

The case types that required to be filed electronically is likely to grow, please check with the court web sites or use the [links on CourtAlert \[https://www.courtalert.com/CALinks_Appeals.asp\]](https://www.courtalert.com/CALinks_Appeals.asp).

Remarks and example from AD1:

Please note that the Appellate Division First Department now assigns a case number that is unique to each appeal. This is similar to the appeal number assigned by the Second Department. On NYSCEF you must use this number to find the case.

Further, note that all “commercial cases” in AD1 jurisdiction are to be filed electronically. For example, AD1 case 2018-533 is an appeal related to NYS Supreme NY County case 158388/2014 which is not a commercial Division case, but still a commercial case. In this example, a related case in AD1 2018-534 is related to the counter suit, 652604/2014 which is a commercial division case.

An example for a Bronx Supreme case, would be AD1 case 2018-538 which relates to Supreme Bronx case 22229/2013.

Filing Agent allowed:

A filing agent may do all the filing on behalf of the parties.

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

Waivered 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.

Perfecting 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 automatically 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.

Please read “Looking Forward - Statewide Practice Rules of the Appellate Division” for upcoming changes expected in September.

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:

NYSCEF offers a training site details on the Appellate Division Case Creation process.

To Create an appeal in NYSCEF, 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 case/docket number and, to add excitement, the clerks sometime refer to it as “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 used to serve (manually) on all the parties advising them of the case number that was assigned.

The appellant then files the “Affirmation of Service” on NYSCEF.

The respondent:

Within 20 days of service of the notification of the case or docket number, respondent is required to file his contact information. Regardless, past the twenty days deadline, the respondent is considered served when an electronic filing is made. Failure to meet the 20 day deadline can be costly: “Under 22 NYCRR 1245.5(c), upon expiration of the 20-day registration and notice period, any party (other than persons exempt from e-filing) who fails to meet his or her obligation to register and enter information will be deemed served with any document electronically file in this matter”.

In NYSCEF: Use the “Enter contact information” screen.

Perfecting the Appeal:

After an Appeal is perfected, the appellant can serve by filing electronically after the “20 days”. If prior to the “20 days”, hard copy service is required.

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.

In NYSCEF: Use “Perfect the appeal” to file and pay the fee.

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.

[Looking Forward - Statewide Practice Rules of the Appellate Division:](#)

The statewide practice rules of the Appellate Division were approved with an effective date of September 15, 2018. These rules cover the practice for all four New York State Appellate divisions.

One notable change is in 1250.9, on the timing to file an appeal.

- a) An appellant shall file with the clerk within six (6) months of the date of the notice of appeal. This reduces the time from nine (9) months that is the current practice in AD1
- b) Respondent’s Filing and Appellant’s Reply. For AD2, AD3, AD4 the time for the Respondent’s Filing is due 30 days of the date of service of the appellant’s submissions. In the AD1, the practice will remain in accordance with the court’s published terms calendar. Similarly, in AD2, AD3, AD4 the Appellant’s Reply is due within 10 days of the date of service of the respondent’s submissions. In the First Department it will remain accordance with the court’s published terms calendar.

The proposed rules are to become effective on September 15, 2018. Please refer to the complete rules [here](https://www.courtalert.com/newsalert/canews3116.htm) [https://www.courtalert.com/newsalert/canews3116.htm].

A fun quiz:

Explain each of these deadlines:

1. 14 days
2. 7 days
3. 20 days
4. 6 months

The answers are right in this Primer. Note that the 2-day deadline (between the court advising that the perfect appeal is acceptable and the delivery of paper copies to the court) is not listed because the court clerks like it as soon as possible.

We are committed to Remain the Best,

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Answers to Quiz on the Primer on NYSCEF at the New York State Appellate Divisions:

1. Up to 14 days between filing NOA at the trial court and filing electronically on NYSCEF/AD
2. Up to 7 days between appellant receipt of email from the court that an AD case/docket number is assigned and serving this number on the other parties
3. Up to 20 days for the Respondent to register on NYSCEF (if needed) and provide further details
4. 6 months (not 9 months) – the new time limit to perfect an appeal, effective 9/15/2018.