

Monroe County Surrogate's Court

E-Filing Protocol

The Administrative Judge of the 7th Judicial District, the Surrogate of Monroe County, and the Chief Clerk of the Monroe County Surrogate's Court hereby promulgate local user protocols to assist users in practice of the New York State Courts E-Filing System (NYSCEF) implemented in the Monroe County Surrogate's Court in accordance with the program established by the Chief Administrator of the Courts pursuant to Uniform Rules 207.4a and 207.4aa, and provide guidance with respect to local practice and procedures used to process filings and fees.

Users should also review the NYSCEF website at www.nycourts.gov/efile.

This protocol does not supercede any statutory or regulatory provisions regarding electronic filing as those are controlling and take precedence.

Case Types Eligible for E-Filing:

Monroe County Surrogate's Court is in a mandatory E-Filing Program. All Administrations, Probates, and related matters there to, including Small Estate Proceedings, are required to be E-Filed. Except in limited circumstances, all such proceedings must be commenced by filing with the court electronically through the NYSCEF system.

Guardianships and Lifetime Trust matters may be e-filed, although not mandatory.

All subsequent documents in e-filed proceedings must also be e-filed, unless an exception is granted (ie hard copy submission accompanied by a Hard-Copy Submission form - NYSCEF Form SC-11)

Adoptions proceedings are currently exempt from the E-filing program.

Exemptions:

An attorney who certifies in good faith that they lack the equipment or knowledge needed to e-file and has no staff person under their direction who has such knowledge or needed equipment may opt out of e-filing in a mandatory case by filing an Opt-out form with the Clerk (NYSCEF form SCM-2). Attorneys may also be exempted by the Court for good cause shown.

Per Uniform Rule 207.4-aa(e)(1), an unrepresented litigant, proposed intervener or other non-party seeking relief from the Court, who is unrepresented, is exempt from

having to file and serve documents electronically.

Creating New Estate Records & Subsequent Filings:

New Estate Records:

A search of the decedent's name should be conducted in the NYSCEF system before creating any new estate record.

Be certain to enter all case information accurately, and to file to the proper county!
This will prevent delay in the processing and review of your filing.

Estate/File Name and Party Information-

- the decedent's name should be entered first as reflected by the will signature (where applicable), then as the Death Certificate presents, and finally with any known A/K/As.
- the Party Name, Role and Address information must be added for each petitioner (consented party), as reflected in the pleading.

Additional Record Info:

Estate Value - select the value range which reflects the gross value of the estate (as reflected in the petition). This is important for the payment of the proper filing fee, and it will also be later relied on for the Inventory of Assets filing.

Documents - the filer should ensure that all documents are properly scanned before e-filing (ie page order, forward facing, clear image, etc). The e-filed documents are the official record copy and will be required to be corrected if found to be unacceptable to the Court.

Wills -

The ORIGINAL Will is required to be scanned. It is acceptable to unstaple for this purpose, without the need for a stapling affidavit. Once the original is scanned and the proceeding e-filed, then the original hard copy must be submitted to the Court. Do not e-file an attorney certified copy, as this is not required.

NOTE - Should there be any concern with the un-stapling of the Will, then the filer may simply submit the original in hard copy with a notation on their Request for Action form as to no scanned image. Upon receipt, the Court will upload the original Will image to the NYSCEF record.

Death Certificates -

The certified copy of the original death certificate should be e-filed (both sides). No hard copy submission of the death certificate is required. The Court will accept the image as evidence of death, pursuant to 22NYCRR 207.15.

Request for Surr Ct Action-

This court requires the NYSCEF Request for Surrogate's Court Action form (SC-2) as the first document uploaded with each filing. This is to be filed as a stand alone document, and should reflect specific information to the filing at hand.

If requesting court certified documents or Certificates of Appointment, use the Non-proceeding Relief form (pg 2), and note any specific needs (ie certified copy of the Will).

Prepare a new form for each filing, with the appropriate information entered.

Citations -

Proposed citations should be submitted by electronically. When appropriate, the Court will issue the citation and upload the completed version to NYSCEF, at which time the filer will receive immediate email notification. Once received, the citation should be printed and served in accordance with SCPA 307. The NYSCEF Notice of Commencement of Proceeding Subject to Mandatory Electronic Filing form (SCM-1) must be served with the issued citation in mandatory proceedings (unless by publication). If a Guardianship or Lifetime Trust matter (consensual e-filings), then the NYSCEF Notice Regarding Availability of Electronic Filing (SC-1) should be served with the issued citation.

Decrees & Orders -

Proposed Orders and Decrees (when necessary) should be submitted electronically. Once an order or decree is granted, the Court will upload the signed version to NYSCEF, at which time all counsel/consented parties will receive immediate notification. However, the notification does not constitute service of notice of filing upon any party (Uniform Rule 207.4-a[h]).

NOTE - All Court documents requiring a court seal, including Letters and Certificates of Appointment, will be sent out in hard copy, as well as any e-filed requests for exemplifications and/or certified copies (with appropriate payment).

The Request for Surrogate Court Action form should be used to communicate how the filer would like these items returned to them (ie SASE, messenger, lobby pick up, etc).

Correspondence -

All general correspondence, adjournment requests and conference requests should be electronically filed.

Sealed Cases/Documents -

Applying for a Sealing Order: A party who wishes to file a document under seal must file a hard copy of the document, along with the NYSCEF Notice of Hard Copy Submission form (SC-11). Unless the document is being filed ex parte, the filing party shall serve all parties with hard copies of the document, along with the notice form, in the traditional manner.

If the Court grants the sealing request, the Surrogate Clerk will then file the documents in the appropriate manner, as directed. If the application is denied, an order will be issued and the documents will be entered in the public record, and uploaded to NYSCEF.

In Camera Documents: Documents submitted to the Court for in camera review should be delivered to the Court in a sealed envelope conspicuously marked "FOR IN CAMERA REVIEW BY THE COURT" with a Notice of Hard Copy Submission form attached.

Additional Notes on Document Filing:

1) Signatures - Documents requiring a signature shall be considered to be signed by the person under the circumstances outlined in Uniform Rule 207.4-a(f). When e-filing a document bearing an actual signature, the e-filer is responsible for maintaining the original, executed document pursuant to Uniform Rule 207.4-a(f)(2).

2) Hard Copy Filings - Where, within the e-filing rules, an attorney or an unrepresented litigant who is participating in e-filing submits a document in hard copy, the document must bear a Notice of Hard Copy Submission form (SC-11). Attorneys who are exempt from e-filing are required to attach this form to all hard copy filings, while unrepresented litigants who are not participating in e-filing are not so required.

3) Oversized Exhibits - if an exhibit or attachment is unsuited for electronic filing (ie large map or CD), it should be submitted to the Court in hard copy with the Notice of Hard Copy Submission form (SC-11)

4) Working Copies - Working copies are exact hard copy duplicates of e-filed documents. No working copies are required by this Court, unless specifically requested. If submitting working copy, the filer must attach proof that the

document has been e-filed by attaching either the NYSCEF Thank you page or email notification. Working copies do not become part of the official record and will be destroyed at the disposition of the case.

Payment of Fees -

Required fees in e-filed cases may be paid either at Court (in person or by mail) or via credit card (Visa & MC) directly through the NYSCEF system.

If paying by credit card through NYSCEF: (1) fees are calculated in accordance with SCPA 2402; (2) your credit card will be charged at the time of the filing; (3) there will be a 2.99% credit card transaction fee on all electronic payments (4) credit card information is not retained by the Court, and must be entered with each filing.

The "Pay at Court" option should not be used for subsequent requests for certificates, certification or exemplifications as the Court cannot process these requests without receipt of payment.

NOTE: Review of a filing by the Court may result in a modification of the fees initially anticipated or charged in connection with the transaction. In the event of any such modification, the Court will contact the filing user as to the proper amount needed and request an additional fee. The NYSCEF system will not allow the filing of additional documents by the filer if there is an outstanding fee requested. Additional Payment can be made via the NYSCEF system by going to the Main Menu and selecting Submit Additional Payment.

There are no usage fees for filing via the NYSCEF system.

Hybrids & Subsequent Filings: This Court will allow a previously hard filed estate to proceed by e-filing, thereby creating a hybrid record. Previously hard filed estate record will not be uploaded to the NYSCEF system, unless determined necessary.

Once an estate is e-filed or becomes an e-filed matter (hybrid), then all subsequent document filings and proceedings should be further e-filed. Exception to this would be a hard copy submission to the Court.

In the event of a hard filing to an e-filed case (ie verified claim, GAL report, etc), Court staff will scan and upload the hard filed document(s) to the NYSCEF record, and all consented filer in the case will receive notification of the uploaded document(s).

Problem Filings and Notifications:

If it is determined that there is an issue with an e-filing, the filer will be notified by court staff either by phone or email notification (via the NYSCEF system).

**** Filers are welcome to call the court directly for any needed assistance ****

Clerks' Office at 585-371-3310

Sarah Sennett at 585-371-3307 or by email at ssennett@nycourts.gov

Additionally, the E-Filing Resource Center can be reached at 646-386-3033 or nyscef@nycourts.gov

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