

NYSCEF NEWS

Information on developments in the New York State Courts Electronic Filing System

Statewide Coordinator's Message

This second issue of NYSCEF NEWS reports on expansions of NYSCEF and how they will work, as well as on developments in e-filing areas covered in our inaugural issue (online at <http://www.nycourts.gov/suptctmanh/E-Filing.htm>). You will also find answers to common questions and tips from staff to help make your User experience easier and faster. NYSCEF NEWS items appear in formats designed to convey what you need to know quickly and clearly. In addition to brief articles and bulletins, look for Currents (short reports on recent steps and program expansions), De Novo (reminders of e-filing pro-

cedures, rules, and helpful functions), and, in 'Mailbox,' You're Asking Us (we answer your questions) and You're Telling Us (reader feedback, including advice from Users like you based on everyday experience with the NYSCEF software). Different issues will include different features. We will work hard to ensure that each keeps you informed of the evolving ways NYSCEF can work for you and help you meet your practice goals.

Jeffrey Carucci
Statewide Coordinator for E-Filing
New York State Unified Court System

Ensuring that Sealed Documents Stay Secure

You are advised to notify the County Clerk whenever courtesy copies of documents subject to sealing orders in Supreme Court cases are filed. The County Clerk's Office checks and marks the paper file when the electronic sealing is effectuated, but its staff cannot monitor files daily and courtesy copies bearing no indication of a sealing order commonly make their way into the file from counsel, chambers, or other sources. It is your responsibility to notify the County Clerk that sealing of courtesy hard copies in a sealed case is required. The best way to do this is to mark the cover of each hard copy very conspicuously that the papers are "Courtesy Copy in a Sealed Case." (Also be sure to add an indicator that "These documents have been e-filed as Document No. ____.") In addition, counsel are advised to notify the County Clerk staff directly that these documents will arrive and that they require sealing – once notified, the staff will respond immediately. In New York County, attorneys may telephone Steve Kubinec at the County Clerk's office at 646-386-5943 or email him at skubinec@courts.state.ny.us. Or, they may simply email the New York County E-Filing Office at newyorkef@courts.state.ny.us. (In a few counties, where courtesy copies are discarded after the Judge completes work with them, such notification is not necessary.) And once again, please remember that in many counties, if you have obtained a sealing order, you are required to submit along with it a Certificate Requesting Sealing, the purpose of which is to put the County Clerk on notice that sealing is required. You will find the certificate under the "Forms" link of the NYSCEF site.

Concerned about sensitive information? Consider the "Secure" option .

Confidentiality agreements are not sealing orders. Please remember, too, that a confidentiality agreement between parties agreeing to file documents in a sealed envelope marked "Confidential" does not automatically restrict access to the documents or prevent disclosure of their content. Only a sealing order does this. In New York State, in civil actions, the court may issue a sealing order only with good cause shown after considering both the interests of the public and the parties. Parties concerned about sensitive information contained in documents they are filing in Supreme Court and the Court of Claims should consider choosing the "secure" e-filing option. A document e-filed as "secure" cannot be accessed electronically by any person not party to the case. It will remain accessible at the County Clerk's Office, though.

CURRENTS – Recent Developments

ERIE COUNTY SURROGATE'S COURT JOINS THE NYSCEF SYSTEM On May 20, 2008, Chief Administrative Judge Ann T. Pfau and Hon. Barbara Howe, Erie Surrogate, joined by Hon. Sharon Townsend, Administrative Judge of the 8th Judicial District, presided over a ribbon-cutting ceremony at the Erie County Surrogate's Court to mark the arrival of NYSCEF in the Surrogate's Court. Erie Surrogate's Court is one of five Surrogate's Courts to which the legislature expanded NYSCEF in 2007 and the first to make NYSCEF operational. NYSCEF allows for the payment of Surrogate's Court filing fees on-line and the software has a new Surrogate's section designed to handle the Court's particular documents and procedures. E-filing rules for the Court are set forth in Section 207.4-a of the Uniform Rules. They address, among other things, the handling of the original will and the death certificate. In the near future NYSCEF will be expanding to Surrogate's Courts in Chautauqua, Monroe, Queens and Suffolk Counties. For their enthusiastic help in developing the Erie project, thanks are due to Surrogate Howe, and to Chief Clerk Mary Dee Martoche, Chief Court Attorney Joseph Shifflett, Jennifer DiLallo, and the rest of the court's efficient staff.

NEW AND REVISED E-FILING RULES ISSUED In addition to the new Surrogate's Court rules, rules have been issued for the first time allowing for e-filing in New York City Civil Court in no-fault cases (Uniform Rules 208.4-a). Revised rules have been issued for Supreme Court (Uniform Rules 202.5-b). All three sets of rules became effective as of May 16, 2008.

Visit the New York State Courts E-Filing (NYSCEF) website at www.nycourts.gov/efile to find rules and instructions for e-filing in the Court of Claims.

NYSCEF IN THE COURT OF CLAIMS Tort claims in the Albany District Court of Claims are available for filing in the NYSCEF system. Court of Claims Presiding Judge Richard E. Sise has established a Court of Claims E-Filing Unit with a specially trained staff to personally handle case processing and provide User training and consultation. If you are litigating a tort claim that accrued in the Court's Albany District, the E-filing Unit will contact you after your preliminary conference to

schedule an e-filing training session. Sessions run two hours and award attorneys two CLE credits free-of-charge. Paralegals may also attend. The Court will expand its NYSCEF program to other districts within the next year so.

“PRESUMPTIVE E-FILING” INITIATIVE BRINGS NYSCEF TO ALL NEW YORK COUNTY COMMERCIAL DIVISION CASES

Hon. Jacqueline W. Silbermann, Administrative Judge of Supreme Court, Civil Branch, New York County, with the concurrence of all Division Justices, has established a new policy, effective June 15, 2008, by which all Commercial Division cases in the county are presumptively to be e-filed. Cases will be converted to e-filed status upon filing of an RJL. Cases may, of course, be commenced using e-filing, in which instance the defendant is served in hard copy and receives the Notice Regarding Availability of Electronic Filing.

SATISFACTIONS OF JUDGMENTS CAN BE E-FILED Parties may now file satisfactions of judgments on the NYSCEF site in Supreme Court cases. When the County Clerk is notified of such a filing by NYSCEF, the office prints out a hard copy of the satisfaction and records it in the Judgment Docket and Lien Section of the County Clerk's Office. Parties are reminded that the satisfaction must be signed by the Judgment Creditor and/or the Attorney of Record and “must be acknowledged in the form required to entitle a deed to be recorded.” (CPLR 5020 (a)) We hope to have this process fully automated in the coming months, making NYSCEF available for e-filing of most documents in the JDLS Section (Lis Pendens, Mechanics Liens, etc.) .

LEGISLATION EXPANDS E-FILING IN ERIE COUNTY New legislation means that you will soon be able to e-file *any type of case* in Supreme Court in Erie County, as you currently can do in Broome County. Please watch our pages for updates.

***DE NOVO* – Some Reminders about NYSCEF**

PREPARING A JUDGMENT-ROLL Paragraph (b) of CPLR 5017 states: “The judgment-roll shall contain the summons, pleadings, admissions, each judgment and each order involving the merits or necessarily affecting the final judgment.” This means that a Certificate Requesting Entry of Judgment (available in the “Forms” section of the NYSCEF website) should include more than the proposed judgment and bill of costs. It is each party's responsibility to see that all of its documents are filed on the NYSCEF site and fully enumerated on the electronic docket, and that the enumeration of the relevant documents is set out in the certificate. This will avoid confusion and delay when the judgment is entered and, importantly, ensure the integrity of a full and complete record for appellate purposes.

E-FILED LEGAL BACKS AVOID DELAYS Counsel are urged to electronically file a legal back along with the proposed judgment. The legal back is traditionally where the County Clerk affixes “File/Time” and “File/Docketed” stamps when the judgment is entered; having available counsel's own legal back saves County Clerk staff from having to hand-craft a stand-in. No rule requires the legal back to be e-filed, but doing so will avoid delays in entry. (Blumberg forms do not need a back.)

Free training in the NYSCEF software is available bi-weekly in New York City. To sign up, please contact the Resource Center at 646-386-3033 or efile@courts.state.ny.us. Outside the City, contact either the Center or your court. Attorneys receive two CLE credits for a two-hour session.

IN PROCESS – What We Are Working On

Tax Certs and SCARS Petitions in Nassau and Suffolk E-filing of tax certiorari cases and SCARS petitions in Nassau and Suffolk Counties will, we hope, be available in time for next year's filing season. In New York City nearly 95% of these cases were e-filed last year. A four-week period of unprecedentedly high volume was handled with faultless efficiency by the NYSCEF software, offering a good dry run for the Nassau and Suffolk "launch."

Software enhancements Software enhancements are in development that will automatically integrate data from NYSCEF into the different courts' and County Clerks' case-management systems. Automatic integration will make case processing more efficient and reduce errors.

RESOURCE CENTER MAILBOX

You're Asking Us...

How are e-filed documents signed? The E-Filing Rules for Supreme Court and Surrogate's Court explain the requirements. Generally, in both Courts, a document filed by a registered User with that User's ID and Password is deemed to bear the User's signature; the act of electronically filing it "signs" it, and the document is not required to bear an image of the signature. This means that if the document to be filed has been created in a word processing program, it can be converted to the required pdf format right on the computer screen by the word processing software and filed, without first printing and hand-signing, directly from the User's computer. A document signed by anyone else, however, for example an affidavit signed by the User's client, has to show the signature.

You're Telling Us...

Registered E-filing User Philip C. Johnson of Levene Gouldin & Thompson, LLP, was expecting documents from out-of-state co-counsel, which documents they wanted filed that day, in a mass toxic tort case in Broome County — but shortly before the papers came, the County Clerk's Office shut due to an unpredicted ice-storm. "You can imagine the problems under the traditional system, with the County Clerk closed! NYSCEF, though, remained 'open.' We scanned the papers onto my hard-drive and I submitted everything in time with just a few mouse clicks. NYSCEF saved the day."