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Surrogate's Court gears up for e-filing

By Denise M. Champagne



Jeffrey Carucci, OCA statewide coordinator for e-filing, gives a presentation during a training sessions on the new e-filing system for some approximately 80 attorneys. Seen at the Hall of Justice on Wednesday. Vasily Baziuk

Most documents in Monroe County Surrogate's Court will have to be filed electronically beginning March 1.

The court, which has been participating in a voluntary e-filing program since August 2010, will become one of the few in the state where attorneys will be required to e-file all probate and administration proceedings and related miscellaneous proceedings. The order, signed by Chief Administrative Judge A. Gail Prudenti, also applies to surrogate's courts in Erie and Chautauqua counties and supreme courts in four downstate counties.

To help attorneys prepare, the Unified Court System conducted two training sessions Wednesday at the Hall of Justice. About 80 people, 40 in each, participated.

Chief Clerk Mark L. Annunziata said it was the first series of trainings geared specifically toward the mandatory program, but that the county has run several programs on e-filing in general. He said about 90 percent of the people who attended were not participating in the voluntary portion of the pilot program.

"We had attorneys, paralegals, legal assistants, secretaries, trust officers," Annunziata said. "Most of the attorneys that were in this were small firm and solos because the large firm folks have already been through it."

Court personnel reviewed the new forms, talked about the new rules and the county's experiences with e-filing to date and heard testimonials from current e-filers. Running the session with Annunziata were Deputy Chief Clerk Sarah T. Sennett, Clerk Julie Baker and Samantha Hetro, senior court office assistant.

Jeffrey Carucci, statewide coordinator for e-filing, guided participants through the New York State Courts Electronic Filing registration process, the basics of the NYSCEF system and how to e-file, including a demonstration of the electronic filing of a court document. Accompanying Carucci were Christopher Gibson and Karen Mackin of the state E-Filing Resource Center.

Attorneys who have been e-filing should be aware there are some differences between the consensual program and the new mandatory e-filing. For instance, the new forms must be used and electronic filing must be started with the initial filing of documents instead of anytime during the proceeding.

Annunziata said the mandatory program does not apply to adoptions, guardianships, lifetime trusts or small estate proceedings, although the latter two may be voluntarily filed electronically.

There are also some exceptions to the mandatory program, including attorneys who do not have the necessary computer hardware, an Internet connection or a scanner or know how to use them. Those attorneys must file a notice to opt out, however, and will also need to file a new notice with hard copy submissions. Self-represented parties may choose to not participate. All non-participating parties must be served hard-copy documents.

There are also some exceptions for emergency documents, filing for an in camera review and the need to protect sensitive information in moving documents when applying for a seating order.

"It's a pilot program, so we are testing it and there will be some rough edges, but, we anticipate that we will be able to work well with the local bar and get things figured out," Annunziata said. "The other part of that is we don't expect to be heavy-handed with the term 'mandatory.'"

He said even though mandatory is in the title, the court will not reject filings, but will work with people to help get them into the system. He added that Monroe County Surrogate's Court Judge Edmund A. Calvaruso is very supportive and also very tuned in to the issues faced by solo and small practitioners.

"Attorneys should certainly register in the NYSCEF system," Annunziata said. "They should do that as soon as possible. If people need help, they can call us. The NYSCEF site (<https://iapps.courts.state.ny.us/nyscef>) is very helpful."

The site also includes forms, registration information and details on how to e-file. E-filing is also available, but not mandatory yet, in the other surrogate's courts in the eight-county Seventh Judicial District, which is the first district to have all of its surrogate's courts accept electronic filing. Cayuga, Seneca, Steuben and Yates counties started last month, joining Monroe, Livingston, Ontario and Wayne counties.

Annunziata said since August 2010, more than 15,000 court documents have been electronically filed in Monroe County Surrogate's Court in more than 1,300 proceedings.

"Right now, we're probably doing over 30 percent our business electronically," he said. "That number is growing and now it's growing exponentially now that e-filing is mandatory. E-filing really does add efficiencies on both ends – for the courts and the attorneys. Because of that, it's worth the effort to get people to do it. We are much more efficient. We are quicker with the processing and that's what our customer's want."

Annunziata said no additional formal training programs on mandatory e-filing are planned, but small group help sessions will be run every Friday afternoon until they are no longer needed. To participate, call Sennett at (585) 428-1779 or e-mail ssennett@courts.state.ny.us.

Judge Prudenti's Jan. 12 order also authorizes voluntary e-filing in Onondaga County in commercial, tort and tax certiorari actions, effective Feb. 28.

BROOKLYN DAILY BULLETIN (Internet copy)

Friday, Feb. 3, 2012

Pro Bono Barrister: Justice Kurtz Leads Civil Forum Boosting Efficiency and Morale

By Charles F. Otey

Way back in the 1990s, then-Administrative Judge Michael Pesce perceived that there was a failure in communications between bench, bar and the all-controlling clerical sections of what was then called the "big house" – 360 Adams St.

Day-to-day complaints about the workings of the court were piling up – mainly because the civil calendar was growing by leaps and bounds. Justice Pesce, working with then Chief Clerk Tom Kilfoyle and several senior judges and administrative personnel, came up with the idea for the Civil Court Forum.

"We needed a regular meeting where attorneys, judges and lead court personnel could exchange their views on day-to-day matters like calendars, filing papers, motion parts as well as TAP (Trial and Assignment Parts)," a veteran colleague reminded me the other day.

The Civil Forums succeeded so well that they have since become a valued institution and a smooth way to iron out bureaucratic snags that otherwise would needlessly hamper the effective dispensation of justice and fair play. A.J. Pesce and Chief Clerk Kilfoyle had their hands full keeping control of the always-packed 11th-floor boardroom, where all of the parties indulged in often heated exchanges. "But we made steady progress," said our colleague. "And scores of procedural problems were solved, which made things better for all sides."

In the 1990s, Kings had only one head administrative judge, whereas today Hon. Sylvia Hinds-Radix