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NOTICE TO THE BAR AND RULES (UPDATED) - - PROJECT ON PUBLIC ACCESS TO COURT RECORDS (CASE DOCUMENTS ON-LINE)

The Chief Judge of the State of New York has directed the court system to undertake expanded public access to court records using advanced computer technology. The Office of Court Administration has designated courts in two counties in the State - - Supreme Court, Civil Branch, New York County and the Supreme and County Courts in Broome County - - as venues for pilot programs for enhanced public access to court records. The Supreme Court, Civil Branch, New York County issues this Notice and Rules to inform the Bar practicing in the court of the nature of this program and to set out certain related procedural requirements.¹

I. NOTICE TO THE BAR

The Public Access Project in New York County Supreme Court (Civil Branch)

In recent years, the Supreme Court, Civil Branch, New York County ("the Court") has posted on-line a very large number of decisions. The Court's public access project ("the Public Access Project") will expand and build upon this work. The Public Access Project is a joint effort by the Court and the Honorable Norman Goodman, County Clerk of New York County. Commencing September 15, 2006, the Court and County Clerk, working together, will place images of a variety of case documents (described below) on-line using a software program developed by the New York County Supreme Court, the "Supreme Court Records On Line Library" (or "Scroll"). The Court will create a link to this program on the Court's website, the address of which is www.nycourts.gov/supctmanh. Scroll will also make

¹ The rules set forth herein shall be included in the Rules of the Justices of the Supreme Court, Civil Branch, New York County.

available for each case County Clerk data and Court data on case history from the Court's case tracking computer system, the Civil Case Information System ("CCIS"). This information and the documents will be accessible to the Bar and the public who have access to the Internet (no ID or password will be required). Scroll will make accessible in one place more case information than has been available on-line heretofore anywhere and will combine that information with images of case documents (exact copies in PDF format). The case file in hard-copy form will hereafter remain available for all cases in the Office of the County Clerk as at present.

Cases Available In Scroll: Most cases in the Court's inventory will be included in the Public Access Project and be available in Scroll. No information (neither data nor case documents) will be available in Scroll for cases brought under Article 81 of the Mental Hygiene Law, or other sections of that Law. Scroll will make available only data from the County Clerk's records and CCIS data in matrimonial cases and in cases that have been sealed; no documents will be available in such cases. Further, in any kind of case, the assigned Justice has the right to direct Court staff not to post a decision or other document in Scroll (a box for this purpose has been placed on the Court's standard short order form sheet). When the Justice so directs, the document will not be posted on Scroll on-line.

Information and Documents Available In Scroll: In the cases that are included in the Scroll Public Access Project system as just described, the following will be available:

- (i) the full County Clerk case caption and the County Clerk's minutes, which list all documents in the case that have been filed with the County Clerk;
- (ii) CCIS data, that is, complete case history information, including case caption, judicial assignment, comments noting changes in assignment or other developments, a history of conference appearances, a history of motion appearances, trial dates, and the like;
- (iii) scanned images (exact PDF copies) of various key documents filed with the Court or the County Clerk or issued by the Court in the case.

Scroll will identify the dates from which coverage is provided for various County Clerk and Court data and documents.

Although some documents may not be posted pursuant to the direction of the assigned Justice and the scanning of some categories of document may proceed in stages as the Public Access Project develops, the Court and the County Clerk intend to scan and post in Scroll the following documents:

- - Initial papers (summons and complaint, petition, etc.)
- - Answers and other pleadings filed
- - Requests for Judicial Intervention
- - Notices of Motion/Petition (exclusive of supporting papers)
- - Signed Orders to Show Cause (exclusive of supporting papers)
- - Preliminary Conference Orders
- - Compliance Conference and Other Discovery Orders
- - Decisions on Motions, Orders to Show Cause, and Special Proceedings
- - Long Form Orders on Motions, etc.
- - Other Orders
- - Notes of Issue
- - Stipulations of discontinuance/settlement
- - Extracts
- - Judgments

Although the foregoing constitutes the plan for Scroll at this time, the County Clerk and the Court cannot guarantee that all such documents will be scanned in all covered cases.

For the present, the following documents will not be included in Scroll: supporting papers on motions and special proceedings, hearing transcripts, disclosure documents, correspondence (except for any that may be so ordered by the Justice assigned), bills of particulars, and trial exhibits.

There will be a lag of 30 days between the time a summons and complaint or other initiating paper is filed with the County Clerk and the time it is posted in Scroll. Decisions on motions and other formal applications and long form orders are posted to Scroll, bearing the entry stamp of the County Clerk, as quickly as possible after the issuance of the decision is noted in the CCIS system (normally a matter of an hour to a few hours). Judgments in unfiled form are also posted with similar expedition. Other documents will be scanned and posted with somewhat less immediacy. Judgments in entered form will also be posted in Scroll.²

Retroactive Posting of Documents and Availability of Information: Since January 2004, the County Clerk of New York County has scanned summonses and complaints and judgments in a large number of cases and has posted PDF images thereof to an internal

² In cases outside the matrimonial inventory, a judgment is not entered by the County Clerk until an attorney on the case applies to the County Clerk in person in Room 141B in the basement of 60 Centre Street so that the judgment roll can be prepared and interest, costs and disbursements, if any, can be correctly calculated. Unfiled judgments posted in Scroll in non-matrimonial matters bear a stamp so indicating.

database. Beginning on September 15, 2006, these documents will be included in the Scroll Public Access Project system. These documents are from cases in the Court's general inventory, that is, these cases do not fall within the categories of case described above in which documents will not be posted in the Scroll system. Similarly, beginning on September 15, 2006, the Scroll Public Access Project system will (except in Mental Hygiene Law matters) include CCIS data on cases commenced prior to that date and County Clerk data on cases included in the County Clerk's electronic minute book and caption system, which was established in 1994.

Applications Regarding Documents in Scroll: Because documents posted in Scroll will be accessible on the Internet, the Court has issued a rule requiring attorneys filing any of the documents set forth above to avoid including therein, insofar as possible, social security numbers, bank account numbers, names of minor children, personal health information, and other sensitive information. In the event that any such information must be included in a document (e.g., a proposed judgment or order), or if another attorney representing a party to the case in question does not comply with said rule and the client of the attorney may be adversely affected as a result, counsel for the affected party or person may apply for a directive from the Justice assigned or from the Administrative Judge in an unassigned case that the document in question shall not be posted or, if already posted, shall be removed from the Scroll database. A rule on this subject is set forth below. The Court will endeavor not to include in decisions and orders issued by it any such sensitive information or will direct that a decision or order containing such information not be posted in Scroll.

Charge for this Service: There will be no charge for use of Scroll, including the printing of copies of documents included therein.

II. RULES REGARDING PUBLIC ACCESS TO COURT INFORMATION (EFFECTIVE DATE - SEPT. 15, 2006)

Rule 1 (Scroll): Information in Documents Filed with the County Clerk and the Court. Attorneys filing pleadings and other documents with the County Clerk or the Court that fall within a category of document that is, as explained in the Court's Notice to the Bar on the Public Access Project, included in the Scroll Public Access Project system or that shall hereafter be so included shall not set out in such documents social security numbers, bank account numbers, the names of minor children, dates of birth, health information concerning any individual and other similar sensitive information, or, if doing so is unavoidable, shall, to the extent practical, provide only a portion of the information (e.g., some but not all digits

of an account number, initials only in place of the names of minor children). If circumstances make it unavoidable to include such information in full in a document that is or may be included in the system, the party preparing the document shall apply to the Court, in the manner set forth hereafter, for a directive restricting access to the document in the system. The following documents will not be included in the Scroll Public Access Project system: documents filed or issued by the Court in matters pursuant to the Mental Hygiene Law, matrimonial cases, and cases that are sealed by order of a Justice pursuant to Part 216 of the Uniform Rules for the Trial Courts, and other individual documents as to which the Justice assigned so directs.

Rule 2 (Scroll): Application for Restriction of Access to Records. A party or person who claims that the availability of a document in the Public Access Project system may cause harm to that party or person or who seeks to limit access in compliance with Rule 1 may apply to the Court for a directive restricting access. Any such application shall be made as follows. If the case has been assigned to a Justice, a request shall be made to the Justice by letter describing the document as to which a restriction on access is sought and explaining the reasons why such a restriction is appropriate. If the case has not been assigned to a Justice, the party shall direct such a request to the Administrative Judge. The Court on its own initiative may direct that access be restricted. An interested party or person may apply by letter to remove a document from the Scroll database if, notwithstanding this notice and rules, a document is posted on the Public Access Project system that contains sensitive information access to which in this form causes harm to that party or person.

Rule 3 (Scroll): Form of Restriction on Access to Records. Where the Court grants a request to limit access to a document in the Scroll Public Access Project system or issues a directive sua sponte, the directive shall take the form of an administrative direction to the staff of the Court that the document in question not be included in the Scroll system or, if already included therein, that it be deleted from the database. Any such directive as may be issued in a case in which documents are otherwise available in the Scroll system shall not affect the status of the County Clerk hard-copy case file, which is open to the public unless otherwise ordered by the Court pursuant to Part 216 of the Uniform Rules for the Trial Courts.

Rule 4 (Scroll): Notices of Motion and Notices of Petition. Any party who files a notice of motion or notice of petition with the Court shall submit therewith to the relevant back office a photocopy of the notice (not including the supporting papers).

Dated: September 7, 2006

HON. JACQUELINE W. SILBERMANN
ADMINISTRATIVE JUDGE

No. 7: 9/8/06