

FREQUENTLY ASKED QUESTIONS

Electronic Filing in the Appellate Division, First Department

Q: What type of cases will be required to be electronically filed in the First Department?

A: Commencing on March 1, 2018, appeals in commercial matters originating in the Supreme Court, Bronx and New York Counties.

Q: Must all commercial appeals be e-filed as of March 1, 2018?

A: E-filing requirements apply to (1) all commercial matters in which notices of appeal are filed on or after March 1, 2018 and (2) those commercial matters in which a notice of appeal was filed prior to March 1, 2018 and the appeal will be perfected on or after May 15, 2018.

E-filing is not required in matters in which the notice of appeal was filed prior to March 1, 2018 and the appeal is perfected prior to May 15, 2018.

Q: What are the initial documents that must be e-filed with the Court?

A: Counsel for appellant or an unrepresented litigant who voluntarily participates in e-filing is required to enter the contact and other information requested, and e-file:

- a. A copy of the notice of appeal;
- b. A copy of the order or judgment appealed from; and
- c. A copy of the informational statement (pre-argument statement).

Q: When should the initial information and documents be electronically filed?

A: Within 14 days of the filing of a notice of appeal for commercial matters in which notices of appeal are filed on or after March 1, 2018.

In commercial matters in which the notice of appeal was filed prior to March 1, 2018 and the appeal will be perfected on or after May 15, 2018, the 14-day period within which to file the initial information and documents will be measured from March 15, 2018.

Q: What is the next step after I complete the initial entry of information?

A: Counsel for appellant or an unrepresented litigant who voluntarily participates in e-filing will receive a “calendar number” from the Court. Within seven (7) days of receipt of the “calendar number,” counsel for appellant or an unrepresented litigant who voluntarily participates in e-filing must complete and serve in hard copy the Notification of Case Number and Other Pertinent Information form on all the other parties and e-file proof of service of this notification.

Q: What am I required to do if I am served with a Notification of Case Number and Other Pertinent Information?

A: Within 20 days of service, counsel for a party served with a Notification of Case Number and Other Pertinent Information form is required to register or confirm registration as an e-filer in NYSCEF and enter the contact information requested.

Q: What will happen if counsel for a respondent does not enter the initial information required under Section 1245.3(d)?

A: After the 20-day period, an attorney who has not entered the information required under Section 1245.3 will be deemed served with any e-filed documents.

Q: Why does the Court require the entry of initial information for e-filing?

A: All authorized e-filers who have entered information for a particular matter as required under 22 NYCRR 1245.3 will be able to e-file and be served electronically in that matter.

Q: I am an unrepresented litigant; I do not have an attorney. Do I have to participate in e-filing?

A: An unrepresented litigant is exempt from and is not required to participate in e-filing. He or she must be served in hard copy.

An unrepresented litigant may voluntarily participate in e-filing.

Q: If I am an unrepresented litigant and want to participate in e-filing in a matter, what must I do?

A: An unrepresented litigant may voluntarily participate in e-filing by electronically recording his or her consent at the NYSCEF site, registering as an authorized e-filer with NYSCEF, entering the case and contact information about the matter, and e-filing a copy of the notice of appeal, the judgment or order appealed from and the informational statement (pre-argument statement) as required by the rules.

Q: May an attorney be exempt from e-filing?

A: An attorney who certifies in good faith, on the form provided by the Court, that he or she lacks either (1) the computer hardware and/or connection to the internet and/or scanner or other device by which documents may be converted to a digital format; or (2) the requisite knowledge in the operation of such computers and/or scanners necessary to participate, will be exempt. The certification has to be served on all parties and filed with the Court in hard copy.

Q: Does the Court require hard copies of e-filed records, appendices and briefs?

A: Yes. Hard copies must be filed within two (2) business days after notification by the clerk that an electronic version of a document has been reviewed and accepted.

Q: How many hard copies of the record or appendix and brief must be filed with the Court?

A. The parties must file one original and five copies of a record, appendix and brief.

Q. Will the Court permit a motion to be electronically filed?

A. Yes. Motions may be electronically filed in commercial matters.

Q: Does the Court require hard copies of e-filed motions?

A: Yes. One hard copy of an e-filed motion must be filed with the Court within two business days of receipt of email notification that the clerk has reviewed and approved the electronic version of the motion.

Q: I want to file an interim relief application. Will the Court permit the initial submission to be filed and served in hard copy?

A: Yes, the Court will permit interim relief application to be initially filed in hard copy and e-filed thereafter. If an interim application is initially filed in hard copy, it must be accompanied by a notice of hard copy submission on the form provided by the Court.