



NYSCEF NEWS

Information on developments in the Electronic Filing System of the New York State Unified Court System

Our Mission

New York State offers a simple, highly efficient electronic filing system called *NYSCEF* for attorneys to commence lawsuits, pay fees to the county clerk in Supreme Court, file interlocutory papers, serve appearing attorneys, obtain instant access to the docket, and receive immediate notice of and access to decisions, orders and judgments in New York State court cases. With this inaugural issue of *NYSCEF NEWS*, the Electronic Filing Resource Center of the New York State Unified Court System takes another step in our efforts to make information about electronic filing in the New York State courts widely available to the bar, managing attorneys and clerks, and paralegals. We plan

to issue *NYSCEF NEWS* three times a year, reporting on developments in e-filing in New York, including software enhancements and new system capabilities, and offering *NYSCEF* users assistance to help make the e-filing process more convenient and efficient. We hope everyone interested in e-filing in New York will follow this newsletter regularly. We are certain it will be helpful. As always, we welcome your suggestions and comments. Thank you.

Jeffrey Carucci
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Currents – Some Recent Developments

NYSCEF – Our New Name

New York State's system for the electronic filing and service of documents in litigation, formerly known as the "Filing by Electronic Means system" or "*FBEM*," has been changed to the "New York State Courts Electronic Filing system" or "*NYSCEF*." Our new name is more accurate. It makes clear that this is the e-filing system of the New York State courts, encompassing the litigation-related functions of the County Clerk, as Clerk of the Supreme Court and custodian of court documents in that court as well as the court functions of the various authorized courts: Supreme Court, the Court of Claims, Surrogate's Court, and the Civil Court of the City of New York. Our new acronym is also easier to use than its predecessor. Our name is new, but our goal remains the same – to assist lawyers, clients, the County Clerk, judges and the courts by bringing the benefits of advanced computer technology to the litigation process.

Tax Certs in New York City, 2007

The filing season for tax certiorari cases in New York City came to an end on October 24, 2007. The vast majority of the tax certiorari cases filed in the city for the year were filed electronically, using the *NYSCEF* system. Specifically, 23,555 such cases were e-filed during the year. That figure represents 93.26 % of all the tax cert cases filed citywide in 2007. Included in this group for the first time were condominium cases. Most of these filings occurred within the span of only four weeks. The efficient filing of cases in such large numbers demonstrates clearly what *NYSCEF* can do.

NYSCEF in Niagara, Erie and Broome Counties

At a press conference in October 2007, the County Clerk of Erie County, Hon. Kathy Hochul, and the Administrative Judge, Hon. Sharon S. Townsend, announced the arrival of electronic filing in Erie County. The software is now in place to accept commercial and tort cases in Erie County Supreme Court. Work is under way that will soon allow acceptance of certain papers in Erie County Surrogate's Court (see below). Last summer,

NYSCEF became available in Niagara County. And, in September 2007, *NYSCEF* became operational in Broome County Supreme Court. There, pursuant to legislative authorization, any type of case may be e-filed. A number of tax certiorari cases were e-filed recently in Broome.

City Cases in NYSCEF

The City of New York has agreed to participate in *NYSCEF* in cases in one of the city parts in New York County Supreme Court (Part 52, Hon. Paul G. Feinman). The consent of all parties will be required. Justice Feinman will not typically require courtesy copies of motion papers, but will read papers on-line.

Workers' Comp Cases in NYSCEF

At the initiative of the County Clerk of New York County (Hon. Norman Goodman), we have been working with staff of the Workers' Compensation Board to assist the Board in the filing of papers leading to the entry of judgments. These filings take place in large numbers and follow a standard format. With the cooperation of the Board, we have been able to automate this process through *NYSCEF*. This will greatly improve the filing process for the Board and reduce the burdens involved for its staff while assisting the County Clerk. Enhancements to this automated processing are continuing to be made. We will soon be rolling out the program to other authorized *NYSCEF* counties across the state with the cooperation of the county clerks there.

De Novo – Some Reminders about NYSCEF

PAYMENTS TO THE COUNTY CLERK.

- When you choose the “Pay at the County Clerk’s Office” option rather than pay by credit or debit card, please be sure to make your in-person payment and do so expeditiously. Otherwise, your document will remain unprocessed in the County Clerk’s “to do box.”

MORE PAYMENTS TO THE COUNTY CLERK.

- And, when you go to pay, please alert the County Clerk’s Cashier that the case in question is an e-filed matter. Otherwise, the document will not be retrieved from the “to do box” and the cashier will assign a non-electronic index number, with these steps having to be corrected later. Also, since county clerks and courts are now simultaneously handling e-filed cases and paper cases, attorneys and their staff delivering payment or courtesy copies should be sure to inform county clerk and court staff that the case in question is an e-filed matter so that it will be processed correctly.

ENTRY OF JUDGMENT BY THE COUNTY CLERK.

- When seeking entry of judgments via e-filing, be mindful of CPLR 5017(b). In some counties, a certificate requesting entry of judgment by the county clerk is required. When completing the certificate you are affirming as to the content of the judgment-roll, which the CPLR says shall contain “the summons, pleadings, admissions, each judgment and each order involving the merits or necessarily affecting the final judgment.” [Therefore, the certificate cannot simply list: Proposed Judgment and Order directing its entry.]

Sealing of Files/Documents by the County Clerk.

- In order for the County Clerk to seal a file or documents, there must be an order specifying exactly what is to be sealed and identifying who has access. In some counties, a stipulated agreement between the parties to mark documents “confidential” will not result in sealing. Many counties use a certificate requesting sealing from the County Clerk. When completing this certificate, please be very specific as to what items have been ordered sealed and include a copy of the sealing order
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with the certificate. If at all possible, consider the “secure filing” option, which allows the filing attorney to mark certain documents “secure,” or an order restricting access to the entire file. If you choose to file a courtesy hard copy, make sure the county clerk is alerted to seal or restrict those copies as well. (This last item is not a concern in counties that will discard courtesy copies after the judge completes work with them.)

TAXATION OF COSTS BY THE COUNTY CLERK.

- Some of the earliest e-filed cases are now beginning to result in appellate decisions. If you prevail on appeal and are awarded costs in cases in the First Judicial District (Manhattan), and perhaps in other venues as well, please submit a bill of costs and include a fully itemized bill from your appellate printer as well as a copy of the remittitur from the Appellate Division. The county clerk will review the submission, make any appropriate adjustments and affix the taxation stamp to the bill of costs. A filed copy will be posted on the electronic site.

PLEASE NOTE:

- This does not constitute an entered judgment. This is simply a taxation of costs. If the appeal was from a judgment, the prevailing party may be entitled to enter a judgment of affirmance/reversal, etc. It is suggested you contact the judgment clerks for assistance with this type of entry.

To Do List – What We’re Currently Working On:

- The initial stages of e-filing of cases in the Civil Court of the City of New York. In 2007, the Legislature authorized e-filing in no-fault insurance cases in that court. With the close cooperation of the court and its staff, software suited to these types of cases is under development in a pilot format. We are also working on appropriate rules.
- Modifications to the *NYSCEF* software that will permit the e-filing of certain documents in Surrogate’s Court. Initially authorized in Erie County, e-filing in Surrogate’s Court was expanded to four other counties in 2007 – Chautauqua, Monroe, Queens and Suffolk. The Surrogate of Erie County, Hon. Barbara Howe, and her staff have been working energetically with *NYSCEF* staff to open Erie County to Surrogate’s Court filings in certain types of cases (petitions for probate or administration and related motions and miscellaneous proceedings) early in 2008. Appropriate rules are being drafted. We hope to expand to the other four counties shortly after that. So watch for e-filing in Surrogate’s Court soon!
- Enhancements to the *NYSCEF* software for Supreme and Court of Claims cases. We anticipate that the *NYSCEF* Rules for Supreme Court (now found in Section 202.5-b of the Uniform Rules) will be revised shortly. Among other goals, we hope to streamline the process of service of interlocutory papers through *NYSCEF*.

Reminder:

Training in the *NYSCEF* software is available weekly in New York City (two CLE credits for attorneys at no charge). To sign up, contact the Resource Center at 646-386-3033 or efile@courts.state.ny.us Outside the City, contact your court or the Resource Center. Thank you.

NYCEF News

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