

# **Ulster County Surrogate's Court**

## **E-Filing Local Practice**

The Administrative Judge of the Third Judicial District, the Surrogate of Ulster County, and the Chief Clerk of the Ulster County Surrogate's Court hereby promulgate local user guidelines to assist users in practice of the New York State Courts E-Filing System (NYSCEF) implemented in the Ulster 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. Filers should also refer to the Local Rules of the Ulster County Surrogate's Court at <http://www.nycourts.gov/courts/3jd/ulster/3JD-Ulster%20Surrogate%20Court.shtml> and the Uniform Rules for Surrogate's Court.

Users should also review the NYSCEF website at [www.nycourts.gov/efile](http://www.nycourts.gov/efile). All forms required in these e-filing guidelines can be found at the NYSCEF website.

These guidelines do not supersede any statutory or regulatory provisions regarding electronic filing as those are controlling and take precedence.

### **Basic E-Filing Principles**

Ulster County Surrogate's Court is a mandatory E-Filing Program. All administration, probate, and related matters thereto 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.

All subsequent documents and correspondence in such proceedings must also be e-filed, unless an exception is granted.

### **Exemptions from Mandatory E-Filing**

1. Lifetime trust matters, Guardianships and Adoptions are currently exempt from the e-filing program.
2. An attorney who certifies in good faith that he/she lacks the equipment or knowledge needed to e-file and has no staff person under his/her 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 court (NYSCEF form). Attorneys may also be exempted by the court for good cause shown.

3. Unrepresented litigants, proposed intervenors, or a non-party who is unrepresented seeking relief from the Court are not required to e-file and serve documents electronically.
4. Emergencies such as those enumerated in Uniform Rules for Surrogate's Court 207.4-aa(b)(2) and 207.4-aa(c)(2).

### **Notice of E-Filed Documents**

When any document is e-filed, NYSCEF transmits a notice of filing by email to all filers that have recorded their representation in the proceeding.

### **Service of Process**

Upon commencement of a proceeding, service of the initial documents will be by hard copy pursuant to Surrogate's Court Procedure Act 307.

After commencement of a proceeding, all subsequent service and filings shall be made electronically and shall be accompanied by the NYSCEF Notice of Commencement of Proceeding Subject to Mandatory Electronic Filing form. When service is complete, affidavits of service, with copies of the citation, order or documents served, are e-filed.

Attorneys who are exempt from e-filing shall serve and file documents in hard-copy form, accompanied in each case by a Notice of Hard Copy Submission form and affidavits of service. These documents must be delivered to the courthouse.

### **Filing Hard Copies**

There are several circumstances in which hard copies of documents will be filed in an e-filed proceeding. Chief among these in this court are hard copies of wills, powers-of-attorney and death certificates. In addition, hard copies may also be filed when the documents are over-sized, exemplified or sealed. A Notice of Hard Copy Submission form must accompany each such document.

## **How to Create New Estate Records & Subsequent Filings**

### **1. Do a Search**

Before creating any new estate record, a search of the decedent's name should be conducted in the NYSCEF system to determine that there are no open files. Due to the numbering system in Surrogate's Court, an inquiry based on the file number alone may not produce accurate results. (Sub-file letters are not recognized by NYSCEF and should never be used.) In addition, you must contact the court to

ascertain whether there is will for the decedent on file with the court (e.g., filed for safekeeping).

## 2. Entering New Estate Information

Be certain to enter all case information accurately, and to file to the Ulster County Surrogate's Court. This will prevent delay in the processing and review of your filing.

### (a) Estate/File Name and Party Information

Enter the decedent's name first as it appears in the will signature (where applicable), then as the death certificate recites, and finally with any known A/K/As.

Complete the party name, role and address information for each petitioner as reflected in the pleading.

### (b) Additional Record Information

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 into a PDF/A filing format before e-filing (i.e. page order, forward facing, clear image, etc). The e-filed documents are the official record copy and scanned images must be of a quality and condition acceptable to the court.

## 3. Request for Surrogate's Court Action

The NYSCEF Request for Surrogate's Court Action form *must be the first document uploaded with each filing*. This is to be filed as a stand-alone document, and should reflect information specific to the filing at hand.

If requesting court-certified documents or certificates of appointment, use the Non-Proceeding Relief form, and note any specific needs (i.e. certified copy of the Will).

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

## E-Filing Common Surrogate's Court Documents

### 1. Wills

The ORIGINAL will is required to be scanned. Do not unstaple the will for this purpose. If a will is unstapled, you must also submit a staple affidavit. The original hard copy MUST be filed with the court within two (2) business days of the e-filing. This court does not require an attorney-certified copy.

### 2. Death Certificates

The certified copy of the original death certificate should be e-filed (both sides). In addition to e-filing the death certificate, a certified hard copy MUST be filed within two (2) business days of e-filing.

### 3. Citations

Proposed citations should be submitted electronically. The citation MUST include the names and physical addresses of all persons/entities to be served. 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, as reflected in the order for service that may accompany the citation. The NYSCEF Notice of Commencement of Proceeding Subject to Mandatory Electronic Filing form must be served with the issued citation (unless by publication).

### 4. 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 the order is deemed filed and all counsel and parties will receive immediate notification by email. 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, as well as any e-filed requests for exemplifications and/or certified copies (with appropriate payment), will be mailed out in hard copy. The Request for Surrogate Court Action form should be used to communicate how the filer would like these items returned to them (i.e. SASE, messenger, USPS mail, etc.)

5. Correspondence

All general correspondence, notice of appearances, adjournment requests, and conference requests must be e-filed.

6. Sealed Cases/Documents

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. 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.

If the Court grants the sealing request, the Surrogate's Court 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.

7. 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. Ancillary Proceedings

Original exemplified documents must be scanned. Do not unstaple exemplified documents for this purpose. If an exemplified document is unstapled, you must also submit a staple affidavit. Once the original is scanned and the proceeding e-filed, the original hard copy MUST be filed with the court within two (2) business days of the e-filing.

2. Power-of-Attorney

When a document is signed by a power-of-attorney, you must file either the original power-of-attorney, a copy certified by an attorney, or a copy certified by the County Clerk in which it is filed. You must also file the affidavit of the attorney-in-fact (Uniform Rule 207.48). The power-of-attorney must be recorded in the Surrogate's Court (see EPTL 13-2.3); the filing fee is \$8.00 per page with a minimum fee of \$16.

### 3. Signatures

All e-filed documents must be signed and certified as required in Part 130 of the Rules of the Chief Administrator. E-filed documents are considered “signed” when:

- (a) the document transmitted bears an actual signature; or
- (b) the e-filer (e.g., an attorney logged in with his/her ID and password) is the signatory and an “/s/” is employed where the signature would otherwise appear.

Attorneys who e-file signed documents implicitly represent that he or she is in possession of the signed original and that it will be made available on the request of the court or any party.

### 4. Hard Copy Filings

If an attorney or an unrepresented party who is participating in e-filing submits a document in hard copy, the document must bear a Notice of Hard Copy Submission form. 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.

### 5. Documents with Attached Exhibits

Tabbed exhibit pages cannot be scanned. For all documents containing exhibits, the word “Exhibit” must be printed with the appropriate letter/number on a separate page preceding the exhibit itself.

### 6. Backers

Do not attach legal backers (blue or any other color) to any documents filed.

### 7. Oversized Exhibits

If an exhibit or attachment is unsuited for electronic filing (i.e. large map or CD), it should be submitted to the court in hard copy with both the Notice of Hard Copy Submission form and the Notice of Hard Copy Exhibit Filing form.

### 8. Working Copies

Ulster County does not require working copies of e-filed documents.

## **Payment of Fees**

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

If paying by credit card through NYSCEF: (1) there is no administrative fee incurred to the filer; (2) your credit card will be charged at the time of the filing; (3) fees are calculated in accordance with SCPA 2402. Credit card information is not retained by the court, and must be entered with each filing.

If choosing to pay at the court, be aware that the documents are not “filed” until payment is received. The court cannot process the filing until payment is received in full and will delete the filing if payment is not made with ten days after e-filing.

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 additional fees for the use of the NYSCEF system.

## **Hybrids and 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 records will be retained in paper form and 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.

In the event of a hard-filing to an e-filed case (i.e. verified claim, GAL report, etc), court staff will scan and upload the hard-filed document(s) to the NYSCEF record, and all consenting parties who have appeared 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, email or regular mail.

**\*\* Filers are welcome to call the court directly for any needed assistance \*\***  
**Surrogate's Court Clerks' Office at 845-481-9338**  
**or by email at [ulstersurrogatecourt@nycourts.gov](mailto:ulstersurrogatecourt@nycourts.gov)**

Additionally, the New York State E-Filing Resource Center can be reached at 646-386-3033 or [efile@nycourts.gov](mailto:efile@nycourts.gov)