

NASSAU COUNTY SURROGATE'S COURT E-FILING PROTOCOL

HON. MARGARET C. REILLY SURROGATE

The Administrative Judge of the Judicial District, the Surrogate of Nassau County, and the Chief Clerk of the Nassau County Surrogate's Court hereby promulgate local user protocols to assist users in practice of the New York State Courts E-Filing System (hereinafter referred to as "NYSCEF") implemented in the Nassau 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, fees, and court calendaring. Users should also review the NYSCEF website (www.nycourts.gov/efile). These Protocols do not supersede any statutory or regulatory provisions regarding Electronic Filing (E-Filing) as those are controlling and take precedence.

1) **Case Types Eligible for E-Filing:**

- **Consensual E-Filing:**

E-filing is consensual in Administration, Voluntary Administration, Probate, Accounting, Miscellaneous and Guardianship. All such proceedings may be commenced by filing with the Court electronically through NYSCEF and, except in limited circumstances, all subsequent documents filed by participating parties must be E-Filed. Adoption proceedings are not permitted to be filed through the E-Filing program.

- **Hybrid Proceedings:**

Beginning June 29, 2020, the Nassau County Surrogate's Court will accept E-Filed documents in proceedings that were previously commenced in paper.

- **Documents Must be E-Filed:**

Unless otherwise provided in the E-Filing rules, this protocol, or where a special exemption is granted (e.g., Oversized Exhibits in Section 3, below) all documents to be filed with the court in a NYSCEF case must be filed with the NYSCEF system.

2) **Non-Participation in E-Filing:**

- **Declination of Consent (Consensual Cases):** Attorneys who do not consent to E-Filing in a consensual proceeding should file a declination of consent with the Court and serve the declination on all parties. Non-

participating attorneys in a consensual proceeding must attach a Notice of Hard Copy Submission - E-Filed Proceeding (see NYSCEF forms page) to all hard copy filings.

Unrepresented litigants in a consensual proceeding are not required to decline consent or to attach the Notice of Hard Copy Submission - E-Filed Proceeding to any of their hard copy filings.

3) E-Filing Documents in Surrogate's Court:

• **Essential Step Prior to E-Filing:**

Prior to entering any information into an initial filing, you should run an inquiry on the decedent's last name, using the first initial, to determine if a file is already open. Due to the numbering system in Surrogate's Court, an inquiry based on the file number alone may not produce accurate results. In addition, you must contact the Court to ascertain whether there may be another will for the decedent on file with the Court (e.g., filed for safekeeping).

• **Initial Entering of Case Information:**

Any error in the initial entry of case information can significantly delay the proceeding. Please double check to be sure to select the same county as is shown on your papers.

The case name must be entered as follows:

- Initial entry must be identical to the signature on the will;
- If the name on the death certificate is different, that becomes an "AKA";
- If the name on the will does not match the signature, that becomes an "AKA";
- No punctuation or spaces should be used when entering the name or "AKA".

• **Notice of Hard-Copy Submission:**

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 - E-Filed Proceeding (see NYSCEF Forms page). 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.

• **Request for Surrogate's Court Action:**

This Court requires the Request for Surrogate's Court Action (see NYSCEF Forms page) as the **first document uploaded** with each filing. This is to be filed as a stand-alone document. Do not scan any

other documents with the Request. Please provide contact information on this form.

For subsequent filings, do not re-use the original Request form. Prepare a new form for each filing with the appropriate information entered. If requesting Court certified documents or Certificates of Appointment, use a Request for Surrogate's Court Action Non-Proceeding Relief (p. 2 of the Request form). Do not submit a blank Request for Surrogate's Court Action form.

- **Petition:**

When filing a Petition, upload the Petition as the **second document**.

- **Death Certificate(s):**

A Death Certificate is required to be scanned by the filer. In addition to E-Filing a Death Certificate, a hard copy original **must** be filed with the Court, within two (2) business days of E-Filing.

- **Will(s):**

A Will is required to be scanned by the filer. **DO NOT UNSTAPLE THE WILL.** File the original paper will within two (2) business days of E-Filing.

- **Medicals and Birth Certificates:**

In Guardianship proceedings, medicals and birth certificates are required to be scanned by the filer. In addition to E-Filing any medicals and birth certificates, the original medicals and birth certificate must be filed with the Court within two (2) business days.

- **Citations:**

E-File proposed citations through NYSCEF only. The Court will complete the citation and upload the completed version to NYSCEF as quickly as possible. If your proposed citation requires amendment, you will be notified. Otherwise, an email notification will be sent when the completed citation is posted to NYSCEF. After receipt of the notification, print the citation and serve it, in accordance with the SCPA. Service of the Citation should be accompanied by a Notice Regarding Availability of Electronic Filing.

- **Decrees and Orders:**

E-File proposed decrees and orders through NYSCEF only. Once the decree or order is signed, the Court will upload the signed version to NYSCEF and notify all consenting parties that the decree or order has been signed and posted. Users who have requested a certified copy of the decree or order and have paid the appropriate fee via NYSCEF will

receive the certified copy by regular mail. The Court will try to accommodate requests for a signed duplicate original decree of judicial settlement, but users must make that request in the “Comments” section of NYSCEF.

- **Stipulations:**

Stipulations submitted for purposes of being “so ordered” by the Court must be E-Filed. If the Court requires a working copy, the filer must attach proof that the stipulation has been E-Filed (e.g., the thank you page or the email notification) to the back of the stipulation when it is submitted to the Court.

- **Exhibits:**

When possible, upload all exhibits, together in one document.

- **Working Copies:**

The Court requires hard copies of the E-Filed **trusts, motions, memorandums of law, non-guardianship accountings, and wrongful death compromise proceedings, also known as working copies**. The filer must attach proof that the document has been E-Filed (e.g., the thank you page or the email notification) to the front of all working copies submitted to the Court. Working copies must be exact hard copy duplicates of the E-Filed documents. They do not become part of the official record and will be destroyed by chambers at the disposition of the case.

At the Court’s discretion, original documents may be required at any time.

4) Payment:

This Court accepts payment of fees required by the SCPA **ONLY by credit card payments made via NYSCEF**. There is no fee to use the NYSCEF System. Fees are calculated in accordance with SCPA 2402 based on the documents filed with NYSCEF and the representation of the filing user regarding the size of the estate. Review by the Court may result in a modification of the fees initially anticipated or charged in connection with this transaction. In the event of any such modification, the Court will contact the filing user via email with the proper amount and request and additional fee, if applicable. This Court will not allow the filing of additional documents by the filer if the filer owes an outstanding fee in that proceeding.

When paying by credit card at time of filing on NYSCEF website, enter credit card information directly on website. You must insert the credit card information with each filing; your credit card will be charged at the time of filing. Make sure credit limit is large enough to cover anticipated filings.

5) **Notifications:**

Notification of defective filings will be sent out via email or by telephone, depending on the circumstances. Clerks/staff are available for consultation during regular business hours. Phone number: (516) 493-3821 (Peter Casey) and/or email the Chief Clerk at dkeller@nycourts.gov.

6) **Return of Requested Documents:**

To ensure rapid return of documents you have requested from Surrogate's Court, a pre-paid self-addressed envelope must be provided. When filing your Request for Surrogate's Court Action, you should indicate that the item should be returned to you in the self-addressed pre-paid envelope sent to the court.

7) **Certificates and Letters:**

Upon request made via NYSCEF, the Court will mail out Certificates and Letters. Users must request and pay for certificates in advance in any- E-Filed proceeding.

8) **General Correspondence:**

All general correspondence must be E-Filed.

9) **Adjournments and Conference Requests:**

All adjournments must be made via email to nassausur.calendar@nycourts.gov 48 hours before the scheduled Court appearance. Conference requests must be emailed to the Calendar Clerk at nassausur.calendar@nycourts.gov. **DO NOT USE NYSCEF** for adjournment or conference requests.

10) **Signatures:**

Documents requiring signatures must be considered to be signed 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).

11) **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. (See Forms page on the NYSCEF website.)

12) **Signed Decisions, Orders and Decrees:**

Decisions, Orders and Decrees will be signed in hard copy by the Surrogate and forwarded to a Surrogate Court Clerk for filing and scanning into the NYSCEF system, which will then transmit notification to all parties. However, the notification does not constitute service of notice of filing upon any party (see, Uniform Rule 207.4-a[h]). Court issued Letters and Certificates of

Appointment will be provided in hard copy to the filer via the usual means (mail).

13) NYSCEF Information:

NYSCEF Resource Center

NYSCEF@NYCOURTS.GOV

Phone: 646-386-3033

Hours of Operation:

Monday - Friday (8:00 a.m. - 6:00 p.m.)