ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby adopt, effective immediately, a new section 207.4-aa of the Uniform Civil Rules for the Surrogate's Court, relating to mandatory electronic filing of actions in the Surrogate's Court, to read as follows:

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207.4-aa. Electronic Filing in Surrogate's Court; Mandatory Program.

(a) Application. There is hereby established a pilot program in which all documents filed and served in Surrogate's Court proceedings and counties specified by order of the Chief Administrator of the Courts shall be filed and served electronically. Except to the extent that this section shall otherwise require, the provisions of section 207.4-a of these rules shall govern this program.

(b) Commencement of Proceedings Under this Section.

(1) Mandatory commencement in general. Except as otherwise provided in this section, every proceeding specified in subdivision (a) of this section shall be commenced by electronically filing the initiating documents with the clerk of the court through the NYSCEF site.

(2) Emergency exception. Notwithstanding paragraph (1) of this subdivision, a proceeding required to be commenced electronically may be commenced by the filing of initiating documents in hard copy provided that such documents are accompanied by the affirmation or affidavit of the filing attorney or party stating that: (i) the statute of limitations will expire on the day the documents are being filed or on the following business day; and (ii) the attorney, party, or filing agent therefor is unable to electronically file such documents because of

technical problems with his or her computer equipment or Internet connection. In the event a filer shall file initiating documents in hard copy pursuant to this paragraph, each such document shall include the notice required by paragraph (10) of subdivision (e) of section 207.4-a of these rules, and the filer shall file those documents with the NYSCEF site within three business days thereafter, unless the clerk of court elects to e-file the documents on behalf of the filer. For purposes of this section, such a proceeding shall be deemed to have been commenced electronically.

(3) Service of process. Service of process upon a party in a proceeding that must be commenced electronically in accordance with this section shall be made as provided in Article 3 of the Surrogate's Court Procedure Act, or by electronic means if the party served agrees to accept such service. Such service shall be accompanied by a notice, in a form approved by the Chief Administrator, advising the recipient that the proceeding is subject to electronic filing pursuant to this section. A party served by electronic means shall, within 24 hours of service, provide the serving party or attorney with an electronic confirmation that the service has been effected.

(c) Filing and Service of Documents After Commencement in Proceedings Under this Section.

(1) All documents to be filed and served electronically. Except as otherwise provided in this section, filing and service of all documents in a proceeding that has been commenced electronically in accordance with this section shall be by electronic means.

(2) Emergency exception. Notwithstanding paragraph (1) of this subdivision, where documents are required to be filed and served electronically in accordance with such paragraph

(1), such documents may nonetheless be filed and served in hard copy provided that they are accompanied by the affirmation or affidavit of the filing attorney or party stating that: (i) a deadline for their filing and service fixed by statute, rule, or order of the court will expire on the day the documents are being filed or served or on the following business day; and (ii) the attorney, party, or filing agent therefor is unable to file and serve such documents electronically because of technical problems with his or her computer equipment or Internet connection. In the event a filer shall file and serve documents in hard copy pursuant to this paragraph, each such document shall include the notice required by paragraph (10) of subdivision (e) of section 207.4-a, and the filer shall file those documents with the NYSCEF site within three business days thereafter, unless the clerk of court elects to e-file the documents on behalf of the filer.

(d) Clerk of Court Not to Accept Hard Copies of Documents for Filing Where Electronic Filing Is Required. The clerk of the court shall refuse to accept for filing hard copies of documents sought to be filed in proceedings where such documents are required to be filed electronically.

(e) Exemption From the Requirement of Electronic Filing. Notwithstanding the foregoing, an attorney or a party who is not represented by an attorney in a proceeding that is required to be commenced electronically may claim exemption from having to file and serve documents electronically in accordance with this section by filing with the clerk of the court in which the proceeding is or will be pending a form, to be prescribed by the Chief Administrator, on which:

(1) if an attorney, he or she certifies, in good faith that he or she:

(i) lacks the required computer hardware and/or connection to the Internet and/or

scanner or other device by which documents may be converted to an electronic format; or

(ii) lacks the requisite knowledge in the operation of such computers and/or scanners necessary to comply with this section (for purposes of this paragraph, the knowledge of any employee of an attorney, or any employee of the attorney's law firm, office or business who is subject to such attorney's direction, shall be imputed to the attorney); or

(2) he or she indicates that he or she is not represented by an attorney and wishes to be exempt from having to file and serve documents electronically in accordance with this section. Nothing in this section shall prevent a judge from exempting an attorney from having to file and serve documents electronically in accordance with this section upon a showing of good cause therefor.

Where an attorney or party in a proceeding that is subject to this section is exempt from having to file and serve documents electronically in accordance with this section, he or she shall serve and file documents in hard copy, provided that each such document shall include the notice required by paragraph (10) of subdivision (e) of section 207.4-a of these rules. Notwithstanding the foregoing, all other attorneys and parties in such proceeding shall continue to be required to file and serve documents electronically, except that, whenever they serve documents upon a person or party who is exempt from having to file and serve documents electronically in accordance with this section, they shall serve such documents in hard copy and shall file electronically proof of such service.

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Chief Administrative Judge of the Courts

Dated: January 9, 2012

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