



# NYSCEF NEWS

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



## Message from Chief Judge Jonathan Lippman on Enactment of the Historic E-filing Bill

Thanks to the historic enactment of Chapter 416 of the Laws of 2009, which did away with previous sunset provisions, e-filing is now permanent in New York and can be expanded on a voluntary basis to additional counties and case types without legislative approval.

Chapter 416 also established mandatory e-filing pilot programs in New York County and Westchester County. Subsequently, Chapter 528 of the Laws of 2010 designated mandatory programs in Livingston, Monroe, Rockland, and Tompkins Counties. Implementation of the first two mandatory pilots is well underway. New York County began to require commercial filings to be made via NYSCEF on May 24 2010. Westchester County began its mandated e-filing program in Commercial Division eligible cases on February 1, 2011, and in tort cases on March 1, 2011. Rockland County is slated to begin mandatory e-filing in all case types on June 1, 2011.

Attorneys familiar with the Federal ECF system, which our NYSCEF system resembles, will likely not need formal training in NYSCEF. If you are new to e-filing, there is a simple and convenient way to learn. Our

New York State Courts E-Filing Resource Center in Manhattan and the Westchester County Clerk's Office offer free weekly e-filing training sessions conducted by expert faculty. (Training details appear on page 3.) In addition, the Resource Center's helpful staff are available during business hours to answer any questions and assist you with the e-filing process.

E-filing provides you with greater control of your valuable professional time by enabling you to file papers 24 hours a day, 7 days a week. You will pay fewer service fees and participate in a system that saves significantly on paper and transportation costs.

E-filing means that New York State, home to the most sophisticated Bar in the world, will remain a national leader in harnessing communications technology to improve the quality and efficiency of court operations and the practice of law.

***Hon. Jonathan Lippman***

## Message from Hon. Ann Pfau, Chief Administrative Judge New York State Courts

Over the past decade our lives have been changed in so many ways by digital technology. For the court system, one of the most important changes has been the transition to electronic filing. Since it was first introduced in the New York State courts in 1999, e-filing has proven itself to be an efficient, convenient, and secure means for filing and serving papers. Among the many benefits of e-filing are lower litigation costs, increased convenience for the Bar, enhanced access to court records, and a greener world.

We are pleased that the Legislature has recognized the advantages of e-filing and the success of e-filing, and, with the enactment of Chapter 416 of the Laws of 2009, has eliminated the “pilot” status of the program and made it a permanent part of the way the New York courts do business. The mandatory e-filing programs the legislation authorized in certain case types in New York and Westchester Counties have established e-filing as part of daily practice for many attorneys in those areas. These programs, along with the mandatory program slated to begin in Rockland County on

June 1, will enable our courts and the legal community to more fully realize the benefits conferred by the NYSCEF system.

I want to thank all who are helping to make this vision a reality, in particular members of the Bar, the Judiciary, and the County Clerks. We look forward to continuing our collaboration with you as we put this important new legislation to work.



***Hon. Ann Pfau***

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### Message from Hon. Sherry Klein Heitler Administrative Judge Manhattan Supreme Court, Civil Branch

E-filing is the future in all of our courts and, indeed, our federal counterparts have for some years made e-filing mandatory. In June, 2008, all Commercial Division Justices in New York County requested matters before them be e-filed. With the outstanding cooperation of the Bar in response to this request, the number of e-filed cases in New York County increased dramatically. In addition, this policy of presumptive e-filing prepared both the court and the Bar for May 24, 2010, when e-filing of commercial cases became mandatory in New York County. Important



### Message from Hon. Alan Scheinkman Administrative Judge, 9th JD Westchester County, White Plains

After many years as an authorized e-filing county in the original voluntary pilot program, Westchester now has the distinction of being a mandatory e-filing county for both Commercial Division eligible cases and tort cases, which began on February 1 and March 1, 2011, respectively. Westchester County court staff, along with County Clerk staff, worked diligently in preparation for the roll-out of this mandatory program. Acting in partnership, court staff and County



advances of this kind do not happen by themselves. Not at all! I appreciate deeply all that Jeffrey Carucci, Unified Court System Statewide Coordinator for E-filing, and the dedicated staff of the E-filing Resource Center have done to advance e-filing in our court and beyond. An example of their going "above and beyond" is the twice-weekly e-filing training, located at 60 Centre Street, that they offer to members of the Bar as well as to paralegal/clerical staff (with free CLE credit for attorneys). If you are an attorney, paralegal, etc., new to e-filing, be assured that the Resource Center offers training and support which will make

it easy for you to use the NYSCEF system. To make reservations for a Manhattan training session, please call 646-386-3033. We are confident that participation in the mandatory e-filing program in both New York County and Westchester County, and in the e-filing on consent program (which continues) will provide attorneys many benefits and make their practice in our court simpler, more flexible and more cost-effective.

***Hon. Sherry Klein Heitler***

Clerk staff held numerous training sessions for commercial and tort filers both before and after the implementation dates. These training sessions continue, not only to acclimate more practitioners to e-filing but also in anticipation of a June 1, 2011 expansion of the mandatory program to all commercial contract cases and the opening of a mandatory program for all case types in neighboring Rockland County. Lawyers in other counties have benefit-

ted from the convenience, speed, and security of e-filing in their practices. Now Westchester and Rockland will be active members of the vanguard of counties transforming legal practice in New York State.

***Hon. Alan Scheinkman***

***'Statewide Coordinator's Message' appears on page 7 of this issue.***

***Organize a group of 25 or more in New York County, or 15 or more in Westchester, and get trained right in your own office!***

## ***GET READY TO E-FILE – Take a Free 2-Hour Training Session***

If you have used the federal ECF system you probably need no formal training in the NYSCEF system. But if you are not familiar with either system, there is no better way for you to prepare for mandatory e-filing than by taking one of the weekly training sessions offered by the UCS E-filing Resource Center, which are open to attorneys and legal staff from anywhere in the State. The hands-on class awards attorneys who complete it two free CLE credits and makes learning extremely simple for everyone. Registration is required, so reserve today. Class size is limited to allow individual attention from Training Center faculty. (Alternatively, organize a group of 25 or more in NY County, or 10 in Westchester County, and get trained right in your own office!) **For training in Manhattan contact the Resource Center at 646-386-3033 or e-mail us at [efile@courts.state.ny.us](mailto:efile@courts.state.ny.us). For training in Westchester, contact the Office of the Westchester County Clerk at 914-995-3082.**

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# CURRENTS – Recent Developments

## **Revised Rules for Consensual and Mandatory E-Filing Programs.**

On May 18, 2011, Judge Pfau issued revised rules for both the consensual (Uniform Rules 202.5-b) and the mandatory (Uniform Rules 202.5-bb) e-filing programs. Here are the highlights of these revisions:

- A case may not be removed from NYSCEF (except by order of the court) because one or more parties have withheld consent. All consenting parties may continue to file documents electronically with the court and to serve documents electronically among themselves, while non-consenting parties must file, serve, and be served in hard copy (202.5-b(b)(2)(i)).
- Hard copy filing of original documents in e-filed cases is permitted in instances of emergency (202.5-b(d)(1)(ii)) and technical failure (202.5-b(i)) and where permitted or required by statute or court order (202.5-b(d)(1)(ii)). In all instances, the filer must affix a conspicuous notice to the document [Form EF-17 or EFM-3: Notice of Hard Copy Submission – E-Filed Case] (202.5-b(d)(1)(iii)).
- A County Clerks may, at his or her option, discontinue the Pay at Court option in that county (202.5-b(d)(2)(iv)).
- Tort actions in mandatory program are defined (202.5-bb(a)(2)(ii)).

## **E-Filing Expert to Head the Commercial Division Support Office.**

Ed Kvarantan, former case manager coordinator in the UCS E-Filing Resource Center, has been named Clerk-in-Charge of the Commercial Division Support Office. A staff member of the Resource Center since its doors opened, Mr. Kvarantan helped make the NYSCEF system more user-friendly, and has conducted hundreds of NYSCEF trainings in Manhattan and around the state. His appointment to the Support Office means that attorneys who practice in the Commercial Division will find it easier than ever to get quick, reliable answers to their e-filing questions.

## **Amex Accepted in Westchester .**

The Westchester County Clerk now accepts American Express for online payment of court fees.

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### **COMMENCING A MANDATORY E-FILED CASE – *KEEP IN MIND***

- You must e-file the commencement papers. The County Clerk will not accept documents filed in mandatory e-filed cases in hard-copy form.
- You must serve your adversary with hard-copy commencement papers unless you have arranged consent to electronic service in advance.
- Filing equals service in regard to subsequent documents —when the NYSCEF system receives your document it automatically e-mails a notice, constituting service, to all other consenting Users on the case.
- You must provide a working copy of any document requiring judicial review (thus NOIs and RJs do not require working copies) with the NYSCEF Confirmation Notice firmly affixed (Uniform Rule 202.5-b(d)(4). Check with the court as to exactly where and when working copies should be submitted.

# DE NOVO—A Reminder about Two Essential E-Filing Forms

All documents in mandatory e-filed cases and e-filed cases in which consent has been given must be filed electronically. However, there are instances where filers will submit hard copy documents, either in addition to or in lieu of the electronic documents. In either case, e-filing rules require that these hard copy submissions bear “firmly affixed thereto” the appropriate notice.

**Confirmation Notice** – The court may require a filer to provide a working copy (i.e., an exact hard copy of an electronically filed document) of any document intended for judicial review. Common examples of working copies are papers submitted on a motion. The rules require a filer to affix a copy of the Confirmation Notice received from NYSCEF upon the e-filing of the document to the working copy. The Confirmation Notice allows court personnel to



**NYSCEF - New York County Supreme Court**

**Confirmation Notice**

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If submitting a working copy of this filing to the court, you must include as a cover page firmly fastened thereto a copy of this Confirmation Notice.

THE JONES COMPANY - v. - ABC INC. et al

952201/2011

**Documents Filed**

Doc #	Document Type	Motion #	Date Received
2	NOTICE OF MOTION	001	05/25/2011 11:38 AM
3	AFFIDAVIT OR AFFIRMATION IN SUPPORT OF MOTION	001	05/25/2011 11:38 AM
4	EXHIBIT(S) A	001	05/25/2011 11:38 AM
5	MEMORANDUM OF LAW IN SUPPORT	001	05/25/2011 11:38 AM

**Filing User**

Name:	Six Trainee	E-mail Address:	student6@courts.state.ny.us
Phone #:		Work Address:	125 Jordan Road Troy, NY 12180
Fax #:			

**E-mail Notifications**

An e-mail notification regarding this filing has been sent to the following address(es):

- Trainee, Six - student6@courts.state.ny.us
- Training, Training - efrain@courts.state.ny.us

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E-mail: EFile@nycourts.gov    Phone: (646) 386-3033    Fax: (212) 401-9146    website: www.nycourts.gov/efile

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**ESSENTIAL E-FILING FORMS cont.**

identify the document as a working copy, confirm that the document has been e-filed, and discard the document after judicial review of the document has ended. (The form is available on the Forms page of the NYSCEF web site as form EFM-3.)

**Notice of Hard Copy Submission – E-Filed Case** – There are limited instances where attorneys or litigants may file or submit hard copy original documents in e-filed cases. For example, the filer may be a self-represented litigant who has opted out of e-filing or may be an attorney seeking to file commencement papers under the emergency exception. In these and other narrowly defined situations, the hard copy original must bear a Notice of Hard Copy Submission – E-Filed Case. The Notice of Hard Copy Submission alerts court personnel that the document is an original document and determines who is responsible for uploading the document to NYSCEF. (The form is available on the Forms page of the NYSCEF web site as form EF-17.)

Reminder: No hard copies should be filed or submitted in any NYSCEF case without the appropriate notice “firmly affixed thereto.”

**SUPREME COURT OF THE STATE OF NEW YORK**  
COUNTY OF \_\_\_\_\_

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<div style="border: 1px solid black; width: 200px; height: 20px; margin: 0 auto;"></div> <p style="text-align: center;">Plaintiff/Petitioner,</p>	Index No. _____
- against -	
<div style="border: 1px solid black; width: 200px; height: 20px; margin: 0 auto;"></div> <p style="text-align: center;">Defendant/Respondent.</p>	

-----X

**NOTICE OF HARD COPY SUBMISSION - - E-FILED CASE**  
(This Form Must be Annexed to Hard Copy Submissions in E-Filed Cases)

With limited exceptions, all documents in mandatory e-filed cases and e-filed cases in which consent has been given must be filed electronically. Counsel who seek to submit original hard copy documents in an e-filed case must indicate the reason for hard copy submission by checking the relevant box and signing below.

1. Consensual Cases

I am authorized to and do withhold consent to e-filing on behalf of my client, a party to the case, or, if self-represented, myself and therefore submit this document in hard copy form.

2. Mandatory Cases

I am exempt from the requirement to e-file because I have filed with the court the exemption form required by the Rules or the court has granted my application upon good cause shown.

3. Consensual or Mandatory Cases

As provided by the Protocol on Electronic Filing, I am submitting a proposed order to show cause and supporting papers seeking a TRO, together with the required showing pursuant to Uniform Rule 202.7(f) and/or Commercial Division Rule 20 demonstrating significant prejudice to the applicant from the giving of notice. If these documents are served in hard copy only, I shall, as required by the Protocol, e-file these documents within 3 business days after service.

I am authorized to file this document in hard copy pursuant to an emergency exception and am submitting the explanatory affirmation/affidavit required by the E-Filing Rules. I shall, as required by the Rules, e-file these documents within 3 business days.

I am applying for a sealing order and the need to protect sensitive information in the moving papers requires that I submit the papers in hard copy form, as permitted by the Protocol on Electronic Filing.

I am authorized to file this document in hard copy because of a technical failure on the e-filing site as defined in the E-Filing Rules. I shall, as required by the Rules, e-file these documents within 3 business days after restoration of normal operations at the site.

I am submitting an ex parte application pursuant to statute \_\_\_\_\_. If these documents are served in hard copy only, I shall, as required by the Protocol, e-file these documents within 3 business days after service.

I am submitting documents for in camera review.

I am filing an exhibit that cannot be e-filed (Rule 202.5-(d)(6)).

Dated: \_\_\_\_\_ (Address) \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Name)

\_\_\_\_\_  
(Firm Name)

(Phone)

(E-Mail)

4/14/11

## Statewide Coordinator's Message

I've let others carry the message in this issue of the NY-SCEF News: a new pilot program for mandatory e-filing has begun in New York and Westchester Counties. In New York County certain commercial filings were mandated to be commenced via NYSCEF as of May 24 2010, and Westchester County began its mandated e-filing program for Commercial Division eligible cases on February 1, 2011, and tort cases on March 1, 2011. On June 1, Rockland County goes mandatory for all case types and Westchester expands to all breach of contract cases regardless of amount in controversy.

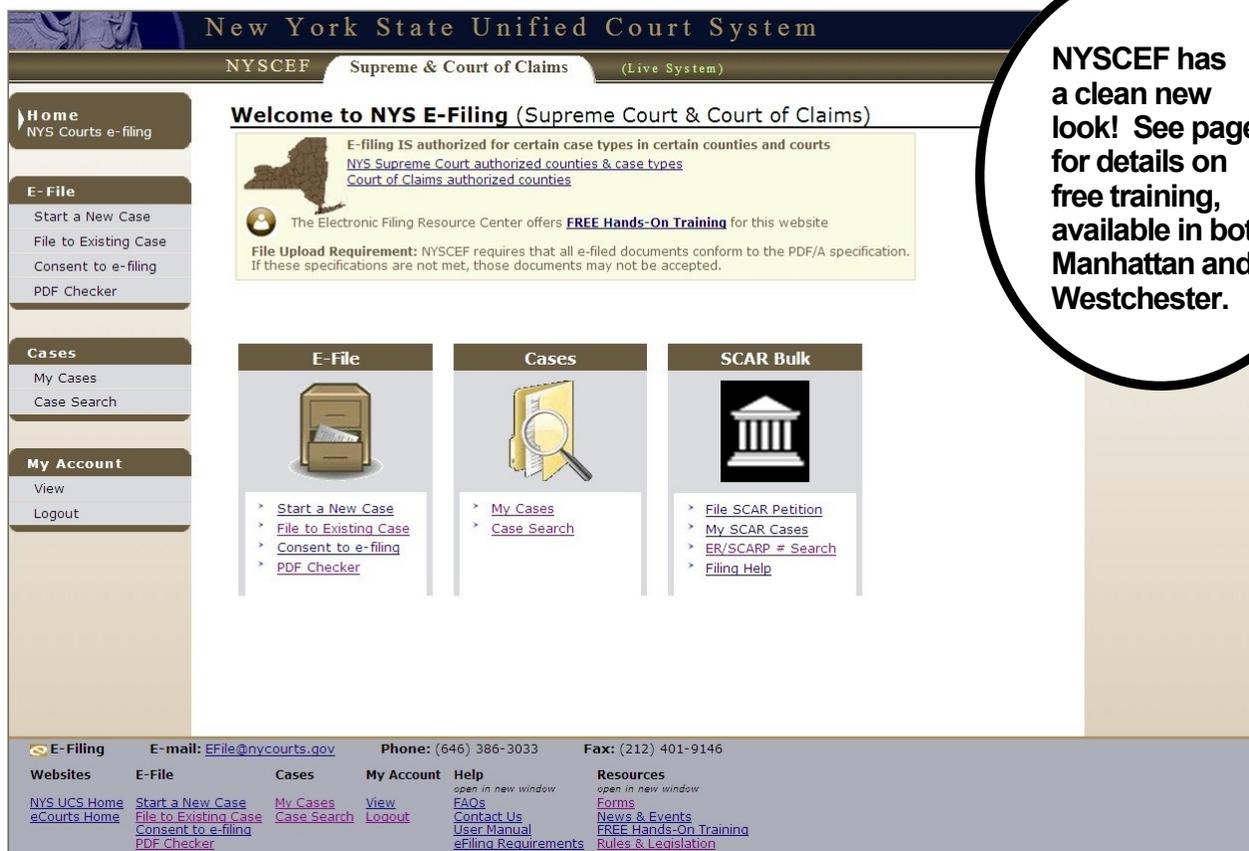
Mandatory e-filing is certain to come to other counties and case types as well. You can be confident that the experienced staff at the Unified Court System ("UCS") Electronic Filing Resource Center is ready to make it simple for you to e-file. Our free training session (see page 3 for details) will teach you the basics of the user-friendly NYSCEF system, and we are offering the spe-

cial convenience of a new option: you can be trained right in your own New York County office if you organize a group of 25 or more, 15 or more in Westchester.

Please keep reading our pages for updates and information on developments and do not hesitate to contact the Center. We are here to help make your transition from paper to E-Filing a positive experience.

We value and encourage your comments and suggestions as we continue to enhance our courts' ability to serve the needs of all who work and practice in New York State Courts.

**Jeffrey Carucci**  
*Statewide Coordinator for E-Filing  
 NY State Unified Court System*



The screenshot shows the NYSCEF website interface. At the top, it says "New York State Unified Court System" and "NYSCEF Supreme & Court of Claims (Live System)". The main heading is "Welcome to NYS E-Filing (Supreme Court & Court of Claims)". Below this, there is a message about e-filing authorization and a link to "FREE Hands-On Training". A "File Upload Requirement" notice is also present. The interface is divided into three main sections: "E-File", "Cases", and "SCAR Bulk". Each section has a list of links: "E-File" includes "Start a New Case", "File to Existing Case", "Consent to e-filing", and "PDF Checker"; "Cases" includes "My Cases" and "Case Search"; "SCAR Bulk" includes "File SCAR Petition", "My SCAR Cases", "ER/SCARP # Search", and "Filing Help". A sidebar on the left contains "Home", "E-File", "Cases", and "My Account" sections. A callout bubble on the right says "NYSCEF has a clean new look! See page 3 for details on free training, available in both Manhattan and Westchester." The footer contains contact information and a list of resources.

