



SUPREME COURT CIVIL BRANCH NEW YORK COUNTY

COUNTY CLERK OF NEW YORK COUNTY

PROTOCOL ON COURTHOUSE AND COUNTY CLERK PROCEDURES FOR ELECTRONICALLY FILED CASES (REVISED OCTOBER 7, 2015)

This Protocol explains how traditional courthouse and County Clerk requirements for the processing of cases are applied in e-filed matters. For information about the New York State Courts Electronic Filing System (“NYSCEF”), see the NYSCEF website (www.nycourts.gov/efile).

A. E-FILED CASES GENERALLY

1) **Cases Commenced via NYSCEF:** Cases commenced by filing of the initiating papers with NYSCEF are identified as e-filed cases by a special index number. Index numbers are grouped by type of case. E-filed cases are identified by the number “5” as the second digit of an index number, although in tax certiorari matters and general cases (“100,000” series) it may be necessary due to the volume of cases filed to expand into use of a “6” as the identifying second digit. E-filed cases are further identified by the addition of a suffix “E” to the index number in the court’s case history computer program, the Civil Case Information System (“CCIS”); the index number with suffix should be used on all documents filed with the court in e-filed matters.

2) **(a) Mandatory E-Filing:** E-filing is mandatory in all types of cases (other than election law, matrimonial, Art. 78, and Mental Hygiene Law matters, and Art. 70 habeas corpus proceedings) that are commenced in this court on or after February 19, 2013.¹ All such cases must be commenced by filing with the County Clerk electronically through NYSCEF and all subsequent documents in such cases must be e-filed. An attorney who certifies in good faith that he or she lacks the equipment or knowledge needed to e-file and has no staff member or employee under his or her direction who has such knowledge and equipment may opt out of participation in e-filing in a mandatory case by filing a form (posted on the “Forms” section of the NYSCEF website as Form EFM 2 and available in the back offices of the court) with the Clerk. The executed form shall be filed with the County Clerk’s E-File Department in person (60 Centre St., Room 141B) or by e-mail at cc-nyef@nycourts.gov. An unrepresented litigant is automatically exempt from the requirement to e-file, but may choose to participate. For information about participating, such a litigant should

¹ Between May 24, 2010 and February 18, 2013, e-filing was mandatory in various categories of newly-filed cases. For additional information, see relevant Administrative Orders posted on the NYSCEF website at the following address: <https://iapps.courts.state.ny.us/nyscef/RulesAndLegislation>.

consult www.nycourts.gov/efile-unrepresented. An attorney may also seek an exemption from the Justice assigned upon a showing of good cause. Unless the court otherwise directs, in *qui tam* actions, papers shall not be e-filed until the issue of election has been resolved and the complaint has been served.

(b) Scanning of Certain Hard Copy Filings: When documents are filed with the court in hard copy by non-participating unrepresented litigants or attorneys who have properly opted out of e-filing in an e-filed case, the County Clerk, as permitted by the E-Filing Rules, will scan those documents into NYSCEF to ensure that the file is complete. The documents filed in hard copy are public records available for public inspection. It is the responsibility of the filer to ensure that the hard copy documents comply with New York law governing exclusion of social security numbers in documents filed with a state court (see Sec. K (1)) and redaction (Uniform Rule 202.5 (e)).

3) **Cases E-Filed in Part:** If an e-filed case involves a non-participating unrepresented litigant or if in a mandatory e-filed case an attorney opts out or obtains an exemption from participating in e-filing, the case shall remain an e-filed matter and each participating attorney or unrepresented litigant shall e-file all documents to be filed with the court and shall serve one another electronically as provided in the E-Filing Rules. Non-participating unrepresented litigants and counsel shall file and serve and be served in hard copy format. Pursuant to the E-Filing Rules, non-participating unrepresented litigants and counsel shall submit to the court the original hard copy documents in normal format, and, in addition, an unbound hard copy thereof. Non-participating counsel shall also submit a covering notice (see Section B (3) below) at the same time.

4) **Security Filters:** Attorneys participating in e-filing should have their staff check to ensure that any “blocklist” or other security feature on their e-mail systems will permit the receipt of e-mails from other parties and the court in NYSCEF matters.

B. FILING OF PAPERS GENERALLY

1) **Documents Must Be E-Filed:** Unless otherwise provided in the Rules or herein or where a special exemption is granted due to physical requirements (e.g., oversized maps; see Item B (9)), all documents to be filed with the court in a NYSCEF case, including all documents on motions and all letters to the court (where permitted (certain Parts, e.g., Part 8 (Kenney, J.) forbid the filing of letters with the Part; see the Uniform Rules of the Justices (Local Rules))), must be filed with the NYSCEF system. Documents that attorneys would not ordinarily file with the court in a hard-copy case need not be e-filed. Unless otherwise provided by the E-Filing Rules or this Protocol, in e-filed cases the County Clerk and the court will not accept documents filed in paper form.

2) **Commencement Under Seal or Anonymous Caption:** See Section K (3) hereof.

3) **Notice of Hard-Copy Submission:** Where in accordance with the E-Filing Rules an attorney or an unrepresented litigant who is participating in e-filing submits a document in hard copy in an e-filed case, the document must bear, as the back page facing out, a *Notice of Hard-Copy Submission - E-Filed Case* (a form available in the “Forms” section on the NYSCEF website (Form EFM 3) and in the court’s back offices). Unrepresented litigants who are not participating in e-filing are not required to append this notice. Under the Rules, an emergency filer must e-file documents that initially were filed in hard copy form within three business days of the emergency filing; the originals will be discarded after the documents have been processed and the failure to e-file as required will therefore lead to an incomplete record.

4) **Index Numbers; When Issued:** In cases commenced electronically, the County Clerk will issue an index number as soon as possible. Filers who face circumstances that require accelerated assignment may send a request for such

assignment by e-mail to the County Clerk at cc-nyef@nycourts.gov (put in the subject line “Request to Expedite”).

5) **Fees:** Court fees in NYSCEF cases must be paid via NYSCEF by a credit or bank card (Mastercard, Visa, or American Express). Fees are not accepted in person in the County Clerk’s Office. NYSCEF itself imposes no user fees.

6) (a) **Working Copies of Documents for Judicial Review:** Various Justices require that, in all NYSCEF cases assigned to them, unless otherwise directed, counsel submit working copies of e-filed documents that are intended for judicial review. Working copies are not required of documents that are only processed by a back office (e.g., preliminary conference request, note of issue). Generally, in these Parts, documents intended for judicial review must be filed with the NYSCEF system first and the required working copy must be delivered to the court thereafter. Working copies shall include exhibit tabs and backs and, for motion papers, the Motion Sequence Number, which is a number given to each distinct formal motion (but not cross-motion) for the purpose of identification. In addition, the filer of a working copy must firmly bind thereto, as the back page facing out, a copy of the *Confirmation Notice* that was generated by NYSCEF when that document was e-filed. Working copies that are submitted without the related *Confirmation Notice* will not be accepted. The official record of a document in an e-filed case is the electronic record of the document stored by the County Clerk (Uniform Rule 202.5-b (d) (4)). Working copies are intended only for the use of the Justice and will be discarded after the Justice has finished with them. Thus, in the event that counsel fails to e-file a document, it will not be part of the court record.

(b) **Parts Not Requiring Working Copies:** Notwithstanding any references herein to required working copies, such copies shall not be submitted in e-filed cases in the following Parts unless specifically requested by the Part in a particular case: Part 5 (Kotler, J.); Part 6 (Lobis, J.); Part 35 (Edmead, J.); Part 37 (Engoron, J.); Part 42 (Bannon, J.)(except required on all orders to show cause); and Part 52 (Chan, J.); and Commercial Division Part 39 (Scarpulla, J.).

7) **Authorization Form - Filing Agent:** A person or entity acting as filing agent for an attorney to a case must file an authorization form (accessible on the NYSCEF website (Forms EF-12 to EF-15)) prior to or together with the first e-filing by that attorney in that action. Uniform Rule 202.5-b (d) (1) (i). An attorney who files through a filing agent must nevertheless have a User ID and password so that filings by the agent can be associated with an attorney of record.

8) (a) **Restriction Pending Review:** If the filer asserts that the filing contains any error, the filer may request restricted access as follows:

(1) The filer shall e-file or, if necessary, file in hard copy a *Restrict Access - - Affidavit/Affirmation of Intent*. Upon such filing, the County Clerk may mark the document “Restricted Pending Review” for a period of 10 days. During that time, the document will be visible only to the parties.

(2) Within the 10-day period, the filer must notify the County Clerk of the filing of a proposed order to show cause seeking restricted access by the e-filing or, if necessary, the hard copy filing of a *Restrict Access - - Affidavit/Affirmation of Compliance*. Upon submission to the County Clerk, the document will be unavailable to anyone other than the parties and will remain unavailable for an additional 14 days.

(b) **Procedure to Restrict upon Failure to Redact: Uniform Rules of the Supreme and County Courts § 202.5 (e):**

(1) Any person may notify the County Clerk when an e-filed document contains information that was intended to

be but was not redacted (e.g., a full bank account number). The person shall e-file or, if necessary, file in hard copy an affidavit or affirmation titled and filed as *Restrict Access - - Affidavit/Affirmation of Intent* notifying the County Clerk of the intent to seek a court order to remove or seal or to seek any other relief. The County Clerk may mark the document “Restricted Pending Review” for a period of 10 days. During that time, the document will be visible only to the parties.

(2) Within 10 days, the person must e-file or, if necessary, file in hard copy a proposed order to show cause or ex parte order together with a *Restrict Access - - Affidavit/Affirmation of Compliance*. Upon such submission, the County Clerk will make the document unavailable to anyone other than the parties for an additional 14 days.

(3) Any person seeking to restrict access must notify the County Clerk of any decision or directive pertaining to the order to show cause or ex parte order within the 14-day period or the status of “Restricted Pending Review” will be removed.

(c) **Notifying Clerk of Signed OSC:** If an order is obtained, it must be brought to the attention of the County Clerk for action by e-filing a *Notification for Sealing in Electronically Filed Case* (NYSCEF Form EF 7) along with a copy of the order.

9) **Amending the Caption:** If counsel wishes to amend the caption by stipulation or as of right, counsel must e-file a *Notice to County Clerk - Amendment of Caption* (NYSCEF Form EF 23 on the NYSCEF website). If the court by order grants leave to amend the caption, counsel should submit to the County Clerk’s E-File Department via NYSCEF a copy of that order and a completed *Notice to the County Clerk - CPLR § 8019 (c)* (NYSCEF Form EF-22, available on the NYSCEF site). See Par. J.

10) **Submission of Special Exhibits:** If a filer needs to submit unusual exhibits in original form that cannot practically be e-filed, such as oversized maps or electronic recordings, the filer should consult with the County Clerk’s E-File Department by telephone at 646-386-3737 (procedural questions only) or by e-mail at cc-nyef@nycourts.gov, which will normally require that the filer retain custody of the original subject to possible future directives of the court. In such instances, the filing counsel shall file with NYSCEF a “space saver” in the form of a *Notice of Hard Copy Exhibit Filing* (NYSCEF Form EF 21). The *Notice* should be uploaded to NYSCEF as document type “Exhibit” and the filer should indicate in the “Additional Document Information” field that the filer is retaining custody of the original. Failure to e-file the *Notice* may result in a gap in the official record of the court.

11) **Experimental Program for E-Filing of Hyperlinked and Bookmarked Documents; Hyperlinking and Bookmarking in Unassigned Cases and Other Parts:**

(a) **Experimental Program:** The court is conducting an experimental program for the submission of hyperlinked and bookmarked documents, such as affidavits, affirmations, and exhibits thereto, and memoranda of law in Commercial Division Part 3 (Hon. Eileen Bransten), Commercial Division Part 39 (Hon. Saliann Scarpulla) and Commercial Division Part 48 (Hon. Jeffrey K. Oing). These submissions shall be filed in accordance with the Statement of Procedures annexed to this Protocol.

(b) **In Unassigned Cases and Other Parts:** In addition, hyperlinked and bookmarked documents may be submitted when, in the opinion of counsel, doing so is appropriate, (i) in cases not yet assigned to a Justice and (ii) in cases that have been assigned to a Justice in a Part other than Parts 3, 39 and 48, unless otherwise directed by the court. Except as otherwise directed by the court, all such documents shall be filed in accordance with the procedures set forth in the Statement of Procedures.

C. REQUESTS FOR JUDICIAL INTERVENTION

In a NYSCEF case, a for-fee RJI (2012 version) shall be submitted via NYSCEF where an IAS assignment is sought and a no-fee RJI shall be submitted via NYSCEF in other instances. A fillable version is available in NYSCEF (Form EF 4), although at this point the document once completed must be printed out and scanned. Once e-filed, the RJI and any accompanying document will be forwarded to the relevant back office for random assignment of the case (for-fee cases) and processing of the document. Counsel need not appear (as to proposed orders to show cause, see below). A filer who seeks assignment to the Commercial Division must submit with the RJI a *Commercial Division RJI Addendum* (Uniform Rule 202.70 (d)(see Form EF 4)); a copy of the pleadings must be submitted only if the document has not previously been e-filed. If the RJI seeks intervention with regard to a document, such as a motion, that is intended for review by an assigned Justice who requires working copies, a working copy of the RJI , with NYSCEF *Confirmation Notice* attached, must be submitted with the working copy of the document.

D. MOTIONS ON NOTICE

1) **Motions/Petitions Returnable in Room 130; Calendaring:** A motion on notice or a notice of petition in a NYSCEF case, as in others, shall be e-filed no later than eight days prior to the return date and shall be made returnable in the Motion Submission Part Courtroom (Room 130). The General Clerk’s Office will automatically place the application on the calendar of Room 130 for the date fixed; no appearance or other action by the filing attorney is required in order for the motion to be calendared. Motions in these cases appear on a distinct calendar.

2) **Adjournments on Motions/Petitions in Room 130:** E-filed applications may be adjourned in Room 130 if an adjournment complies with Uniform Rule 202.8 (e) and the procedures of the Motion Submission Part Courtroom (for a comprehensive summary of all of the procedures of the Courtroom, consult the following address: www.nycourts.gov/courts/1jd/suptctmanh/Motions_and_Applications.shtml). An adjournment that so complies may be obtained by filing with NYSCEF a stipulation of all parties (designated in the filing menu as a “Stipulation - - Adjournment of Motion - in Submissions Part - Rm. 130”); upon e-filing of the stipulation, the motion number and the current return date of the motion being adjourned shall be set forth in the “Additional Document Information” field in NYSCEF. The Office will effectuate the adjournment without need for an appearance or any other action by the parties. Counsel should not file a copy of the e-filed stipulation with the Room 130 e-mail adjournment address (NYMOTCAL@nycourts.gov), which is for use in hard copy cases only.

3) **“Pending” Marking on Motions/Stipulations:** Counsel may note in NYSCEF a “Pending” marking with respect to motions awaiting initial calendaring or stipulations of adjournment of motions previously calendared. This marking does not mean that the submission has been found problematic, but only that, due to the volume of documents submitted, the Clerk has not yet gotten to the matter. Requested adjournments are routinely granted unless they are in violation of Uniform Rule 202.8 (e) or the procedures of Room 130. The Clerk will process adjournment requests by the return date, and as much before then as possible, and counsel can learn of the action taken by means of the court system’s electronic case-tracking application, *e-Track*. In any event, the Clerk does not “default” any motion, but at most will refer a file to the assigned Justice for such action as the Justice may find appropriate and will not do that without first having checked the NYSCEF docket to see if a stipulation of adjournment has been filed. Correct designation of a stipulation of adjournment for Room 130 when filing same with NYSCEF as set forth in Par. 2 of this section will reduce the risk of delay.

4) **Adjournments on Motions/Petitions in the Part:** E-filed applications may be adjourned in the Part if an adjournment complies with the Part’s procedures (see the Uniform Rules of the Justices (Local Rules) on the court’s website). An adjournment that so complies may be obtained by filing with NYSCEF a stipulation of all parties

(designated in the filing menu as a “Stipulation - - Adjournment of Motion - - Before Judge”); the motion number and the current return date of the motion being adjourned shall be set forth in the “Additional Document Information” field in NYSCEF. Absent any problems, the Part will effectuate the adjournment without need for an appearance or any other action by the parties.

5) (a) **Working Copies on Motions in Room 130:** After documents on motions have been e-filed, working copies thereof, with *Confirmation Notice* firmly attached as the back page facing out, must be submitted in cases assigned to Parts that require such copies. Copies lacking the *Notice* will not be accepted. (Each document or group of documents that is separately bound shall bear a *Confirmation Notice*.) On the final return date (but not before), by 10 AM, working copies, including copies of the moving papers, shall be handed up in the Motion Submission Part Courtroom (Room 130). Working copies must not be delivered to the Part or Chambers on motions pending in Room 130 as doing so will cause administrative confusion and possible misplacement of papers. If the Clerk of Room 130 becomes aware that an attorney has failed to submit required working copies on the final return date, the motion may be placed, for one time only, on a special Room 130 calendar to permit submission of those copies. The court will not provide direct notice to the attorney that this has occurred; attorneys should subscribe to *e-Track* (there is no charge to do so) to receive e-mail notifications (see <http://iapps.courts.state.ny.us/webcivil/etrackLogin>) or consult the listing in the Law Journal regarding disposition of the Room 130 calendar. If the working copies are not submitted on the special calendar, Room 130 staff will transmit the motion file as is to the Justice for such action as the Justice finds appropriate. Attorneys who maintain their office outside the County of New York may submit working copies on motions by mail or overnight delivery. Any such submission shall be sent in a timely manner to the General Clerk’s Office (Room 119) and be conspicuously marked on the outside “NYSCEF Matter;” lack of such marking may delay processing.

(b) **Working Copies in the Part:** On orders to show cause returnable in a working copy Part, working copies of e-filed opposition and (if allowed) reply papers (with backs and tabs) must be delivered to the Part. As to all such documents, and any document the court may allow a party to hand up in the courtroom on a motion/petition on notice beyond those previously submitted in Room 130, the attorney must, in any such Part, file each document with NYSCEF and thereafter submit a working copy bearing, firmly affixed thereto as the back page facing out, a copy of the related NYSCEF *Confirmation Notice*. Documents lacking a copy of the *Notice* will not be accepted.

6) **Exhibits:** Attorneys submitting exhibits in NYSCEF cases should make each exhibit a separate attachment to an affidavit/affirmation in the system; i.e., exhibits should not be filed as a single PDF-A together with the affidavit/affirmation or grouped together as a single PDF-A attachment because either format makes it difficult for the Justice to locate particular exhibits as needed. Counsel will also be required to include appropriate descriptive language in the “Additional Document Information” field in NYSCEF.

7) **Notification of Decisions and Orders:** See Section L.

E. LONG FORM ORDERS/JUDGMENTS ON MOTIONS

1) **Submission of Proposed Documents via NYSCEF; No Working Copy Required:** If the court in a decision directs that an order or judgment be settled or submitted (i.e., settlement on notice not required) on a motion in a NYSCEF case, the proposed order/judgment, with notice of settlement where required, and any proposed counter-order/judgment shall be filed with the court via NYSCEF. Where the decision directs that an order be settled, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Notice of Settlement - w/Proposed Order/Counter Order.” If the decision directs that a judgment be settled, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Notice of Settlement -

w/Proposed Jdgmt./Counter Jdgmt.” If the decision directs that an order or judgment be submitted, the proposed document shall be transmitted to NYSCEF with the designation from the document filing menu “Proposed Order (Submit Per Judge’s Direction).” In these situations, even in a case assigned to a Part that is generally a working copy Part, no working copy of a proposed order/counter-order or judgment need be submitted, and no appearance by counsel is required. If the court’s decision directs that a proposed order be presented directly to a working copy Part or Chambers, the attorney should file it with NYSCEF and deliver a working copy to the Justice as directed, including the *Confirmation Notice*.

2) **Processing of Proposed Documents:** The relevant back office (the General Clerk’s Office Order Section (Room 119) or the Commercial Division Support Office (Room 119A)) will process the documents in the customary manner. The Clerk of the back office will print out a copy of the proposed order/counter-order or judgment and, as appropriate, may make changes thereon by hand or otherwise or, if circumstances warrant, may contact the submitting attorney by e-mail or telephone and request therefrom a corrected submission. Any corrected submissions from counsel should be e-filed as well, with no working copy required. Once a proposed order/counter-order or judgment in final form has been arrived at, the Clerk will print out it and the other documents submitted and forward them in hard copy to the Justice. As to notice of signing and entry, see Section L. As to judgments, see Section M.

F. ORDERS TO SHOW CAUSE

1) **Proposed Orders to Show Cause and Supporting Documents to be Filed On-Line; Review On-Line; Working Copy:** Except as noted in the next paragraph, proposed orders to show cause and supporting documents in all NYSCEF cases must be submitted first by filing with NYSCEF; original (hard copy) documents will not be accepted by the Clerk. The Clerk of the Commercial Division Support Office or the Ex Parte Office will review on-line the proposed order filed with NYSCEF and will, as needed, communicate with the submitting attorney about any issues by e-mail or phone. Review and processing of proposed orders to show cause by the Clerk normally take 24 hours. Once a final version of the submission has been arrived at in this way, it shall be e-filed. The Clerk will print out the proposed order in final form. In a case in a working copy Part, the proposed order in final form will be placed in a file jacket and the submitting attorney shall carry the jacket and a working copy of the supporting documents with *Confirmation Notice(s)* to the assigned Justice. In a case in a paperless Part (see Section B (6) (b)), the proposed order will be reviewed online, no working copy shall be submitted, and the final version will be transmitted to the Part by the Clerk electronically.

2) **Exceptions: Permissible Submissions in Hard Copy:** Notwithstanding the foregoing, if a party seeking a TRO submits an affirmation/affidavit demonstrating significant prejudice from the giving of notice (see Uniform Rule 202.7 (f) and Commercial Division Rule 20) or if in accordance with the Rules an attorney or an unrepresented litigant in a mandatory e-filed case is exempt from participation or if a participating attorney or unrepresented litigant seeks to submit documents in a defined emergency, the proposed order to show cause and supporting documents may be presented to the Commercial Division Support Office or the Ex Parte Office in hard copy form rather than filed on-line in the first instance. A completed *Notice of Hard Copy Submission - E-Filed Case* (NYSCEF Form EF 20, accessible on the NYSCEF site) indicating why the documents are being filed in hard copy form must be firmly attached to the papers as the back page facing out (except for papers filed by a non-participating unrepresented litigant). If counsel seeks a TRO but does not submit an affirmation/affidavit demonstrating significant prejudice, the documents shall be filed as provided in the immediately preceding paragraph. A proposed order to show cause and supporting documents that must be presented to a Justice outside normal court hours (see “Motions and Applications” under “Case Processing” at www.nycourts.gov/courts/ljd/suptctmanh/) shall also be presented in hard copy. In all situations described in this paragraph (other than that of an exempt party or attorney), documents submitted in hard copy form must thereafter be e-filed, as set forth below.

3) **Hard Copy Service:** When hard copy service is made of documents that were submitted in hard copy form pursuant to Par. 2 of this section and where no party is served via NYSCEF, the filer (except one who is exempt from mandatory e-filing) shall, no later than three business days after service, e-file the supporting papers (designating them in the NYSCEF document filing menu as “Supporting Papers to OSC (After Service)),” together with proof of hard copy service. Failure to do so will cause the County Clerk file to be incomplete.

4) **Declination**: If the Justice declines to sign a proposed order to show cause, the Clerk will electronically file the declined order. If the proposed order to show cause and supporting documents were filed with the court in hard copy form pursuant to Par. 2 of this section, the filing attorney or party (other than an exempt party) shall file the proposed order and supporting documents with NYSCEF (select the “Fee Previously Paid” option) no later than three business days after the filing by the Clerk. Failure to do so will cause the County Clerk file to be incomplete.

5) **E-Service of Signed OSC and Supporting Documents**: If the court directs that the signed order to show cause and supporting documents be served electronically, a conformed copy of the signed order should be designated as “Conformed Copy of OSC” in the NYSCEF document filing menu.

G. EX PARTE APPLICATIONS (OTHER THAN ORDERS TO SHOW CAUSE)

1) **Generally, Proposed Applications to Be E-Filed First; When Working Copy Required**: Proposed ex parte applications in a matter required to be e-filed shall be e-filed and will be reviewed by the clerk online; no hard copy is required at this stage. If any issues arise with regard to the form of the document, the clerk will communicate with counsel by phone or e-mail. Once all issues have been resolved in this way, the clerk will forward the electronic submission to a paperless Part (see Par. B (6) (b)) if the matter is assigned thereto; in such a situation no working copy is required. If the case is assigned to a Part that requires working copies, the clerk will print out the proposed order in final form and a working copy of the supporting papers must be submitted to the clerk by counsel. If the matter will not be assigned but will be submitted to an Ex Parte Justice, the clerk will print out the proposed order and a working copy of the supporting papers and submit them to the Ex Parte Justice unless the supporting papers are longer than 40 pages; here again, no working copy will be required. If the supporting papers are longer than 40 pages and a working copy is required, the clerk will print out the proposed order and advise counsel to submit to the clerk a working copy of the supporting papers.

2) **When Applications May Be Submitted in Hard Copy Form**: If the circumstances underlying a proposed ex parte application make it necessary that advance notice to the other side be avoided (e.g., ex parte order of attachment), the application may be submitted in hard copy form with a completed *Notice of Hard Copy Submission - E-Filed Case* (EF 20) firmly appended thereto as a back page facing out. If a proposed order requires a “data correct” stamp from the County Clerk or the approval of the Attorney General or the like, or where pursuant to statute or rule original documents or documents bearing original signatures must be submitted in support of the application, the application shall be submitted in hard copy form with a completed *Notice of Hard Copy Submission*. The filer shall e-file the application within three business days after service.

H. STIPULATIONS AND REQUESTS FOR SO-ORDERING OF STIPULATIONS

If an attorney wishes to submit a stipulation or a stipulation to be “so ordered,” he or she should file the document with NYSCEF, accurately describing the type of “Stipulation” using the document filing menu. If the Justice requires working copies, counsel shall also submit a working copy of the document, together with a *Confirmation Notice*, to the Part.

I. SERVICE ON PARTIES

Pursuant to the E-Filing Rules, service of interlocutory documents is made by posting a document to the NYSCEF site, which automatically and immediately transmits an e-mail notice of the filing, including a link to the document, to all participating counsel and unrepresented litigants on the case. The Rules also authorize service by other methods permitted by the CPLR. If service by such a method is made, proof of service must be filed with NYSCEF.

J. SERVICE OF ORDERS ON THE COUNTY CLERK AND BACK OFFICES

1) **Service on the County Clerk**: If an order in a NYSCEF case directs that the County Clerk take action, a copy of the order must be served on the County Clerk (CPLR § 8019 (c)), as the order will usually expressly provide. This shall be done by filing with NYSCEF a completed *Notice to the County Clerk - CPLR § 8019 (c)* (NYSCEF Form EF-

22, available on the NYSCEF site). An exception to this procedure is where the order directs that the file be sealed; see Section K (3) for the procedure in this situation. Sealing is done by the County Clerk. See also Section B (8) (b & c).

2) **Service on a Back Office of the Court:** If an order in a NYSCEF case directs that a back office of the court take action (e.g., striking a note of issue, effectuating a preference), notice of such order must be given to the back office by counsel, as the order will usually expressly provide. Such notice shall be given by transmitting a copy of the order by e-mail to the appropriate e-mail box. Counsel shall put in the subject line “Service of Order” and a brief identification of the type of order involved, e.g. “Order of Consolidation,” “Order Striking Note of Issue”. In addition, counsel shall set forth in the body of the e-mail message a concise description of the action directed by the order. This identifying and descriptive information will assist the clerk to process the order expeditiously. The e-mail addresses for the relevant back offices of the court -- the General Clerk’s Office, which handles both matters related to motions and most non-motion filings in the court, such as notes of issue, preliminary conference requests and so forth, and the Special Referee Clerk -- are as follows:

Orders Concerning Motions -- General Clerk’s Office, Rm. 119, Address: genclerk-ords-mot@nycourts.gov

Orders Concerning Trial Status, Jury Demands, Consolidations and Other Non-Motion Questions -- General Clerk’s Office, Rm. 119, Address: genclerk-ords-non-mot@nycourts.gov

Special Referee: spref-nyef@nycourts.gov

3) **Service on Both Court Back Office and the County Clerk:** If an order needs to be served on both the County Clerk and a back office, counsel should follow the steps set forth in both Par. 1 and Par. 2 of this Section.

K. SECURE DOCUMENTS AND SEALING OF DOCUMENTS

1) **Social Security Numbers and Confidential Personal Information:** “No person may file any document available for public inspection ... in any court of this state that contains a social security account number of any other person, unless such other person is a dependent child, or has consented to such filing, except as required by federal or state law or regulation, or by court rule.” GBL 399-ddd (6). Regarding confidential personal information, see Uniform Rule 202.5 (e).

2) **Secure Document Status Repealed:** In the past, e-filed documents could be designated “secure” by the filing user, as a result of which the documents would be accessible in NYSCEF outside the courthouse only to the parties to the case, though they would be accessible to all at the courthouse. The relevant portion of the rules that so provided (Uniform Rule 202.5-b (d) (3) (iii)) was deleted by Administrative Order effective April 15, 2013. Documents previously filed in secure status will retain that status unless otherwise directed by the court. It is the responsibility of counsel and parties to comply with rules restricting disclosure of confidential personal information. See Uniform Rule 202.5 (e).

3) **Sealing; Compliance with Part 216; Procedures:** If counsel for a party seeks to have documents sealed in NYSCEF, specific steps, set forth below, must be taken and an order pursuant to Part 216 of the Uniform Rules obtained. Until the court has resolved the sealing issue, counsel shall file documents in hard copy form, with a *Notice of Hard Copy Submission - E-Filed Case* (EF 20) appended.

(a) **Commencing a New Case Under Seal; Anonymous Caption:** Where counsel seeks to obtain a sealing order for a case file at the outset of the case, the attorney should not simply e-file the commencement document. Rather, counsel should submit, in hard copy form with a *Notice of Hard Copy Submission - E-Filed Case* (EF 20), the commencement document together with a proposed order to show cause seeking a sealing order and a TRO restricting access to the file pending the hearing on the application. The papers should be presented to the Ex Parte Office or the Commercial Division Support Office, which will refer the TRO to an Ex Parte Justice. If the Justice signs the TRO,

the attorney should inform the County Clerk’s E-File Department (by e-mail at cc-nyef@nycourts.gov or by telephone (procedural questions only) at 646-386-3737). The attorney should next e-file the documents as directed by the County Clerk’s E-File Department, which will restrict access to the e-file pursuant to the TRO. An RJI should then be submitted and the matter will be referred to an IAS Justice for action on the full application. The same process should be followed if the applicant wishes an anonymous caption and a sealing order. Counsel must promptly inform the County Clerk’s E-File Department if, upon presentation of the proposed order to show cause and TRO, the court refuses to issue the TRO and after the court acts upon the order to show cause regardless of the outcome. If the relief sought is denied, the applying counsel must, within three business days after the sealing issue is determined, e-file all documents not yet e-filed.

(b) **Application for Sealing Order in a Pending E-Filed Case:** To seal a document or the case file in a pending e-filed case, counsel must move for a sealing order. Counsel may file a motion to seal in hard copy form, with *Notice of Hard Copy Submission* (EF 20) annexed. If the motion is made in hard copy, any opposition or reply papers must only be submitted in hard copy form, with said *Notice* attached. If the court issues an order directing the sealing of a complete existing NYSCEF case file or a document or documents previously filed with NYSCEF, the applicant, to effectuate the order, shall contact the County Clerk’s E-File Department (646-386-3737 for procedural questions only) and shall file with NYSCEF a *Notification for Sealing in Electronically Filed Case* (NYSCEF Form EF 7) and a copy of the order. The County Clerk will, during regular business hours, seal the file or the document(s) in question as directed by the court, both in the NYSCEF system and, if any covered documents are found therein, in a hard copy file. If the court issues an order directing the sealing of a document that has not yet been e-filed, counsel must e-file a *Notification for Sealing in Electronically Filed Case* along with a copy of the order and must contact the County Clerk’s E-File Department (646-386-3737 for procedural questions only) prior to e-filing the document to be sealed. The County Clerk will e-file the document under seal. All documents presented in connection with the sealing issue that have not yet been e-filed must be e-filed within three business days after the County Clerk seals the file if the entire file is sealed or after the sealing issue is determined adversely to the applicant.

4) **Previously Sealed File; Hard Copy Case:** If a hard copy case in which a sealing order was previously issued is converted to NYSCEF status, counsel for the parties should promptly inform the County Clerk’s E-File Department (by e-mail at cc-nyef@nycourts.gov or by telephone (procedural questions only) at 646-386-3737) of the existence of the sealing order.

L. ENTRY AND NOTICE OF ENTRY IN NEW YORK COUNTY

Upon issuance of an order or decision and order, court staff will upload the document to NYSCEF. This will generate an immediate e-mail notification to participating counsel and unrepresented litigants on the case, to which shall be appended a link to the document. The posting of the order or decision and order by court staff does not constitute entry thereof. The entry of such an order or decision and order shall be effectuated thereafter when the County Clerk affixes to the posted document a filing stamp.

Judgments are entered as follows. Judgments that are submitted to and processed by the County Clerk (taxation of costs, etc.) and then signed by him pursuant to order of the court, on default, or by confession shall be uploaded to NYSCEF by the County Clerk, who shall add the filing stamp thereto. Judgments submitted to and signed by the assigned Justice shall be forwarded to the County Clerk for action via NYSCEF by court staff; such judgments awaiting entry shall be marked “Pending” in NYSCEF. After these judgments are processed by the County Clerk, he shall affix the filing stamp thereto. See also Section M.

The filing stamp shall show and be proof of the fact of entry and the date and time thereof. Counsel monitoring the docket for entry of an order, decision and order, or judgment should look for the filed stamp as definitive proof of entry by the County Clerk.

Participating counsel and unrepresented litigants should note that, at present, NYSCEF will not transmit a second e-mail notification upon the completion of the entry process. Therefore, counsel and unrepresented litigants should

verify entry by continuing to access the document via either the link in the original notification or the NYSCEF document list. When the County Clerk affixes the filing stamp, the document so stamped shall immediately be accessible via the original notification or in NYSCEF.

In the future, NYSCEF will be modified so as to generate a second e-mail notification upon the completion of the entry process.

Notifications of the posting of an order/decision and order/judgment and of the completion of the entry process that are transmitted from NYSCEF do not constitute service of notice of entry by any party. Notice of entry shall be served by a party by serving a copy of the order/decision and order/ judgment and written notice of its entry in the manner set forth in Uniform Rule 202.5-b (h) (3).

M. JUDGMENTS AND THE JUDGMENT ROLL

In the past, attorneys were required to submit to the County Clerk via NYSCEF a Certificate Requesting Entry of Judgment. This filing is no longer required since NYSCEF has been streamlined to allow counsel to initiate the process simply by submitting proposed judgments, as explained hereafter.

1) **Submission of Proposed Judgment to Clerk or the Court (the Assigned Justice)**: Whenever an order of the court directs the County Clerk to enter judgment, or the court requires the presentation of a proposed judgment directly to the Justice after a decision or trial, counsel seeking entry shall submit a proposed judgment. The filer should file to the case in question (select “File to Existing Case”) and a screen will appear that presents options for the filing of (i) motion documents or (ii) non-motion documents. Although a motion may have elicited the court’s directive, the motion itself has been concluded and so the filer should choose the selection under “Non-Motion Documents” labeled “Proposed Judgment to Clerk or Court.” On the next page an “Add Documents” screen will open. From a drop-down menu the filer should select either “Judgment to County Clerk (Proposed)” or “Judgment to Court (Proposed),” whichever is apposite. Next, the filer should attach the proposed judgment in PDF-A format. It is requested that a legal back be included since the County Clerk uses space on the back to affix stamps upon entry and docketing. Then, on the following page, the filer should add any documents that he or she may wish to submit as accompaniments to the proposed judgment, such as an affirmation providing information regarding calculation of interest. A proposed bill of costs should be submitted when costs and disbursements are sought. The next screen is the “Assemble Judgment Roll” screen (see CPLR 5017). Here, all the documents previously filed in the case will be displayed and the filer can designate any of these for inclusion in the judgment roll simply by clicking in the box next to the document. A “Sort By” drop-down can assist the filer to search for certain documents. See CPLR 5017 (b) as to the content of the judgment roll. The documents ready for submission should be reviewed, edits should be made if needed, and the documents should then be submitted. The proposed judgment will be transmitted by NYSCEF to the assigned Justice or to the County Clerk’s Judgment Clerk depending upon which kind of judgment the filer submitted. If the proposed judgment is to be presented to the Justice in a working-copy Part, it should also be submitted to that Part in working-copy form after e-filing.

If the filer has submitted a “Judgment to County Clerk (Proposed),” the Judgment Clerk will review the submission and, if needed, will communicate with the attorney as to any issues, including with regard to the judgment roll as created by counsel. The Clerk will tax costs and disbursements and calculate interest as required, will add those figures to the judgment and calculate the total award, and will have the judgment signed by the County Clerk and entered. The judgment will bear a stamp indicating the date of entry.

Absent any problems, a “Judgment to Court (Proposed)” will be signed by the assigned Justice and forwarded by staff to the County Clerk for processing and entry. In the past, the County Clerk posted judgments signed by the Justice, but not yet processed by the County Clerk as “unfiled judgments” and required counsel to request entry thereof, but such a request is no longer required in e-filed cases. Now, such a judgment may be forwarded to the County Clerk via NYSCEF, in which case it will be listed on NYSCEF but will be marked “Pending.” The County Clerk will review the judgment roll previously created by counsel and will tax costs and disbursements and calculate interest as required,

and will add those figures to the judgment and calculate the total award. The County Clerk will then enter the judgment and notification of entry will be transmitted to participating counsel and parties.

2) **Default Judgments by the County Clerk; Judgment by Confession:** If counsel seeks entry of a default judgment by the County Clerk (CPLR 3215) or a confession of judgment (CPLR 3218), the attorney should select from the drop-down document menu referred to above “Clerk Default Judgment (Proposed)” or “Judgment by Confession (Proposed),” respectively. Counsel should follow the process described above, submitting affirmations in support or a bill of costs and disbursements as needed. After the attorney has confirmed and finalized the submission, in the case of an application for a default judgment, a payment screen will open since entry of a default judgment by the County Clerk requires the payment of the \$ 45 motion fee. The submission will be routed automatically to the County Clerk’s Judgment Clerk for action and entry.

3) **Entry; Notification Upon Entry of a Judgment; Notice of Entry:** See Section L.

4) **Change of Name Cases:** Because of the necessity to complete certain procedures in such matters, once an order has been issued authorizing a change of name, the applicant should come to the Judgment Clerk, who will assist with finalization.

N. NOTICES OF APPEAL AND APPEAL PAPERS

1) **Notice of Appeal; Procedures:** A notice of appeal shall be filed with NYSCEF in an e-filed case, together with a pre-argument statement, a copy of proof of service on any party who has opted out, and a copy of the judgment or order appealed from. All of these documents shall be e-filed as a single PDF-A document. No hard copy should be delivered to the County Clerk’s Office. The other participating parties to the case will be served via NYSCEF, except where a party chooses to serve by another method authorized by the CPLR, in which case proof of such service shall be e-filed.

2) **NYSCEF on Appeal; Appellate Division:** The Appellate Division, First Department does not yet fully handle appeals in NYSCEF cases by electronic means. The Court, however, has announced its intention to move toward that goal in the near future. For further information, counsel are advised to consult the rules of that court and to confer with the County Clerk’s E-File Department (by telephone at 646-386-3737 (procedural questions only) or by e-mail at cc-nyef@nycourts.gov).

ANY ATTORNEY WHO REQUIRES ASSISTANCE IN A NYSCEF CASE IN THIS COURT IS ENCOURAGED TO CONTACT THE NEW YORK COUNTY E-FILING OFFICE OR THE NEW YORK COUNTY CLERK E-FILE DEPARTMENT. COMPUTER EQUIPMENT IS AVAILABLE AT THE COURTHOUSE FOR THE USE OF ATTORNEYS WHO MAY NEED TO MAKE FILINGS IN NYSCEF CASES AND WHO FROM TIME TO TIME ARE UNABLE TO MAKE THE FILINGS FROM THEIR OWN OFFICES.

Dated: October 7, 2015

**SUPREME COURT, CIVIL BRANCH
NEW YORK COUNTY**

**HON. MILTON A. TINGLING
COUNTY CLERK OF
NEW YORK COUNTY**

**For Questions About New York County
E-Filed Cases, Consult:**

COUNTY CLERK E-FILE DEPARTMENT

60 Centre Street, Room 141 B

MICHAEL BACCELLERI

E-Mail: cc-nyef@nycourts.gov

Phone: 646-386-3737 [procedural questions only]

LAW AND EQUITY:

EMMA DROP
Clerk-in-Charge

USHA PATEL
Clerk-in-Charge

SUPREME COURT, CIVIL BRANCH

NEW YORK COUNTY

GENERAL CLERK'S OFFICE

E-FILING SECTION

60 Centre Street, Room 119 A

New York, New York 10007

Phone: 646-386-3610

E-Mail: newyorkef@nycourts.gov

DOREEN GUSHUE

Clerk-in-Charge

J. T. LYDON

**For Information About the NYSCEF Application
Generally and To Schedule Training, Consult:**

NEW YORK STATE COURTS

ELECTRONIC FILING

RESOURCE CENTER (STATEWIDE)

60 Centre Street, Room 119 M

New York, New York 10007

Phone: 646-386-3033

E-Mail: efile@nycourts.gov

JEFFREY CARUCCI

**Statewide Coordinator of Electronic
Filing**

CHRISTOPHER GIBSON

Deputy Coordinator

KAREN MACKIN

Resource Center Supervisor

EXPERIMENTAL PROGRAM

STATEMENT OF PROCEDURES GOVERNING MEMORANDA OF LAW AND CERTAIN OTHER DOCUMENTS IN HYPERLINKED AND BOOKMARKED FORMAT IN ELECTRONICALLY FILED CASES

Commercial Division Part 3 (Hon. Eileen Bransten), Commercial Division Part 39 (Hon. Saliann Scarpulla) and Commercial Division Part 48 (Hon. Jeffrey K. Oing) of the Supreme Court, Civil Branch, New York County strongly encourage counsel to submit, in any appropriate case assigned to any of these Parts and filed in the New York State Courts Electronic Filing System (“NYSCEF”), documents containing hyperlinks and bookmarks.

1) **Application.** Unless otherwise ordered by the court, documents containing hyperlinks and bookmarks shall be filed in the participating Parts only as provided in this Statement of Procedures. Any party to an e-filed case assigned to any of the designated Parts may file documents containing hyperlinks and bookmarks where doing so may be helpful to the court. Bookmarking and hyperlinking in documents shall be permitted only in documents, such as affidavits and affirmations, exhibits thereto, and memoranda of law, that are filed electronically with NYSCEF pursuant to the procedures thereof.

2) **NYSCEF Format Requirements.** Documents in NYSCEF cases must be filed electronically in accordance with NYSCEF requirements. Pursuant to those requirements, all documents filed with NYSCEF must be in PDF-A format and be text-searchable (i.e., shall be created by a word processing or other program that effectuates the conversion of documents into word-searchable PDF-A format or processed through an optical character recognition software program). Documents shall not contain open action tags or script, including Java script; any document that contains such tags or script will be rejected by NYSCEF.

3) **Bookmarks and Hyperlinks Defined.** Bookmarks are an electronic functionality built into a document that provides, adjacent to the body of the displayed document or otherwise readily accessible, a listing of the contents of the document and permits easy navigation by the reader within the document and exhibits thereto. Hyperlinks are an electronic functionality built into a memorandum of law, for instance, that permits the reader, by clicking on the name of a case, statute, or other authority in a table of authorities or in the body of the memorandum to be immediately connected or “linked” to a copy of the authority, which automatically opens up for viewing. Material made accessible by hyperlinking does not constitute a part of the formal record. Hyperlinks merely provide efficiency and convenience in the accessing of cited material. Certain software programs permit the user to create bookmarks and hyperlinks automatically.

4) **Requirements for Bookmarking and Hyperlinking.**

(a) Memoranda of law to which this Statement applies shall contain hyperlinks to listings or

citations of cases and other legal authorities in the memorandum's table of authorities and in the body thereof, and to citations in the body of the memorandum to affirmations, affidavits, and exhibits submitted in connection with the application to which the memorandum relates. Hyperlinks shall be made to every such listing, citation, or reference, or at least to the most important thereof. Documents to which this Statement applies shall contain bookmarks.

(b) Memoranda and other documents to which this Statement applies may be self-contained and static, including the linked material as part of and merged into the file submitted. In such documents, PDF-A files of linked material, such as the texts of cited cases, statutes, and other legal authorities, shall be merged into the file containing the text of the memorandum or other document in text-searchable PDF-A format to form a single file, with the authorities or other linked material located after the text of the document. Similarly, copies of exhibits shall be merged into the file of the affirmation or affidavit to which they are annexed in the same format. When affirmations or affidavits containing exhibits are e-filed in this format, counsel shall note in the "Additional Document Information" field in NYSCEF that such a document is being filed and identify the number of exhibits that are included (e.g., "Affidavit of James Jones, with Exhibits A-K"). Links in a memorandum containing hyperlinks shall be to the full text of a case or law review article, the relevant section of a statute or rule cited, and, if the authority is a treatise or other lengthy work, the full text of the relevant portion thereof. If counsel prefers, links may be inserted in the PDF-A text of a memorandum to authorities located and accessible on Westlaw or Lexis and other publicly accessible websites. Links may also be made to other documents filed with NYSCEF. Exhibits to affirmations/affidavits shall be text-searchable unless that is impossible (e.g., because of the presence of handwriting). Authorities cited in the memorandum shall appear in standard citation form. Affirmations and affidavits governed by this Statement shall contain exhibits in documentary form only, not copies of video depositions, audio clips, animations, or the like.

5) **Manner of submission of electronic material; working hard copy.** Bookmarked and hyperlinked material permitted hereby shall be submitted in electronic form by filing with NYSCEF in text-searchable PDF-A format pursuant to the regular procedures of that system. Notwithstanding the requirements set forth in this *Protocol*, except in cases in Commercial Division Part 3 or unless otherwise directed by the court under unusual circumstances, a working copy of the bookmarked or hyperlinked memorandum or other document shall not be submitted, except when filed in connection with an order to show cause on the extended schedule provided for in the following paragraph.

6) **Deadline for filing.** A bookmarked or hyperlinked document shall be filed electronically with the court by the final return date of the motion or application on notice or order to show cause or other deadline fixed by the court, or by no later than the close of business on the third business day after the final filing date provided that by the final filing date the document shall be filed without the bookmarkings or links and with a notice that a hyperlinked copy will be filed within the deadline.

7) **Size limitations of memoranda and other documents.** A bookmarked or hyperlinked memorandum or other document submitted pursuant to this Statement of Procedures shall not exceed 25 megabytes. If the document is larger than that, it shall be submitted in sections, consecutively numbered, no one of which shall exceed that limit.

8) **Disclaimer.** The court does not endorse any organization, application or product that provides services for the incorporation of bookmarks and hyperlinks in documents.

Dated: New York, New York
October 7, 2015

10/07/15