

Primer on NYSCEF at the New York State Appellate Divisions

February 28, 2018

Introduction:

Tomorrow, March 1st, 2018 the Appellate Divisions will march into the world of electronic filing and NYSCEF will be utilized in all four departments. Below is a summary of the procedures as a result of numerous discussions with court personnel, the court training and reviewing of the rules.

Please use this article as a general guide only as it is subject to error, [the actual rules](#) should always be consulted. CourtAlert does not provide legal guidance.

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Court resources: [NYSCEF home page](#) and the NYSCEF Help Desk: Efile@nycourts.gov, 646-386-3033

Which cases must be filed electronically:

1. AD1 – All appeals on Commercial matters, not just commercial divisions cases. All commercial matters New York and Bronx counties. Not just Commercial Division.
2. AD2 – All appeals on Supreme and Surrogate's cases in Westchester County only
3. AD3 – All appeals on civil cases commenced by a summons and complaint in the Third Judicial District
4. AD4 – All appeals on cases in the Commercial Division in the Forth Judicial Department

The case types that required to be filed electronically is likely to grow, please check with the court web sites [links on CourtAlert](#).

Filing Agent allowed:

A filing agent may do all the filing on behalf of the parties. CourtAlert is not a filing agent and cannot recommend or endorse any filing agent.

Summary of the rules:

Appellant:

1. File Notice of Appeal in the trial court – Supreme or Surrogate
2. Within 14 days of NOA filing –
 - a. Register as an e-filing user, unless you already have NYSCEF username and password
 - b. Enter in NYSCEF the parties and other documents, as may be required by the individual department.
 - c. NYSCEF will prompt you of which documents are required by each department.
3. Appellate Division will assign a case or docket number, and will email it to the filing appellant
4. Appellant must serve on hard copy the notification of case number on all responses. Within 7 days of the case number is assigned
5. Appellate will then e-file the proof of service notification of case number on NYSCEF

Respondent:

1. Register to NYSCEF, again only if s(he) does not already have NYSCEF username and password
2. Within 20 days enter contact information on the case

Wavered from electronic filing is any unrepresented party and they will file and serve manually. An attorney can claim attorney exemption, stating lack of knowledge or equipment. Such attorney need bring the papers to the court to file manually.

Perfection of the Appeal:

Appellant can perfect the appeal at any time (within the Appellate Division specific time limits), but if it is done prior to the 20 days allotted for the respondent to put his contact information, it must be served by hand. After the twenty days, the respondent is considered served.

Hard copies as specified in the applicable department rules are still required, within 2 days of the court email advising that the electronic file was accepted.

Formatting:

There are requirements in addition to the Appellate Departments requirements. The NYSCEF home page has a PDF Checker to verify that the file format is PDF/A as required. Each step of the electronic filing includes a review page at the end affording the user another chance to edit the data before submission.

Further details of the actual entry screens:

Starting tomorrow the actual screen will be on NYSCEF, and they are already available on the NYSCEF training site.

For recording initial case information, you will need four dates:

- a) "Order Appealing From Date" - Order Date of the Order you are appealing
- b) "Date Order Entered" - The date that order was entered in the lower date
- c) "Notice of Appeal Date" - Notice of Appeal Date
- d) "Date Notice of Appeal Filed" - Date the notice of appeal at the lower court was filed

If the lower court case was electronically filed, entering the index number the system will pull in the parties, and there is room to add more parties (should the lower court data be incomplete).

The user can now enter the document type to file: In AD1 Notice of Appeal with proof of the filing and attach the PDF.

Next: The filer will receive a confirmation email from the court and the filer will wait for the appellate division to assign a case number (AD1 may call this a calendar number). The court will then separately email the number that was assigned to the case, that email will contain a link to the form that is to serve (manually) on all the parties advising them of the case number that was assigned to the case.

The appellant then files the proof of service on NYSCEF.

The respondent:

Within 20 days respondent is required to file his contact information. Regardless, pass the twenty days deadline, the respondent is considered served when an electronic filing is made. Use the “Enter contact information” screen.

Perfecting the Appeal;

Appeal can then be perfected: You can serve by filing electronically after the “20 days”. If prior to the “20 days”, hard copy service is required. Use “Perfect the appeal” on the NYSCEF site to file and pay the fee.

Hard copies as specified in the applicable department rules are still required. First file the documents electronically, then, within 2 days of the court email advising that the electronic file was accepted, produce the paper copies.

Filing into an existing appeal:

Use the same site, the system will prompt for the allowed document types.

Filing approval:

The court can reject any electronically filed documents and resubmitting (electronically) is then required. When bringing documents to court please include a copy of the confirmation (not required by the rules but the court says it is best practice).

The NYSCEF Resource Center, is available for questions and training.

Proposed Statewide Practice Rules of the Appellate Division:

The OCA has Proposed Statewide Practice Rules of the Appellate Division on May 25, 2017. Among other changes it recommends that an appellant shall file with the clerk within six (6) months of the date of the notice of appeal. You can read the Description of proposal and the Public Comment.

We are committed to Remain the Best,

Yaniv Schiller
Chief Operating Officer

