is sealed or after the sealing issue is determined adversely to the applicant.

4) **Previously Sealed File; Hard Copy Case:** If a hard copy case in which a sealing order was previously issued is converted to NYSCEF status, counsel for the parties should promptly inform the County Clerk's E-File Department (by e-mail at cc-nyef@nycourts.gov or by telephone (procedural questions only) at 646-386-3737) of the existence of the sealing order.

L. ENTRY AND NOTICE OF ENTRY IN NEW YORK COUNTY

Upon issuance of an order or decision and order, court staff will upload the document to NYSCEF. This will generate an immediate e-mail notification to participating counsel and unrepresented litigants on the case, to which

shall be appended a link to the document. The posting of the order or decision and order by court staff does not constitute entry thereof. The entry of such an order or decision and order shall be effectuated thereafter only when the County Clerk affixes to the posted document a filing stamp.

Judgments are entered as follows. Judgments that are submitted to and processed by the County Clerk (taxation of costs, etc.) and then signed by him pursuant to order of the court, on default, or by confession shall be uploaded to NYSCEF by the County Clerk, who shall add the filing stamp thereto. Judgments submitted to and signed by the assigned Justice shall be forwarded to the County Clerk for action via NYSCEF by court staff; such judgments awaiting entry shall be marked "Pending" in NYSCEF. After these judgments are processed by the County Clerk, he shall affix the filing stamp thereto. See also Section M.

The filing stamp is proof of the fact of entry and the date and time thereof. NYSCEF will generate a second e-mail notification upon the completion of the entry process. This entered version of the order or judgment will be accessible via a link in this second e-mail notification.

Notifications of the posting of an order/decision and order/judgment and of the completion of the entry process that are transmitted from NYSCEF do not constitute service of notice of entry by any party. Notice of entry shall be served by a party by serving a copy of the order/decision and order/ judgment and written notice of its entry in the manner set forth in Uniform Rule 202.5-b (h) (2) .

M. JUDGMENTS AND THE JUDGMENT ROLL

1) **Submission of Proposed Judgment to Clerk or the Court (the Assigned Justice):** Whenever an order of the court directs the County Clerk to enter judgment, or the court requires the presentation of a proposed judgment directly to the Justice after a decision or trial, counsel seeking entry shall submit a proposed judgment. The filer should file to the case in question (select "File to Existing Case") and a screen will appear that presents options for the filing of (i) motion documents or (ii) non-motion documents. Although a motion may have elicited the court's directive, the motion itself has been concluded and so the filer should choose the selection under "Non-Motion Documents" labeled "Proposed Judgment to Clerk or Court." On the next page an "Add Documents" screen will open. From a drop-down menu the filer should select either "Judgment to County Clerk (Proposed)" or "Judgment to Court (Proposed)," whichever is apposite. Next, the filer should attach the proposed judgment in PDF-A format. It is requested that a legal back be included since the County Clerk uses space on the back to affix stamps upon entry and docketing. Then, on the following page, the filer should add any documents that he or she may wish to submit as accompaniments to the proposed judgment, such as an affirmation providing information regarding calculation of interest. A proposed bill of costs should be submitted when costs and disbursements are sought. The next screen is the "Assemble Judgment Roll" screen (see CPLR 5017). Here, all the documents previously filed in the case will be displayed and the filer can designate any of these for inclusion in the judgment roll simply by clicking in the box next to the document. A "Sort By" drop-down can assist the filer to search for certain documents. See CPLR 5017 (b) as to the content of the judgment roll. The documents ready for submission should be reviewed, edits should be made if needed, and the documents should then be submitted. The proposed judgment will be transmitted by NYSCEF to the assigned Justice or to the County Clerk's Judgment Clerk depending upon which kind of judgment the filer submitted. If the proposed judgment is to be presented to the Justice in a working-copy Part, it should also be submitted to that Part in working-copy form after e-filing.

If the filer has submitted a "Judgment to County Clerk (Proposed)," the Judgment Clerk will review the submission and, if needed, will communicate with the attorney as to any issues, including with regard to the judgment roll as created by counsel. The Clerk will tax costs and disbursements and calculate interest as required, will add those figures to the judgment and calculate the total award, and will have the judgment signed by the County Clerk and entered. The judgment will bear a stamp indicating the date of entry.

Absent any problems, a "Judgment to Court (Proposed)" will be signed by the assigned Justice and forwarded by staff to the County Clerk for processing and entry. (The signed Judgment will be transmitted under the designation

“Judgment - Signed by Court to County Clerk.” It will not be viewable by counsel until it has been e-filed by the County Clerk.) In the past, the County Clerk posted judgments signed by the Justice, but not yet processed by the County Clerk as “unfiled judgments” and required counsel to request entry thereof, but such a request is no longer required in e-filed cases. Now, such a judgment may be forwarded to the County Clerk via NYSCEF, in which case it will be listed on NYSCEF but will be marked “Pending.” The County Clerk will review the judgment roll previously created by counsel and will tax costs and disbursements and calculate interest as required, and will add those figures to the judgment and calculate the total award. The County Clerk will then enter the judgment and notification of entry will be transmitted to participating counsel and parties.

2) **Default Judgments by the County Clerk; Judgment by Confession:** If counsel seeks entry of a default judgment by the County Clerk (CPLR 3215) or a confession of judgment (CPLR 3218), the attorney should select from the drop-down document menu referred to above “Clerk Default Judgment (Proposed)” or “Judgment by Confession (Proposed),” respectively. Counsel should follow the process described above, submitting affirmations in support or a bill of costs and disbursements as needed. After the attorney has confirmed and finalized the submission, in the case of an application for a default judgment, a payment screen will open since entry of a default judgment by the County Clerk requires the payment of the \$ 45 motion fee. The submission will be routed automatically to the County Clerk’s Judgment Clerk for action and entry.

3) **Entry; Notification Upon Entry of a Judgment; Notice of Entry:** See Section L.

4) **Change of Name Cases:** Because of the necessity to complete certain procedures in such matters, once an order has been issued authorizing a change of name, the applicant should come to the Judgment Clerk, who will assist with finalization.

N. NOTICES OF APPEAL AND APPEAL PAPERS

1) **Notice of Appeal; Procedures:** A notice of appeal shall be filed with NYSCEF in an e-filed case, together with a pre-argument statement, a copy of proof of service on any attorney who has opted out and any non-participating unrepresented party, and a copy of the judgment or order appealed from. All of these documents shall be e-filed as a single PDF-A document. No hard copy should be delivered to the County Clerk’s Office. The other participating parties to the case will be served via NYSCEF, except where a party chooses to serve by another method authorized by the CPLR, in which case proof of such service shall be e-filed.

2) **NYSCEF on Appeal; Appellate Division:** E-filing in the Appellate Division was introduced on March 1, 2018. For information on e-filing in appeals in the First Department, counsel should consult the following page:
<http://www.nycourts.gov/courts/ad1/efiling.html>

ANY ATTORNEY WHO REQUIRES ASSISTANCE IN A NYSCEF CASE IN THIS COURT IS ENCOURAGED TO CONTACT THE NEW YORK COUNTY GENERAL CLERK’S OFFICE OR THE NEW YORK COUNTY CLERK E-FILE DEPARTMENT. COMPUTER EQUIPMENT 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.

Dated: January 23, 2019

**SUPREME COURT, CIVIL BRANCH
NEW YORK COUNTY**

**HON. MILTON A. TINGLING
COUNTY CLERK OF
NEW YORK COUNTY**

**For Questions About New York County
E-Filed Cases, Consult:**

COUNTY CLERK E-FILING DEPARTMENT
Janaud Miller
60 Centre Street, Room 141 B
E-Mail: cc-nyef@nycourts.gov
Phone: 646-386-3737 [procedural questions only]

LAW AND EQUITY:

EMMA DROP
Clerk-in-Charge

USHA PATEL
Clerk-in-Charge

SUPREME COURT, CIVIL BRANCH
NEW YORK COUNTY
GENERAL CLERK'S OFFICE
60 Centre Street, Room 119
New York, New York 10007
Phone: 646-386-3030

DOREEN GUSHUE
Clerk-in-Charge

**For Information About the NYSCEF Application
Generally and To Schedule Training, Consult:**

NEW YORK STATE COURTS
ELECTRONIC FILING
RESOURCE CENTER (STATEWIDE)
60 Centre Street, Room 119 M
New York, New York 10007
Phone: 646-386-3033
E-Mail: efile@nycourts.gov

JEFFREY CARUCCI
**Statewide Coordinator of Electronic
Filing**

CHRISTOPHER GIBSON
Deputy Coordinator