

Mandatory E-Filing Rules for Medical Malpractice Cases

Applicable to all Medical Malpractice Actions Filed in Supreme Court, Queens County

Pursuant to the Administrative order of the Chief Administrator of the Courts, E-filing of all Medical Malpractice cases in the Supreme Court, Queens County shall be mandatory, effective March 31, 2014.

All parties should familiarize themselves with the statewide Mandatory E-filing Rules (Uniform Rules of the Trial Courts §202.5-bb - available at www.nycourts.gov/efile). General Questions about e-filing should be addressed to the E-filing Resource Center at 646-386-3033 or efile@courts.state.ny.us.

Specific questions relating to local programming should be directed to the E-filing Department of the County Clerk at 718-298-0173.

Electronic Filing

All Medical Malpractice actions in Justice O'Donoghue's Part, (MDP), and all NYHHC Medical Malpractice actions in Justice Kerrigan's Part, (Part10), are to be filed through the New York State Court's E-filing system (NYSCEF). All submissions to the court, including motions, proposed orders, proposed judgments, and the Certificate of Merit as required by CPLR 3012-a, must be electronically filed.

The Certificate of Merit shall be filed with the Notice of Medical Malpractice as one document.

The Request for Judicial Intervention, designating the Nature of Judicial Intervention requested as Notice of Medical, Dental or Podiatric Malpractice, shall be e-filed as a separate document.

Exhibits shall be filed as individual documents and shall be specifically identified to wit: deposition transcripts, affidavits, medical records or other identifying titles.

Opting Out

Any attorney seeking to opt-out of the Mandatory E-filing of documents must certify in good faith that said attorney lacks the equipment or knowledge to participate in E-filing. (See Uniform Rule §202.5-bb[e][1].)

Self represented litigants may certify that they choose not to participate in the E-filing of documents. (See Uniform Rule §202.5-bb[e].)

Working Copies

A court may require the submission of “working copies” of electronically filed documents. (See Uniform Rule §202.5[d][4].)

Please note the following specific rules for each Medical Malpractice Part:

MDP Part: Justice O’Donoghue:

Summary Judgment motions: Working copies of the following portions of all summary judgment motions shall be filed with the Part Clerk at the call of the calendar:

- Notice of Motion, Cross Motion
- Opposition and Reply
- Attorneys’ Affirmations in support, opposition and reply
- All Bills of Particulars
- All Expert Reports

Working copies of other exhibits need not be submitted unless specifically requested.

Non-Summary judgement motions: Working copies of the following portions of all non-summary judgment motions shall be filed with the Part Clerk at the call of the calendar:

- Notice of Motion, Cross Motion
- Opposition and Reply
- Attorneys’ Affirmations in support, opposition and reply

Working copies of other exhibits need not be submitted unless specifically requested.

NYHHC Part: Justice Kerrigan

Working copies shall be provided for all documents submitted to the Court.

Working copies of motion papers shall be submitted at the call of the calendar in the Centralized Motion Part. Orders to Show Cause and Ex Parte applications shall be e-filed in accordance with the Part Rules of Part 10.

Applicable to BOTH Parts:

All working copies submitted must include a copy of the NYSCEF Confirmation Notice *firmly fastened, facing outward, to the back cover page* of the submission and comply with the requirements of Rule 202.5-b (d)(4). The Confirmation Notice must be an updated version that indicates the sequence number of the motion being submitted at the calendar call.

Working copies without a Confirmation Notice will not be accepted.

Hard Copy Submissions

Hard copies will only be accepted pursuant to the emergency provisions of Uniform Rule § 202.5-bb(c)(3). Pursuant thereto, any such document shall include the notice and affidavit required by paragraph (1) of subdivision (d) of section 202.5-b, and the filer shall, as required, file said documents with the NYSCEF site within three (3) business days thereafter.

Scheduling and Adjournments:

Counsel/parties should consult the individual Justice's Part Rules.

Motion Practice

A e-filed exhibits shall be filed separately with identifying titles for each document.

Affidavits of service shall be e-filed as separate documents.

All other motion practice rules set forth in the individual Justice's Part Rules shall be adhered to in addition to the foregoing.

Decisions

After the court issues a decision on a motion in an E-file case, it will forward the decision to the County Clerk's office, which will promptly scan it with the County Clerk stamp, into the E-file system. The system will immediately transmit notice of the event via email, including the link to the entered documents to all filing users, notifying that the order has been entered.

March 18, 2014