

## FREQUENTLY ASKED QUESTIONS

### **Electronic Filing (e-filing) in the Appellate Division, First Department**

**Q: How do I e-file in the Appellate Division?**

A: E-filing in the Appellate Division is through the New York State Courts Electronic Filing (NYSCEF) system (<https://iapps.courts.state.ny.us/nyscef/HomePage>)

**Q: Does the Court have e-filing rules?**

A. The rules of the Appellate Division on e-filing may be found at 22 NYCRR Part 1245. The Court also provides technical requirements and guidelines for e-filing.

**Q: What type of cases are required to be electronically filed in the First Department?**

A: E-filing is mandatory on appeals from ALL matters originating in (1) Supreme Court, Bronx and New York Counties, both Civil and Criminal Terms, (2) Family Court, (3) Surrogate's Court and (4) Court of Claims, irrespective of whether the matter was e-filed at the trial level. Effective April 16, 2024, e-filing will be available for original special proceedings. E-filing of original special proceedings will be mandatory effective May 13, 2024.

**Q: On an appeal, what are the initial documents that must be e-filed with the Court?**

A: Counsel for appellant or a self-represented litigant who voluntarily participates in e-filing is required to enter the contact and other information requested, and e-file:

- a. A copy of the notice of appeal;
- b. A copy of the order or judgment appealed from; and
- c. A copy of the informational statement.

**Q: On an appeal, when should the initial information and documents be electronically filed?**

A: Within 14 days of the filing of a notice of appeal.

**Q: On an original proceeding, what are the initial documents that must be e-filed with the Court?**

A: To commence an original proceeding in the First Department, counsel for petitioner or a self-represented litigant who voluntarily participates in e-filing is required to enter the contact and other information requested, and e-file the notice of petition, petition and supporting documents (one bookmarked PDF).

**Q: What is the next step after I complete the initial entry of information?**

A: Counsel for appellant (or petitioner in an original proceeding) or a self-represented litigant who voluntarily participates in e-filing will receive a case number from the Court. Within seven (7) days of receipt of the case number, counsel for appellant (or petitioner in an original proceeding) or a self-represented litigant who voluntarily participates in e-filing must complete and serve in

hard copy the Notification of Case Number and Other Pertinent Information form on all the other parties and e-file proof of service of this notification.

**Q: What am I required to do if I am served with a Notification of Case Number and Other Pertinent Information?**

A: Within 20 days of service, counsel for a party served with a Notification of Case Number and Other Pertinent Information form is required to register or confirm registration as an e-filer in NYSCEF and enter the contact information requested.

**Q: What will happen if counsel for a respondent does not enter the initial information required under Section 1245.3(d)?**

A: After the 20-day period, an attorney who has not entered the information required under Section 1245.3 will be deemed served with any e-filed documents.

**Q: What will happen if counsel for appellant (or petitioner in an original proceeding) does not enter the initial information required under Section 1245.3(a)?**

A: Counsel will not be able to file an original proceeding, perfect an appeal or file a motion without entering the initial information and obtaining a case number. The court will NOT accept hard filing of an appeal or motion, or an original proceeding which is mandated to be electronically filed.

**Q: Why does the Court require the entry of initial information for e-filing?**

A: All authorized e-filers who have entered information for a matter as required under 22 NYCRR 1245.3 will be able to e-file and be served electronically in that matter.

**Q: I am a self-represented litigant; I do not have an attorney. Do I have to participate in e-filing?**

A: A self-represented litigant is exempt from and is not required to participate in e-filing. A self-represented litigant must be served in hard copy.

However, a self-represented litigant may voluntarily participate in e-filing.

**Q: If I am a self-represented litigant and want to participate in e-filing in a matter, what must I do?**

A: A self-represented litigant may voluntarily participate in e-filing by electronically recording consent on the NYSCEF site, registering as an authorized e-filer with NYSCEF, entering the case and contact information about the matter, and e-filing a copy of the notice of appeal, the judgment or order appealed from and the informational statement as required by the rules, or on an original proceeding, the notice of petition, petition and supporting documents.

**Q: May an attorney be exempt from e-filing?**

A: An attorney who certifies in good faith, on the form provided by the Court, that he or she lacks either (1) the computer hardware and/or connection to the internet and/or scanner or other device by which documents may be converted to a digital format; or (2) the requisite knowledge in the operation of such computers and/or scanners necessary to participate, will be exempt. The certification must be served on all parties and filed with the Court in hard copy.

**Q: Does the Court require hard copies of e-filed records, appendices and briefs?**

A: No. The court does not require hard copies but does reserve the right to request them.

**Q. Does the Court require hard copies of the notice of petition, petition and supporting documents in an e-filed original proceeding?**

A. No. The Court does not require hard copies but does reserve the right to request them.

**Q: Does the Court accept hyperlinks in briefs?**

A, The Court accept, on a voluntary basis, briefs with hyperlinks to city primary authorities (constitutions, case law, statutes and regulations) available on Westlaw, Lexis or state or federal government websites. Citations to secondary and other sources should NOT be hyperlinked. All citations (with or without hyperlinks) shall appear in standard citation form.

## **MOTIONS AND INTERIM APPLICATIONS**

**Q: Do motions have to be electronically filed?**

A. Yes. Motions in mandatory e-filed matters must be electronically filed.

**Q: Is there a required format for the motion papers filed electronically?**

A: Yes. Motion papers and supporting document should be filed together in one bookmarked and searchable PDF, linking to each separate supporting document/exhibit. A brief description of the bookmarked document should be included. For example – “Exhibit A- Notice of Appeal.”

**Q: Does the Court require hard copies of e-filed motions?**

A: No. The court does not require hard copies but does reserve the right to request them.

**Q: I want to file an interim relief application. Will the Court permit the initial submission to be filed and served in hard copy?**

A: The general rule is that applications for interim relief and the underlying motion papers must be e-filed. In the limited and rare circumstance where a party seeking emergency relief is unable to comply with the e-filing requirements without being adversely affected, the Court will permit an interim relief application to be initially filed in hard copy and e-filed thereafter. If an interim application is initially filed in hard copy, it must be accompanied by a notice of hard copy submission on the form provided by the Court.

**Q: What is the procedure for e-filing interim relief applications?**

A: An application for interim relief shall be e-filed and accepted for filing before it is entertained by the Court. Reasonable notice shall be given to the other parties as required under Rule 1250.4(b). Once the application has been processed if the Court wants to hear argument, the parties will be informed of the date and time when the application will be heard. If the parties prefer to be heard virtually instead of in-person, a request for virtual participation shall be made on the interim relief application.