

AMERICAN ACADEMY  
**AAML**  
OF MATRIMONIAL LAWYERS  
NY CHAPTER

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**VIA EMAIL**

Hon. Jeffrey S. Sunshine  
Statewide Coordinating Judge  
For Matrimonial Cases  
360 Adams Street  
Brooklyn, New York 11201

Re: Electronic Filing of Court Papers

Dear Justice Sunshine:

I write to advise your Honor that on January 30, 2020 the Board of Managers for the American Academy of Matrimonial Lawyers, New York Chapter, passed a resolution in support of a proposal by the Office of Court Administration to eliminate any statutory matrimonial action exception from mandatory electronic filing.

Respectfully,

Ronnie Schindel

**NY CHAPTER**

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**WBASNY**  
WOMEN'S BAR ASSOCIATION  
of the STATE OF NEW YORK

Memo to: Hon. Jeffrey Sunshine, Statewide Coordinating Judge of Matrimonial Cases

From: Matrimonial and Family Law Committee Co-Chairs

Re: Electronic Filing of Court Papers

Date: January 28, 2020

The WBASNY Matrimonial and Family Law Committee met on January 25, 2020 and discussed your December 20, 2019 Memorandum concerning the expansion of electronic filing in matrimonial cases, and specifically, removal of the current statutory bar to mandatory electronic filing in these cases. The following is the opinion of the Committee, and is not an official WBASNY position.

Our Committee believes that expansion of mandatory electronic filing in matrimonial cases is warranted, and will be most welcome to both the bench and the bar. Committee members from several WBASNY chapters spoke of their positive experiences with electronic filing in Albany, Nassau, New York, Tompkins and Westchester Counties, among others. Electronic filing is convenient, saving time and money. It saves paper, and is therefore good for the environment. It is also safe: none of our members reported any instance of unauthorized access to matrimonial electronic files. One member from our Finger Lakes chapter reports that e-filing has been invaluable in setting up a student divorce project that handles uncontested divorces throughout Western New York. Clients can be interviewed via Skype, but if a county does not have electronic filing available, a local lawyer must be found to file papers. In counties such as Tompkins, where it is mandatory, law students, under supervision by an attorney, can easily handle filing all the documents necessary to obtain a divorce for indigent clients (who have often waited a long time for this development).

We do have a few suggestions for improving electronic filing:

1. Many judges require delivery to chambers of a hard copy of electronically filed documents. This requirement should be eliminated in order to maximize time and cost savings and promote a greener environment;

2. There should be an easy way for an attorney to remove her name and email address from the NYCEF service list if that attorney has withdrawn as counsel.

Respectfully submitted:

Dolores Gebhardt  
Michelle Haskin  
Amy Saltzman  
Jennifer Sundt

Co-Chairs, Matrimonial and Family Law Committee

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**From:** susan freedman <[sf@susanfreedman.com](mailto:sf@susanfreedman.com)>  
**Sent:** Tuesday, January 07, 2020 5:37 PM  
**To:**  
**Cc:** Rvzesq  
**Subject:** Electronic filing

The Honorable Jeffrey Sunshine:

Honorable Sir:

The electronic filing of matrimonial cases represents a significant advancement in the litigation process. Parties' and counsel's access to a central repository of the filed documents, instantly available to all involved in the case, allows everyone to stay informed of all developments and issues. If made mandatory, this practice would only enhance the wider dissemination of points of progress in any particular case to its most important participants. Requiring electronic filing would eliminate the manipulation of lawyers close to or frequently in the courthouse from gaining an advantage over attorneys farther away, who might not find it so convenient to monitor daily the filings of their adversaries or the courts. Electronic filing gives everyone the same information at the same time; the opportunity to gain an unfair advantage to information is vastly reduced.

Similarly, actually filing a document can be done virtually instantaneously online. No longer does counsel have to go to the arduous effort of transporting paper documents to the courthouse, the journey being limited by time and geography, sometimes even by the weather. Again, as our practices grow beyond local geographical limits, these amenities become every more important. The technology of our times creates the reasonable expectation among our clients that the courts, and the processes on which they rely, utilize the technical advances that are common throughout society. Our competent representation of clients should not be constrained by the time consuming and archaic practice of punching holes in papers to affix them to binder clips, inserting exhibit tabs or pressing messengers into service to meet the requirements of serving and filing papers. In fact, it is the failure to require electronic filing that requires an explanation. The value of mandatory electronic filing is certainly, by now, self evident to every litigator.

Respectfully submitted.

Susan Freedman for  
The New Rochelle Bar Association

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Please be CAREFUL when clicking links or opening attachments from external senders.

January 15, 2020

Jeffrey Carucci  
Statewide Coordinator for  
Electronic Filing  
Office of Court Administration  
25 Beaver Street, Room 823  
New York, NY 10004

**Re: New York State Courts Electronic Filing Program**

Dear Mr. Carucci,

We write in response to your December 23, 2019 letter seeking our agency's comments on the proposed amendments to CPLR Article 21A and other relevant statutes to expand electronic filing.

The Capital District Women's Bar Association Legal Project (The Legal Project) is a non-profit, civil legal services organization that provides legal representation and advice to individuals without access to legal assistance. A large portion of our direct services provided by staff attorneys involves representation of domestic violence victims in family court and matrimonial actions, representation of crime victims involved in civil court as a direct result of their victimization, and representation of homeowners involved in foreclosure actions.

**1. Proposal to Authorize the introduction of mandatory e-filing in matrimonial actions.**

With regard to the proposed amendment introducing mandatory e-filing for matrimonial actions, our office has not handled these types of cases yet. Having spoken with other practitioners who have, we are cautiously optimistic that e-filing will be helpful, as long as adequate training is provided and the exceptions that are proposed are maintained and enforced. There would also need to be a clear procedure for what legal services agencies and small/solo practitioners who do not have access to a large IT department can do if a technological issue prevents timely filing.

**Electronic service not accepted without prior approval**

The exception requiring *pro se* litigants to affirmatively opt in to e-filing would have to remain in place. As an example of why this is important to us, our office currently has a program where we help *pro se* litigants fill out the uncontested divorce packet and provide instructions on how they can proceed with their divorce. This program provides a very valuable resource to the community at the cost to us of only our volunteers, some paper, and some pens. Were e-filing to be expanded to *pro se* litigants, we would not have the resources to continue this program.

Finally, if *pro se* litigants do opt-in to e-filing, the forms available online would need to take into account that many people access the internet on their phone rather than a computer. The forms for e-filing of matrimonials would need to be mobile-friendly.

**2. Proposal to extend the time to develop and test e-filing programs in Family Court and Criminal Court**

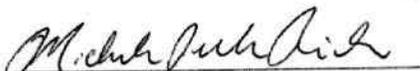
E-filing in family court, especially e-filing of family offense petitions for individuals who are in shelter or rural areas and unable to get to court to file does offer safety benefits for domestic violence victims that they do not currently have. We would be supportive of extending the time to develop and test these programs.

**3. Proposal to lift the current restraints upon the discretion of the Chief Administrative Judge to introduce mandatory e-filing programs in residential foreclosure actions and consumer credit actions.**

Our foreclosure defense program currently uses e-filing. While the individuals involved in the program report that there was a learning curve in starting out, they all stated that once they had learned the e-filing system they found it extremely useful. As such we do not have concerns with the proposal to lift these restraints.

Thank you very much for the opportunity to comment on these proposed amendments.

Very truly yours,  
**THE LEGAL PROJECT**

  
Michele Pollock Rich  
Executive Director

  
Carla Brogoch, Esq.  
Legal Director



January 24, 2020

*By Email*

Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
25 Beaver St, Room 823  
New York, New York 10004  
efilingcomments@nycourts.gov

**DAVID BROWN**  
Legal Director  
Admitted in NY

(646) 993-1675  
dbrown@transgenderlegal.org

**Re: New York State Courts Electronic Filing Program**

Dear Mr. Carucci:

The Transgender Legal Defense & Education Fund (TLDEF) is a New York City-based nonprofit organization committed to ending discrimination based upon gender identity and expression and to achieving equality for transgender and nonbinary people through public education, test-case litigation, direct legal services, and public policy efforts.

For over a decade, TLDEF has operated the Name Change Project, which provides pro bono legal name change services to low-income TGNCNB (transgender, gender non-conforming, non-binary) people through partnerships with some of the nation's most prestigious law firms and corporate law departments.

For many TGNCNB people, securing a legal name change is an important step toward making their legal identities match their lived experience. A lack of appropriate identity documents can deter people from applying for jobs, school, immigration status adjustments, public benefits, and can lead to discrimination. Nearly one-third (32%) of individuals who have shown ID with a name or gender that didn't match their appearance have experienced negative consequences, such as being harassed, denied services, or

attacked.<sup>1</sup> A delay in the name change process can have serious consequences for a population that experiences disproportionately high rates of poverty, unemployment and homelessness.<sup>2</sup> On a happier note, time is also of the essence for people who want name changes completed prior to starting school, graduating, traveling, or getting married so that their documents are in the correct name.

But securing a legal name change can be a challenging experience, involving interaction with the court system and judges, which is foreign to many people. By providing people with adequate legal representation, we work to ensure that people successfully complete the process and move forward with their lives.

The Name Change Project originated in New York City where we currently partner with 37 law firms and corporate law departments, including some of the city's largest and best-known employers. In 2019, over 300 attorneys assisted 400 people with legal name changes in New York. In 2019 we expanded the project from the five boroughs to Nassau and Suffolk counties, and we have already completed 44 intakes from Long Island residents. We have also historically worked with attorneys in Buffalo and Albany.

## **Electronic-filing-related barriers to name changes**

Attorneys assisting transgender people with name changes in New York face two main barriers: (1) inability to e-file name changes in many counties, including in New York City Civil Court; and (2) even where e-filing of name changes is allowed, petitions to waive

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<sup>1</sup> S. E. James, J.L. Herman, S. Rankin, M. Keisling, L. Mottet & M. Anafi, *THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY* 89 (2016), <http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf>.

<sup>2</sup> *Id.* at 3 (“Nearly one-third (29%) of respondents were living in poverty, compared to 14% in the U.S. population. A major contributor to the high rate of poverty is likely respondents’ 15% unemployment rate—three times higher than the unemployment rate in the U.S. population at the time of the survey (5%)... [N]early one-third (30%) of respondents have experienced homelessness at some point in their lifetime”); *National Transgender Discrimination Survey—New York Results*, National Center for Transgender Equality and the National Gay and Lesbian Task Force, 2011 [http://www.endtransdiscrimination.org/PDFs/ntds\\_state\\_ny.pdf](http://www.endtransdiscrimination.org/PDFs/ntds_state_ny.pdf) (“19% of respondents had a household income of \$10,000 or less, 12% were unemployed at the time of the survey, 18% had become homeless because of their gender identity/expression”).

filing fees may not be, thus requiring indigent petitioners, who would most benefit from e-filing, to file in person. These barriers create additional administrative hurdles and delays in the filing process and create unnecessary barriers for all transgender people, especially the low-income clients served by the Name Change Project.

***(1) Inability to e-file name change petitions***

It is not possible to e-file name changes in many Supreme Court counties, including Suffolk County, as well as New York City Civil Court, where the bulk of our 400 Name Change Project clients are served.

Currently our Suffolk clients are largely handled by attorneys in New York City. E-filing would greatly simplify the process and allow for faster processing. Currently it can take several months to process a name change filed by mail in Riverhead. Additionally, there are many transgender people throughout New York State—particularly in rural areas—who do not currently have access to pro bono legal assistance with name changes. If e-filing of name changes were universally available, New York City-based attorneys could expand their reach to the entirety of the state without the logistical hurdles caused by paper filing. Finally, e-filing in New York Civil Court would streamline the process and reduce the administrative burden of processing a high volume of name changes by our pro bono partners.

Finally, requirements for working papers defeat the purpose of e-filing. The federal court system does not rely on litigants submitting working papers and this practice ought to be eliminated in New York state.

### Recommendations

- Require all counties to add name changes as an e-filing case type.
- Require New York City Civil Court to allow e-filing of name changes.
- Work with judges to adopt appropriate technology to eliminate the need for working papers. In the interim, institute an automated system to warn e-filers when the assigned judge requires working papers.

#### **(2) Inability to e-file petitions with fee waiver requests**

The high cost of the filing fee, coupled with the lack of a standardized poor person application form, poses a barrier to pro se and indigent name change applicants throughout the state. Transgender petitioners are more likely to need a fee waiver because they are disproportionately low-income. Nearly one-third of transgender people (29%) live in poverty, as compared to 14% of the general population.<sup>3</sup> Lack of educational and employment opportunities lead to high levels of poverty among transgender people, with transgender people experiencing a 15% unemployment rate—three times higher than the general U.S. unemployment rate.<sup>4</sup> In New York, regardless of whether they had completed college, transgender respondents (age 25-64) were twice as likely to be unemployed and 140% more likely to be in poverty than non-transgender respondents.<sup>5</sup>

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<sup>3</sup> U.S. Transgender Survey at 56; Somjen Frazer & Erin Howe, *Transgender health and economic insecurity: A report from the 2015 LGBT Health and Human Services Needs Assessment Survey* 9 (2015), <https://gaycenter.org/recovery-health/health/lgbt-health-network/#reports>.

<sup>4</sup> U.S. Transgender Survey at 56.

<sup>5</sup> Frazier & Howe, *supra* note 3, at 9.

Although there is an automated online do-it-yourself program for pro se petitioners requesting poor person status pursuant to CPLR § 1101 in New York City Civil Court, there is no do-it-yourself fee-waiver form at the Supreme Court level. This is because procedures for obtaining a waiver of the filing fee vary county by county throughout the state, with some counties even (unlawfully) categorically denying fee waivers for name changes. In some counties, including Suffolk County, the County Attorney must receive a copy of the application for approval. Given that the counties themselves pay the filing fee when it is waived, there is little incentive for them to make fee waiver applications more accessible.

Nassau and Suffolk counties process poor person requests for name changes, but there are additional barriers to attorney assistance in that fee-waiver applications cannot be e-filed in either county. Nassau requires that all name change petitions that are accompanied by a poor person application be filed on paper. Furthermore, in Suffolk County, most name changes can be processed on the same day in the courthouse in Central Islip, but all name changes with fee waiver requests must go through the Riverhead courthouse on the eastern edge of Long Island. They can be filed by mail, but the process takes 2-3 months.

The e-filing platform requires payment for the index number at the time of filing. There are three ways to “pay” the index number fee: credit card, offline advanced payment, or uploading a “No Fee Authorization” letter. Only organizations focused on serving indigent clients can submit a no fee authorization letter. An organization such as TLDEF is not a legal aid society. Our mission is to advance transgender rights, not serve indigent clients, even though all of our Name Change Project participants are, by definition, low income, and accordingly TLDEF is not eligible to upload “no fee” letters pursuant to CPLR § 1101. Moreover, TLDEF does not directly represent name change clients, but rather the for-profit law firms we work with are the attorneys of record.

### Recommendations

- Support the development of a statewide poor person application that can be e-filed.
- Add a payment option to the e-filing platform that allows pro bono attorneys to e-file a poor person application in lieu of paying the filing fee.

### Safety and privacy concerns related to e-filing

Most transgender people seek a waiver of the name change publication requirement for safety reasons. Courts routinely waive publication requirements for transgender people due to safety concerns.<sup>6</sup>

The name change statute provides that when publication is waived, the records are to be sealed. Petitions requesting this waiver are to be filed under temporary seal, but this rarely happens. There is also currently no standardized protocol for entering the caption in a name change matter. Some counties enter the old name in the “plaintiff” and the new name as “defendant.” This has the effect of publicizing a person’s transgender status on a public website, often when it should not be listed there at all.

Federal and state courts have long recognized the safety concerns that arise from violating a transgender person’s privacy rights,<sup>7</sup>

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<sup>6</sup> New York’s legislature, too, has recognized this safety threat by specifically amending New York’s name change statute, Civil Rights Law §64-a, in 2015 to support the holding in *Matter of E.P.L.*, 891 N.Y.S.2d 619, 621 (Sup. Ct. 2009) (A transgender person “has a right to feel threatened for his personal safety in the event his transgender status is made public.”). See Assembly Bill A02242 Memo (enacted). See also *Matter of J.A.L.*, 50 N.Y.S.3d 25 (Table) (Sup. Ct. 2016) (granting publication waiver based on the totality of the circumstances even without a particular threat against a transgender name change applicant). These privacy and safety concerns were also sufficient to grant an exception to a policy that would normally require a transgender individual’s previous name to be publicly linked to their new name on the New York State Education Department Office of the Professions licensing website. *Matter of John Doe*, [Index Number Redacted by Court], NYLJ 1202601879249, at \*4 (Sup. Ct. 2013).

<sup>7</sup> See, e.g., *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999) (publicizing of an

including the ability to obtain and maintain proper identity documentation that does not publicize their transgender status.<sup>8</sup> Courts have also employed a variety of protective measures to ensure the physical safety of transgender individuals, including allowing transgender plaintiffs to use a pseudonym.<sup>9</sup> We similarly encourage the court system to take all appropriate steps to prevent publicizing a name change applicant's transgender status by not publishing both names on eCourts and by appropriately sealing the files.

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inmate's transgender status by prison officials violated her constitutional right to privacy because "individuals who are transsexuals are among those who possess a constitutional right to maintain medical confidentiality").

<sup>8</sup> See, e.g., *F.V. v. Barron*, 286 F. Supp. 3d 1131, 1137 (D. Idaho 2018) ("Transgender people who present mismatched identification are verbally harassed, physically assaulted, denied service or benefits, or asked to leave the premises."); *Arroyo González v. Rosselló Nevares*, 305 F. Supp. 3d 327, 333 (D. P.R. 2018) (concluding that forced disclosure of a transgender person's status "exposes transgender individuals to a substantial risk of stigma, discrimination, intimidation, violence, and danger"); *Love v. Johnson*, 146 F.Supp.3d 848 (E.D. Mich. 2015); *K.L. v. State, Dep't of Admin., Div. of Motor Vehicles*, No. 3AN-11-05431 CI, 2012 WL 2685183, at \*6 (Alaska Super. Ct. Mar. 12, 2012) (finding that one's transgender status is "private, sensitive information," and that the lack of update procedures indirectly threatened transgender individuals with forced disclosure even though the disclosure was not directly required).

<sup>9</sup> See, e.g., *Foster v. Andersen*, No. 18-2552-DDC-KGG, 2019 WL 329548, at \*2 (D. Kan. Jan. 25, 2019) (allowing transgender plaintiff to proceed pseudonymously because publicizing his "identity would reveal matters of a highly sensitive and personal nature, specifically C.K.'s transgender status and his diagnosed medical condition—gender dysphoria" as well as "subject him to discrimination, harassment, and even violence"); *Ray v. Dir., Ohio Dep't of Health*, No. 2:18-CV-272, 2018 WL 8804858, at \*1 (S.D. Ohio Apr. 5, 2018) (allowing transgender plaintiff to proceed anonymously); *Doe v. City of Detroit*, No. 18-cv-11295, 2018 WL 3434345, at \*2 (E.D. Mich. July 17, 2018) (permitting a transgender plaintiff to proceed by pseudonym); *Doe v. Blue Cross & Blue Shield of Rhode Island*, 794 F. Supp. 72, 74 (D. R.I. 1992) (same); *Doe v. McConn*, 489 F. Supp. 76, 77 (S.D. Tex. 1980) (explaining that transgender plaintiffs were "suing under fictitious names ... to protect their privacy").

### Recommendations

- Edit the e-filing template to explicitly have an ex-parte, no-defendant option.
- Institute a standard practice for clerks to enter the captions for name change petitions such that they list only the person's current legal name as the plaintiff.
- Provide a clear mechanism that results in all cases with publication-waiver requests to be filed under temporary seal and not appear on eCourts.
- Ensure that third-party applications that use the eCourts data do not have access to records that are sealed.
- Add a preferred honorific and pronoun field to the party information so that a judge knows how to address the party. Misgendering a party in open court publicizes their transgender status to the courtroom and creates a safety concern.

Thank you for considering these comments and working to make the e-filing system effective and efficient for all users, including transgender name change petitioners.

Sincerely,

A handwritten signature in black ink, appearing to read "David Brown", enclosed within a hand-drawn circular scribble.

David Brown



State of New York  
Supreme Court, Appellate Division  
Third Judicial Department  
Mental Hygiene Legal Service  
286 Washington Avenue Extension, Suite 205  
Albany, NY 12203-6320

Sheila E. Shea  
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January 24, 2020

Shannon Stockwell  
Deputy Director

Sent Electronically and by First Class Mail  
[efilingcomments@nycourts.gov](mailto:efilingcomments@nycourts.gov)

Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
Office of Court Administration  
25 Beaver Street, Rm 823  
New York, New York 10004

Re: NYS Courts Electronic Filing Program  
Article 81 guardianship proceedings

Dear Mr. Carucci:

Mental Hygiene Legal Service, Third Judicial Department writes with a comment regarding the New York State Courts Electronic Filing Program. Currently, electronic filing is optional in mental hygiene matters, but in our experience, many counties are encouraging the use of electronic filing in Mental Hygiene Law (MHL) article 81 proceedings as well as article 9 and 15 retention proceedings. We have encountered an issue we wish to bring to your attention pertaining to electronic filing in guardianship proceedings.

The Service may be appointed as counsel or court evaluator in article 81 guardianship proceedings (*see* MHL 81.09, 81.10). The court evaluator is not a party to the proceeding, but rather is an investigator for the court. Because the court evaluator does not have party status, when MHLS appears as an evaluator in a county with electronic filing, our assigned attorneys are not able to access or read documents electronically filed. As a sample, we attach a notice received for an article 81 proceeding pending in Essex County. When our staff selected "LETTER/CORRESPONDENCE TO JUDGE" a message was generated that the document is not available for public viewing. The file is deemed a restricted case for authorized users only, even though our agency is participating in the proceeding as court evaluator. We then must make an inquiry with the Court Clerk to ascertain what was filed.

Our inability to read or access electronic files as court evaluator results in our staff being unaware of significant developments in the case contemporaneously with their occurrence. Our staff, as a result, must make separate inquiries to determine the nature of documents filed and request hard copies from parties or

Letter to Jeffrey Carucci  
January 24, 2020  
Page 2

court personnel. We write to suggest that the "court evaluator" (and any other non-party appointments in guardianship cases) be recognized in the NYSCEF system. If all other parties and the court are utilizing electronic filing, the non-party appointees, such as the evaluator, require the same access as other participants in the proceeding.

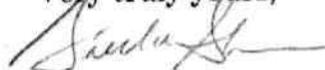
Another issue that we believe would be beneficial to the users of the NYSCEF system would be a modification that would permit users to "opt in" for a default as to party representation in certain matters.

Mental Hygiene Legal Service (MHLS) represents patients involved in special proceedings under the Mental Hygiene Law. These cases involve the same hospitals or mental health organizations, and MHLS represents the patients involved in virtually all of the proceedings. As an example, there were 484 mental health proceedings filed in Albany County Supreme Court in 2019. Of those cases, 246 involved patients at Capital District Psychiatric Center, 164 patients at Albany Medical Center Hospital and 74 outpatients with the Albany County Department of Mental Health. Capital District Psychiatric Center is always represented by the New York State Department of Law, Albany Medical Center Hospital is represented by their in-house counsel, and Albany County Department of Mental Health is represented by the Albany County Attorney.

Matters filed pursuant to Mental Hygiene Law article 9 have a short return date. In Albany County these cases are heard once a week. In other counties, they could be heard within just a few days of filing. It would be very helpful to the attorneys representing the parties if, once a case is filed that is identified as a Special Proceeding under Mental Hygiene Law article 9, or an Assisted Outpatient Treatment Order under Mental Hygiene Law Section 9.60, that, once Confirmation of the case is made under the e-filing system, or Notification of Filing is made by the County Clerk, that notice of the filing be sent to the respondent's attorney. This would permit action to be immediately taken to prepare for the upcoming court hearing.

Your consideration of this suggestion is deeply appreciated.

Very truly yours,



Sheila E. Shea  
Director

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**From:** Screechfield, Elaine C. <EScreech@mofo.com>  
**Sent:** Friday, January 24, 2020 2:39 PM  
**To:** eFiling Comments  
**Cc:** DiSanti, JoAnn; McKay, William  
**Subject:** Comments on Electronic Filing Program

Dear Mr. Carucci:

We write on behalf of the National Docketing Association (NDA). As you may recall, the NDA is not only comprised of e-filing users from large and medium New York firms, but also includes e-filing users from outside New York who use NYSCEF to retrieve and file documents.

A substantial number of NDA e-filing users from New York have been using NYSCEF since the very first day it was a voluntary system. It goes without saying, this e-filing system has continued to get better each year. Each year at the annual NDA conference the topic of e-filing challenges we face in various courts with different procedures and rules is raised. The one court system that never comes up in conversation with respect to its difficulty is NYSCEF.

Thank you for the opportunity to comment regarding authorizing the introduction of mandatory e-filing in matrimonial actions. There are a number of reasons for authorizing mandatory e-filing for these actions. One in particular, is the record of successful consensual e-filing in these cases. Consensual e-filing of these cases was first introduced in April, 2013; and to date our members have had no issues with the consensual system throughout the 42 counties in which it is presently allowed.

In addition, there is broad support for e-filing in these cases and for the elimination of the ban on a mandatory program with all of our members who use NYSCEF.

Our experience with NYSCEF has proven to be a secure environment that provides robust protection for the confidentiality of matrimonial documents required by law. From what we know of NYSCEF, the system itself protects these documents by placing them behind a firewall that prevents access by anyone other than

counsel, a participating unrepresented party, and the County Clerk or court staff who have specific authorization to work on such cases.

Therefore, matrimonial files will, if anything, be more secure if documents are filed with NYSCEF rather than in hard copy.

In sum, the record of e-filing generally, our years of experience with consensual e-filing in matrimonial cases in particular, and the robust protections offered by the NYSCEF system fully justify the repeal of the current restrictions on the discretion of the Chief Administrative Judge to establish mandatory e-filing programs for attorneys in matrimonial cases.

As always, the National Docketing Association is grateful for the court's receptiveness to our observations. If we can be of any further assistance, please do not hesitate to contact us.

Respectfully yours,

Elaine Screechfield  
President  
National Docketing Association, Inc.

JoAnn DiSanti  
Past President & Executive Board Member  
National Docketing Association, Inc.

**ELAINE SCREECHFIELD**  
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## MANAGING ATTORNEYS AND CLERKS ASSOCIATION, INC.

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*Directors*

January 24, 2020

Mr. Jeffrey Carucci  
Director, Statewide Coordinator for Electronic Filing  
Office of Court Administration  
25 Beaver Street, Room 823  
New York, New York 10004

### **Re: New York State Courts Electronic Filing Program**

Dear Mr. Carucci,

We are writing on behalf of the Managing Attorneys and Clerks Association, Inc. in response to the Chief Administrative Judge's December 23, 2019 letter soliciting the views of the bar on NYSCEF generally and on the possibility of making e-filing mandatory in new case types. We welcome this opportunity and thank the Chief Administrative Judge for seeking the bar's input on these important subjects.

As you know, MACA is comprised of approximately 125 law firms with litigation practices, primarily large and mid-sized firms. Our members' positions within our respective firms and concomitant responsibilities afford us a breadth of understanding of the day to day operations of the various state and federal court systems. In particular, our members have extensive experience with e-filing in NYSCEF, in other states' e-filing systems and in the federal e-filing system. In a majority of our member firms, the actual filing of litigation papers in NYSCEF is performed by managing attorney/managing clerk staff. In addition, various of our member firms handle matrimonial actions in New York Supreme Court, proceedings in Family Court and Criminal Court, and residential foreclosure and consumer credit actions—some as part of their regular business and some on a pro bono basis.

*General Assessment.* Our overall experience with NYSCEF continues to be very positive. Our membership gives the system high marks for usability and reliability. We give NYSCEF's developers and the Statewide Electronic Filing Resource Center staff equally high marks for the stability and good functionality of the application and for the level of support they provide to system users. In particular, in addition to directly assisting e-filers with questions or issues they may have, Resource Center staff have liaised with local courthouse personnel to help address some of our e-filing problems. The value to the court system and the bar of staff who so readily engage in problem-solving, and coordinate with multiple constituencies to get the job done, is extremely high. We likewise find the Resource Center's leadership extremely effective in their readiness to engage on and harmonize the needs and concerns of the bar and the court system. In short, NYSCEF works well because of both the competent technical support it receives from its developers and the competent user support the Statewide Electronic Filing Resource Center provides.

*Response to Legislative Proposals.* As we have commented in past years, our membership enthusiastically supports expansion of mandatory e-filing to some of the case categories that at present are not authorized. In particular, we continue to support the introduction of mandatory e-filing in matrimonial actions. On the same basis, we support extending the time to develop and test Family Court and Criminal Court e-filing past the current expiration in September of this year.

We are hesitant with regard to e-filing residential foreclosure and consumer credit actions. While we are confident that our member firms could transition easily to e-filing in those types of actions, we are sensitive to concerns that have been raised relating to homeowner and consumer confusion about e-filing when they receive papers commencing such actions. We appreciate that OCA has revised e-filing documentation that is served along with initiating papers in response to those concerns. We also respect the views of public interest legal service organizations that have much more exposure to homeowner and consumer defendants' encounters with e-filing than does our membership. Accordingly, we do not take a position on the third proposal in Judge Marks' letter but rather urge OCA to elicit and factor into its decision-making the views of public interest legal service organizations that assist residential foreclosure and consumer credit defendants.

*Appellate Division NYSCEF.* Our membership is very much enjoying some of the benefits of e-filing in our Appellate Division cases. The Appellate Division is not utilizing one of the most useful aspects of NYSCEF, however, in that the Courts are not all filing their notices, orders or judgments in NYSCEF. In our experience, except for the Third Department's e-filing of its Memorandum and Orders deciding appeals and the Third and Fourth Departments' e-filing of orders on motions and extension applications, the Appellate Division is not e-filing dispositions of stipulated extensions, orders on motions, notices of preargument conferences, orders or judgments. As a result, although NYSCEF is designed as a two-way communication system between litigants and the

Court, information is not flowing through it from the Court to the litigants; instead, litigants generally must go seek out information about court action outside of NYSCEF or pay a vendor to do so. Litigants and the public thus cannot find the record of the Court's actions in and disposition of appeals in NYSCEF where the rest of the record resides, except in the Third and Fourth Departments as noted above. Indeed, the other Judicial Departments' means of releasing judgments and orders by posting them to their websites amounts to notification by publication, which is far less efficient for the public the Court serves than filing in NYSCEF.

The advantages of the Court filing in and communicating through NYSCEF are not speculative: The public and the Court itself enjoys them first-hand in the trial divisions of the Supreme Court, which e-file their orders and judgments such that the entire record of their proceedings is in NYSCEF.

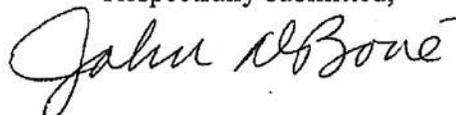
*Hyperlinking.* We propose that investment be made to add NYSCEF functionality that will convert legal citations in e-filed documents to hyperlinks to the cited sources in automated fashion. OCA recently published for comment a renewed proposal that would authorize justices in Commercial Division cases to require litigants to e-file their documents with hyperlinks to all cited legal citations. We strongly believe that, rather than burdening litigants and their lawyers (including solo and small-firm practitioners who do not operate with the array of support that is typical in our larger member firms) with the extra cost and time pressure of hyperlinking before they file, and rather than limiting the benefits of hyperlinked legal citations to the Commercial Division (which is already better resourced than the rest of Supreme Court), OCA should develop NYSCEF to add the hyperlinks to papers after they have been filed and make that available to all Courts' versions of NYSCEF in order to support the entire judiciary that hears e-filed cases. The federal NextGen CM/ECF system that has been deployed in many courts in the federal court system has such functionality, and we urge OCA to adapt that functionality for NYSCEF.

\* \* \*

Again, we are grateful for the opportunity to comment on NYSCEF, which we continue to feel merits substantial ongoing investment both in the form of development of new functionality such as hyperlinking and in NYSCEF's technological development staff and

the staff who support both courthouse end users and litigants and their counsel. We are enthusiastic supporters of the system and eagerly look forward to improvements and to expansions of mandatory e-filing.

Respectfully submitted,



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Mound Cotton Wollan & Greengrass LLP

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Managing Attorney  
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---

**From:** Maria Piperis <mpiperis@counselpress.com>  
**Sent:** Thursday, January 23, 2020 12:44 PM  
**To:** eFiling Comments; Jeffrey Carucci  
**Cc:** Cristina Stout; Scott Thompson  
**Subject:** Counsel Press' comments on the continued development of the NYSCEF system

Good afternoon, I hope my email finds you well. In response to the court's invitation for feedback regarding the usability of the NYSCEF system. I submit these 7 points for your consideration on behalf of Counsel Press Inc.:

1. Provide an option to link multiple case/docket numbers that originate from the same case. This would avoid having to upload the same documents multiple times under each case/docket number individually.
2. In ADI, there is not a filing event to upload the Note of Issue.
3. We submit a few additional filing event for addition to the system:
  - a. Other
  - b. Any letter generally, but specifically, a letter to correct the RAD/Informational statement. This change is required regularly. For now we upload these as an exhibit, which is not clear.
4. There are several instances where an attorney will receive notification from the NYSCEF system to forward the hard copies for filing. However, the system still reports that document approval is "pending".
5. When handling redactions, the NYSCEF system scans documents for sensitive material. When detected, the system will send counsel a notification for correction. More often than not, the system's prompt is incorrect and the item identified was not sensitive in nature at all. This leads to a fair amount of confusion.
6. Permit all Clerk's feedback regarding corrections to appear in the case details; not only in the notification email to the party.
7. Add filing events for multi-volume jobs – now this is being identified in the comments section. Is a drop down to select a volume number possible?

Please let me know if you have any questions or would like to discuss this topic further by phone. We look forward to NYSCEF's supplementary development and have enjoyed using the system thus far.

Best,  
Maria



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View my [bio](#).  
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**From:** Angela Barker <angela@angelabarker.com>  
**Sent:** Thursday, January 02, 2020 2:36 PM  
**To:** eFiling Comments  
**Cc:** aokin@brooklynbar.org  
**Subject:** re: eFiling in matrimonial matters

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Good day:

I believe that the time has come for eFiling in matrimonial matters. Most attorneys are adopting paperless procedures and eFiling will save time, money and other resources.

Thank you.

Angela Barker  
Law Office of Angela Barker, LLC

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(201) 336-0352

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**From:** Bryan Berson <[bberson@bersonfirm.com](mailto:bberson@bersonfirm.com)>  
**Sent:** Sunday, January 19, 2020 5:57 PM  
**To:** eFiling Comments  
**Subject:** NYSCEF - e-filing comments

Dear Sir or Madam:

I am writing to support the expansion of e-filing.

Presently, nearly half of Surrogate's Courts in New York do not participate. I suggest that all Surrogate's Courts should allow e-filing. Paper filing is too cumbersome and slow, especially in contested matters where there is litigation. Article 17A proceedings in Surrogate's Court should be e-filed as well. Some Surrogate's Courts allow e-filing for all matters except 17A petitions.

All District Courts and Civil Courts should participate in e-filing. Presently, they require paper filing and the in-person purchase of index numbers. E-filing would enable these cases to proceed in the manner that N.Y. Supreme Court cases do.

All N.Y. Supreme Court matters, including Article 81 (guardianship) and Article 78 (appeal of agency decisions) matters should be e-filed. If privacy is a concern in matters that presently require paper filing, then there should be a means of sealing records during the online filing process.

The expansion of e-filing will save clients' money and increase efficiency. If you would like to discuss my experience, please let me know. Thank you for your consideration.

Sincerely,

Bryan L. Berson

---

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Website: <http://www.bersonfirm.com>

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In Suffolk and Nassau: (631) 517-1055  
In Manhattan: (212) 796-6599\*  
In Brooklyn & Queens: (718) 705-8108  
\* capable of receiving faxes and calls

---

**From:** Carien Bracey <babycam1213@aol.com>  
**Sent:** Friday, January 10, 2020 4:08 PM  
**To:** eFiling Comments  
**Subject:** Comments About Efiling Please Submit By January 17, 2020

Good Afternoon,

I am writing on behalf of myself.  
I e-file basically all day.  
Summons and Complaint, Request for PC'S  
Affidavit of Services, etc.....

My only issue is when I do my Summons and Complaints and I prepare the EF3 - I have to type it myself.  
10 years ago it was done by the e-filing system.  
Usually my caption does not fit and I have to write half a caption on the EF3 form.

Is there anyway where you guys can make more space for us or Can we go back to the original system when the e-filing system was creating our forms for us.  
I would love for the system to go back to the old system or make more space for the caption because sometimes it does not fit.

Thank You

Very Truly Yours,

Carien Bracey  
Litigation Paralegal  
The Law Offices of Eric H. Green  
295 Madison Avenue, 16th Floor  
New York, New York 10017  
*Telephone: (212) 532-2450*  
*Fax: (212) 532-0117*

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**From:** Julie Calareso <julie@shevylaw.com>  
**Sent:** Thursday, January 09, 2020 10:07 AM  
**To:** eFiling Comments  
**Subject:** Comments- E Filing in Surrogate's Court

E-filing in Surrogate's Court is awesome!

It should be mandated state wide or at least within judicial districts (some courts in the 3<sup>rd</sup> JD don't allow it yet). It moves things along very quickly, and we are seeing much more efficient turn-around from the Court system staff. There should be a review to ensure uniformity (some counties require certain things, others do not, and there is not posted information on what county needs what).

I have also used it in Supreme Court in Essex County and have found it advantageous as well.

***Julie Calareso, Esq.***  
The Shevy Law Firm, LLC  
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518-456-6709 fax

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**From:** Andrew Carboy <acarboy@carboylaw.com>  
**Sent:** Thursday, January 09, 2020 7:38 PM  
**To:** eFiling Comments  
**Subject:** Efiling

What a great system. Keep doing what you are doing. I have been in practice for 27 years, and I don't know how we practiced law without e-filing.

No complaints whatsoever, and e-file support court personnel in the five boroughs are wonderful. Nassau, too.

Happy 2020.

Very truly yours,

Andrew J. Carboy

Law Offices of Andrew J. Carboy LLC  
One Liberty Plaza  
23<sup>rd</sup> floor  
New York, New York 10006  
Phone: 1 212 520 7565  
Fax: 1 347 549 4307

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**From:** James Castelli <jamesdcastelli@gmail.com>  
**Sent:** Friday, January 17, 2020 12:49 PM  
**To:** eFiling Comments  
**Subject:** Suggestion

I would like to suggest that the eFiling system make a change to allow non-parties and non-attorneys to make a motion in an efiled case without the assistance of the clerk of the court.

I am a suspended attorney. I am required to make a motion to the court when I seek quantum meruit fees pursuant to 22 NYCRR 1240.15 (g).

As such, I am unable to e-file a motion in an existing case that is settled. I must ask the court clerk to e-file same for me using a "Notice of Hard copy submission" form. It would be easier for all if I were allowed to efile the motion myself on line.

Thank you for your kind consideration of making a change to accommodate non-attorneys/parties in such situations.

--  
James D. Castelli

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**From:** Amy L. Cobb <acobb@hancocklaw.com>  
**Sent:** Thursday, January 16, 2020 1:01 PM  
**To:** eFiling Comments  
**Subject:** Notice Seeking Comments on Electronic Filing Program

Good afternoon.

I believe the E-filing program is wonderful, and convenient. I do recommend allowing exhibits to be uploaded as one document as long as they have the representing exhibit #/letter in between each exhibit. It is very, very time consuming uploading exhibits one at a time when there are multiple exhibits.

Thank you.

**Notice Seeking Comments on Electronic Filing Program**

In preparation for an annual report on e-filing, to be submitted to the Chief Judge, the Governor, and the Legislature, the Chief Administrative Judge is seeking comments from the public addressing users' experience with NYSCEF. Observations and recommendations are welcome from attorneys, litigants, and other members of the

public. <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/RequestForComments.pdf> Interested parties may email comments to [efilingcomments@nycourts.gov](mailto:efilingcomments@nycourts.gov), or submit them by letter to Jeffrey Carucci, Statewide Coordinator for E-Filing 25 Beaver St, Room 823 - New York, New York 10004.

Comment period extended to Jan. 24, 2020

**Amy L. Cobb**  
**Administrative Assistant/Paralegal**  
**Hancock Estabrook, LLP**

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**From:** Edie Cornish <ecornish@adamsleclair.law>  
**Sent:** Tuesday, January 14, 2020 9:25 AM  
**To:** eFiling Comments  
**Subject:** NYSCEF Comments

First, let me begin by saying, I love the electronic filing system, if for no other reason than the fact that I don't have to stand in line at the county clerk's office anymore. It makes filing documents very efficient.

However, I don't like the fact that some counties (courts) require you to keep any exhibits/attachments together with the main document while others require you to have a separate file for each. There's nothing to indicate which is which until you get an email saying your filing was removed by a court user because it wasn't filed properly. There should be some indication on which way to file once the county/court has been chosen at the onset of the task.

Sincerely,

**Edie Cornish**  
Legal Assistant



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**From:** Correa, Haydee <Haydee.Correa@nyct.com>  
**Sent:** Thursday, January 16, 2020 8:58 AM  
**To:** eFiling Comments  
**Subject:** Efiling Comments

I love eFiling. It's easy. You can do it at all hours of the day or evening or on weekends without leaving your house. ☺

But, there are some things that can and should be improved:

First, enforce the mandatory eFiling. A lot of plaintiff's attorneys I deal with state that they aren't required to efile discovery demands and responses. To that I say, well, NYSCEF is my preferred method of service so you have to do what I ask. If NYSCEF made it clear to all litigants that everything has to be efiled, it would really make things easier.

Add more types of documents to the dropdown menu:

I make a lot of motions to dismiss in lieu of answering, but my only option for it is to select motion to dismiss in lieu of complaint. I don't get why.

How about adding "bill of particulars as to affirmative defenses" as an option?

The option for "Letter / Correspondence to Judge" is not seen by the court attorney or judge assigned to the case (so I have been informed). I don't know how, but don't you think you should notify the court attorney or the part judge if a letter to judge is uploaded?

There's no "Combined Demands" option.

There are 2 Informational Statement options when only 1 is needed.

How about "Response to CC Order" or "Response to PC Order" as well as a "Notice of Discovery & Inspection"

I will think of others.

*Haydee Correa*

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---

**From:** Correa, Haydee <Haydee.Correa@nyct.com>  
**Sent:** Thursday, January 16, 2020 12:17 PM  
**To:** eFiling Comments  
**Subject:** RE: Efiling Comments Part 2

A couple more ideas/suggestions/comments:

1. Exhibits on Motions are time consuming and annoying to have to scan them in when they are already in the efile system. Why can't you just provide users with the option of hyperlinking to a previously efiled document as an exhibit to a motion rather than having to refile that document each time a motion is made. For example, if I upload a motion and attach as exhibits the pleadings, I should be able to hyperlink my exhibit to the relevant documents in the NYSEF system rather than have to upload the pleadings all over again. You should have made the system like that initially because it would save you storage space that is presently being taken up by duplicative scannings and uploadings of documents that are already efiled.
2. You should modify the NYSCEF system to allow for videos to be uploaded in the system. This is the 21<sup>st</sup> century. You can use all the extra space that NYSCEF will have once you create hyperlinks to previously efiled documents.

If I have any other ideas, I will send another email.

*Haydee Correa*

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---

**From:** Correa, Haydee  
**Sent:** Thursday, January 16, 2020 8:58 AM  
**To:** [efilingcomments@nycourts.gov](mailto:efilingcomments@nycourts.gov)  
**Subject:** Efiling Comments

I love efilng. It's easy. You can do it at all hours of the day or evening or on weekends without leaving your house. ☺

But, there are some things that can and should be improved:

First, enforce the mandatory efilng. A lot of plaintiff's attorneys I deal with state that they aren't required to efile discovery demands and responses. To that I say, well, NYSCEF is my preferred method of service so you have to do what I ask. If NYSCEF made it clear to all litigants that everything has to be efiled, it would really make things easier.

Add more types of documents to the dropdown menu:

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The option for "Letter / Correspondence to Judge" is not seen by the court attorney or judge assigned to the case (so I have been informed). I don't know how, but don't you think you should notify the court attorney or the part judge if a letter to judge is uploaded?

There's no "Combined Demands" option.

There are 2 Informational Statement options when only 1 is needed.

How about "Response to CC Order" or "Response to PC Order" as well as a "Notice of Discovery & Inspection"

I will think of others.

*Haydee Correa*

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---

**From:** Pasquale Crispo <pjcrispo@gmail.com>  
**Sent:** Friday, January 03, 2020 9:34 PM  
**To:** eFiling Comments  
**Cc:** aokin@brooklynbar.org  
**Subject:** Re: New York State Courts Electronic Filing Program

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

My comments are as follows after conferring with colleagues who do commercial litigation. I do primarily matrimonial litigation without e-Filing:

1. There is no doubt that this method is more costly to clients and that impact must be considered.

It is inevitable that to e-file a motion requires scanning, each exhibit, and then inputting each exhibit in e-file format with labels and I understand docketing numbers; every document Affidavits, affirmations, cross motions (which must be separate and cannot be included in Opposition papers) is now separate. This means that this new process results in separately preparing a notice of cross motion, and affidavits, affirmation separate from responding to opposition papers which were done in one document under paper filings. This may relieve the courts from scanning and inputting documents which is great for the court personnel but shifts the time commitment and cost to the public.

2. Medicare /Social Security was hacked and all personal data stolen from several million recipients. My wife's information was stolen and the Government paid for identity insurance to insure her for this catastrophe so don't tell me all matrimonial actions are secure when E-Filed

So there is no real safeguards that this will not happen to personal and banking info of thousands of litigants under this process. Also, more work is required of the attorneys who must omit from Banking/ broker statements, credit card statements the full Account numbers. The math is overwhelming. Assume 10,000 statements have to be modified redacting digits in the account statements numbers. This is just one example. I have a small firm and to allocate associates time to such tasks will escalate the costs. Yes it makes it easier on the court system but at whose expense, the consumer our clients.

I am sure that should I explore E-filing in depth and further I will find exhausting examples of pass along costs to clients.

3. I also understand that often our Computers may have to be upgraded to a compatible at a higher level operating system to accommodate e-Filing.

4. A What about transfers are there limitations on megabytes that can be transferred. Assume a document is above the megabyte limit what then ?? You need to file in tranches one document with separate docketing.

B. This may result in cost and work reduction for the Courts but certainly not for the consumer and our clients who are already complaining about the cost of Divorce litigation.

C. As far as easy access to these documents, I automatically store them in files I can easily access from my iPhone.

Respectfully submitted

Pasquale Crispo

PASQUALE J. CRISPO, ESQ.

**LAW OFFICES OF HARIRI & CRISPO**

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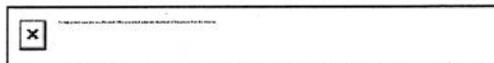
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Web: [www.HaririCrispoLaw.com](http://www.HaririCrispoLaw.com)

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On Jan 2, 2020, at 1:26 PM, Brooklyn Bar Association <membership@brooklynbar.org> wrote:

[View this email in your browser](#)



**Dear Members,**

**Please see the message in the following link from Chief Administrative Judge Lawrence K. Marks regarding the New York State Courts electronic filing program.**

<https://brooklynbar.org/wp-content/uploads/Comments-on-EFiling.pdf>

**All member comments should be sent directly to [efilingcomments@nycourts.gov](mailto:efilingcomments@nycourts.gov) with a cc to [aokin@brooklynbar.org](mailto:aokin@brooklynbar.org).**



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**From:** Michael J Crosby <mjcrosbyesq@rochester.rr.com>  
**Sent:** Thursday, January 23, 2020 11:16 AM  
**To:** eFiling Comments  
**Subject:** e-filing system concern

Hi.

This past weekend I had my first experience with the e-filing system and it was a bust.

I am concerned that the e-filing system rules have not given enough thought to the consequences of technical glitches with the e-filing system short of a complete unavailability of the system.

As I understand the current rules, the e-filing system provides for the filing of paper copies as the only alternative to a failed e-filing, with a subsequent successful e-filing to remedy the initial technical failure. This alternative seems wholly inadequate to me and fails to acknowledge that the e-filing system is supposed to be reliable and dependable for planning our filings, that we are being required to use the system and relinquish our past practice with paper, and that practitioners should not have to operate with a full paper backup and start uploading in the morning as if the system is going to fail with every filing. At the very least a practitioner should have the option of filing with the clerk a flash drive containing the files to be uploaded to meet a deadline rather than waste paper, as environmental consciousness is part of the modern system as well.

I believe the present limited and impractical alternative to e-filing system failure, and some technical glitch with the e-filing system processing, can result in filing problems which would be solely the consequence of an inadequate e-filing system, and could result in the unjust impairment of legal rights due solely to the insufficiency of the e-filing system.

I had a large filing of an administrative return to process this past weekend, and spent considerable time and expense in advance to have technologists convert the numerous record documents to a suitable PDF/A form for e-filing to be able to do so. I had all the files processed and ready to go and had no reason to incur the expense of paper copies and did not do so since the PDF/A files were on my computer and would be online shortly and the paper use would be substantial and wasteful. I started uploading the files early Friday afternoon but could only do five files at a time because the add additional documents option was not working for me. NYSCEF Resource Center Support checked my first few documents for compatibility and approved them, had no explanation for the failure to add additional documents, so suggested I just file five at a time. My first few uploads were successful, so off I went. The remaining uploading process took hours but was getting done. I was about two-thirds complete until just before 6 pm I suddenly got a major error message of some unspecified problem with my filing that said I had to upload my files again even though a third of the documents had been acknowledged by the e-filing system as having been processed (and all the documents had been processed for e-filing the same and did not exceed the 100 MB limit).

So: here I am after five pm with no notice my filing would be a problem until after the clerk's office had closed for the day, and I would have had no time to print all the stacks of papers in time to file by paper anyway. E-file tech support left at 6 pm and were not available, and after-hours technical support was limited to advising me whether the servers were functioning, which was not helpful whatsoever. Now, because of the holiday on Monday, my failed Friday filing won't even get evaluated until Tuesday at the earliest.

This predicament was solely a failure of the e-filing system as it stands at present, even though the e-filing servers were apparently operational. Without the e-filing system requirement, I would have simply printed the documents on paper from the beginning and delivered them to the court clerk by the end of business without any problem, and served counsel and been done by five pm, as has been standard practice for my decades of practice. Now the justice system is

moving to a new system that has some benefits but seems glitchy, and its remedy for technical failures is to impose unreasonable and unrealistic requirements on practitioners while maintaining archaic and rigid time limitations that do not adequately account for the limitations of the e-filing system at present and the new additional problem of having to operate in a computerized system that few really understand and can fix when problems arise (including the after-hours technical support).

It seems to me that the justice system wants the e-filing system to be a reliable modern approach to court clerk filings, but the technology used is no longer simple and straightforward as the paper filing system. While it might have been considered fair to impose serious consequences for failed filings by deadlines when the filing process was simple, that premise no longer holds true for the e-filing system at present. If a practitioner commences an e-filing system upload in a proper format in time, but the e-filing system fails to accept the upload for some reason, or fails to accept part of the upload, the practitioner and client should not be penalized by the e-filing system's deficiency, which is the problem and which problem would not exist but for the e-filing system requirement and the e-filing system's limitations.

At the least, the e-filing system rules should be modified to provide that if an e-filing upload is sought to be made in accordance with the required PDF/A format, in time to consult technical support, i.e., by the end of the business day for the relevant clerk, then such filing should be presumed to be timely for deadline purposes even if the filing is not completed until later when the technical problem(s) of the e-filing system are finally solved. It turns out one of the 265 files had some problem for which the Resource Center Support provided a work-around on Tuesday though without specifically identifying the problem or explaining why one of a couple hundred files processed the same way was not acceptable to the e-filing system. And since the administrative return required sequential numbering of exhibits, the one problem effectively halted the rest of the filing until the problem could be addressed and resolved. This would not have been a problem with paper filing, and any such problem could have been fixed easily but for the technical complications of the e-filing system.

In the e-filing system, one little problem was enough to derail the filing and miss completing the filing on Friday as intended, and the rules' alternative filing plan had no value in this situation either. The rules don't accommodate these kinds of subtle but real problems well enough. While there may be concern that creating technical problems could be used to extend deadlines, there should be more concern that deadlines may be missed only due to technical problems with the e-filing system and result in unnecessary stress and motion practice, if not injustice. The rules should provide for some safe harbor practice for filing to meet a deadline. For example, a filing would qualify as safely filed subject to subsequent technical assistance if a party started uploading its files before the close of the court's business that day, and a problem resulted in a logged-in request for assistance to the NYSCEF Resource Center Support before it closed, currently at 6 pm. Systematic formatting problems would be discovered early on while technical assistance was available and the problem identified and solutions provided. Problems that arise later after hours during long filings would show on the e-filing system when and where the uploading ceased, which if after hours of the Resource Center Support would excuse the need for such a request until the next business day. (Maybe the Resource Center Support should be staffed longer since the consequences of a failed e-filing at present could be dire.)

Also, for those more concerned about avoiding gamesmanship, and instill incentive not to create problems with the uploading process in order to gain some advantage of time to complete papers, consider making the safe harbor presumption available only for practitioners and parties who provide notice of the e-filing system filing failure to opposing counsel shortly after the filing problem is discovered and determined to be unresolvable at present, with an offer to provide a digital copy of the attempted filing upon request that same date prior to the e-filing, and if requested provide a requested copy that same date. Again, there could be problems with such email communications, especially if large files are involved, but a good faith effort to show the attempted e-filing upload should be sufficient to defuse any dire consequences of a failed e-filing system upload and avoid any prejudice from the failed filing. And this result should obtain even with statute of limitations and notice of appeal deadlines, where the injustice of a deficient e-filing system would be most grave.

Certainly some thought should be given to how a delayed filing would affect subsequent deadlines, but extending them all by the same days needed for the NYSCEF Resource Center Support to resolve the problem seems warranted.

With the traditional paper filing system, the justice system reasonably believed that all counsel and parties could manage physical filings of documents with clerks, and the deadline rules developed based on the premise that there was no justifiable excuse for not being able to prepare papers and deliver them to the clerk by the close of business on the due date. Now, although we use computers, few understand them well enough to solve problems when computers object. The need for an IT department is plain evidence we are no longer in full control of our tools as we lawyers once were. We need to adjust the justice system to account for this change of tools being beyond most users' ability to fix problems with them. It does not seem like the modern justice system should favor those with specialists in computer communications as is the e-filing system now under the present rules. The rules need to accommodate e-filing system glitches for all practitioners better than they do at present so that no harm is done due to unfamiliar technology.

The e-filing system is promising, but the transition should not inadvertently impair non-specialists in computer technology with impractical alternatives to problem filings as is the case under the present rules.

Michael Crosby

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**From:** K Jody Cucolo PC <kjuculolaw@aol.com>  
**Sent:** Saturday, January 04, 2020 11:02 AM  
**To:** eFiling Comments  
**Subject:** comment

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

To whom It May Concern,

As an attorney in Rockland County, I do not believe divorce cases should be e-filed.

Thank you for your attention to this matter.

K. Jody Cucolo

K. Jody Cucolo, P.C.  
10 Wyndham Lane  
New City, New York 10956  
Office: (845) 499-2280  
[kjuculolaw@aol.com](mailto:kjuculolaw@aol.com)

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**From:** johncullenalison@aol.com  
**Sent:** Thursday, January 02, 2020 10:09 AM  
**To:** eFiling Comments  
**Subject:** Comment from NYS bar member on mandatory electronic filing- Opposition to change

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Jeff Carlucci, Electronic Filing Coordinator,

I appreciate the ability of the attorney to opt out of the mandatory e-filing. That "opt out" provision should remain as part of any attempt to change the filing activities of the bar in NYS court actions. I am opposed to any changes in the rules which will make all court filings mandatory.

Making mandatory the e-filing creates issues of small firm economic hardship. The changes in the cyber world machinery are constant and often, causing major cost adjustments to the small practitioner. Because we are neighborhood small firm attorneys we must watch our costs on every case and every activity. We cannot simply raise our fees to our clients at every change in cyber machinery and cyber apps. E-filing is a wonderful concept in theory, but the practicalities for the every day plaintiff or defendant frustrates the administration of justice, mainly cost issues.

Why would it hurt to leave the OCA protocol "as is" without making it mandatory in all cases? If it works "as is" why change it?

John E. Cullen, Esq.  
Law Offices 540 North Avenue  
New Rochelle, New York 10801

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**From:** johncullenalison@aol.com  
**Sent:** Friday, January 03, 2020 3:30 PM  
**To:** eFiling Comments  
**Subject:** Re: Comment from NYS bar member on mandatory electronic filing- Opposition to change

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Jeff Carucci,

Your response was overwhelming in its completeness. Thank you for that. I did want to make it clear that I am not against efficiency and I can see that for the larger institutions the e-filing is a monstrous success. I have listened to the Westchester County Clerk Tim Idoni as he clarified for us members of the local bar associations all of the benefits of e-filing. However, for us little guys, the street level small firms, the cost of running a law practice is very fragile and economy for the government institutions is not on our "most important" list. The people that we serve only arrive at our offices because they are desperate. Legal services are expensive and most people avoid the law offices because they fear the cost of legal services. My office performs more Pro Bono work for poor people on a weekly basis than we do on paying clients. If a little guy like me has to adjust to the requirements of the cost of cyber space equipment with its constant changes, then our fees must increase with the increase in the cost of the apps, the machinery, the secretarial help that is needed to operate these machines, etc. etc. It is not easy to run a small office; it is quite expensive. If my fees go up then the client faces increased cost and the spiral ends up with less and less small firms dealing with the everyday problems of the common man due to the client's inability to pay. Every mandate from OCA increases our cost of

doing business and thus leaves the working poor with more unresolved legal problems due to the inability of the client to pay.

Keep us little guys in mind every time you consider a change which will cost us money. If your present system works, keep it.

John E. Cullen, Esq.

-----Original Message-----

From: eFiling Comments <efilingcomments@nycourts.gov>

To: johncullenalison@aol.com <johncullenalison@aol.com>

Sent: Thu, Jan 2, 2020 3:25 pm

Subject: RE: Comment from NYS bar member on mandatory electronic filing- Opposition to change

Good afternoon Mr. Cullen:

Thank you for your comment. We appreciate your taking the time to provide us with your feedback. You have indicated, as an attorney in a small firm, you would prefer e-filing not be mandated, in that it would cause an economic hardship and you have stated e-filing "frustrates the administration of justice" for the "every day plaintiff or defendant."

Kindly be advised of the following which you may find helpful:

1. The e-filing statutes and rules contain provisions to assist attorneys who are unable to participate in e-filing. For instance, an attorney who lacks the knowledge or equipment necessary for e-filing need only file a form so certifying, and he or she will be excused from having to e-file, and, accordingly, permitted to file and serve and be served in hard copy, or, an attorney if they choose, can simply seek an exemption from the judge assigned. (CPLR 2111 (b) (3) (B); 22NYCRR 202.5-bb (e) (3); 22NYCRR 207.4-aa). We do not seek to repeal the "opt out" provision for attorneys.
2. Whenever NYSCEF is introduced into a new court or county, and/or e-filing is introduced for a new case type - onsite training is provided. In addition, the NYSCEF Resource Center regularly provides online training sessions, as well as self-help training that allows users to experiment with all the functions of NYSCEF without limitation. Training is offered at no cost, and two hours of CLE credits is made available to attorneys who participate in a two-hour on-site course. Information on training sessions is available on the NYSCEF website at [www.nycourts.gov/efile](http://www.nycourts.gov/efile). Please also note, the Resource Center is available during business hours to assist you as you e-file and can help resolve an issue and may be able to guide you as you e-file with "machinery" you may already have in your office, i.e. a computer with internet access. You can contact the E-Filing Resource Center by email at [efile@nycourts.gov](mailto:efile@nycourts.gov) or by phone at 646-386-3033.

Currently E-filing is authorized in Supreme Court in 52 Counties throughout New York State, with mandatory e-filing programs in 42 of these courts; and in Surrogate's Courts in 42 Counties

throughout New York State, with mandatory e-filing programs in 34 of these courts. Every County within the 9<sup>th</sup> Judicial District has a mandatory e-filing program in their Supreme Civil Court. All Surrogate's Courts within the 9<sup>th</sup> Judicial District except for Putnam and Rockland Counties have an e-filing program - Orange County Surrogate's Court is the sole Court with a consensual e-filing program.

The benefits of e-filing are noteworthy, such as, the convenience in which a case can commence, the efficiency of notification and delivery of documents, the benefits to the environment and the significant cost savings realized for litigants, attorneys, the courts and County Clerks. Since the inception of the e-filing program in 1999, over 2,150,000 cases have been e-filed and more than 95,000 attorneys have registered as e-filing users.

Current law prohibits the Chief Administrative Judge from exercising his discretion to mandate e-filing in certain categories of cases, and the Legislation we seek *is to repeal the restriction regarding matrimonial, residential foreclosure, and consumer credit actions*. As indicated above, we do not seek to repeal the "opt out" provision for attorneys. When implementing and/or expanding e-filing programs and in preparation for annual E-Filing reports, we regularly solicit comments from e-filing users, attorneys, and interested parties. As a result, we have received comments, including those from solo practitioners and small firms, which have been overall favorable to e-filing and NYSCEF, finding it easy and efficient, saving time, energy and resources, reducing mistakes, and aiding in record keeping. Please see attached 2019 report, *Electronic Filing in the New York State Courts*, including solicited comments.

Thank you again for taking the time to comment, we hope the information provided proves helpful to your needs.

Happy New Year!

Jeffrey Carucci  
**Statewide Coordinator for E-Filing**  
Office of Court Administration  
25 Beaver Street, Room 823  
NY NY 10004  
[JCarucci@NYCourts.gov](mailto:JCarucci@NYCourts.gov)  
(212) 256-7778

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**From:** johncullenalison@aol.com <johncullenalison@aol.com>  
**Sent:** Thursday, January 02, 2020 10:09 AM  
**To:** eFiling Comments <efilingcomments@nycourts.gov>  
**Subject:** Comment from NYS bar member on mandatory electronic filing- Opposition to change

Jeff Carlucci, Electronic Filing Coordinator,

I appreciate the ability of the attorney to opt out of the mandatory e-filing. That "opt out" provision should remain as part of any attempt to change the filing activities of the bar in NYS court

actions. I am opposed to any changes in the rules which will make all court filings mandatory.

Making mandatory the e-filing creates issues of small firm economic hardship. The changes in the cyber world machinery are constant and often, causing major cost adjustments to the small practitioner. Because we are neighborhood small firm attorneys we must watch our costs on every case and every activity. We cannot simply raise our fees to our clients at every change in cyber machinery and cyber apps. E-filing is a wonderful concept in theory, but the practicalities for the every day plaintiff or defendant frustrates the administration of justice, mainly cost issues.

Why would it hurt to leave the OCA protocol "as is" without making it mandatory in all cases? If it works "as is" why change it?

John E. Cullen, Esq.  
Law Offices 540 North Avenue  
New Rochelle, New York 10801

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**From:** Tom Curtis <thomasmcurtis@yahoo.com>  
**Sent:** Monday, January 13, 2020 7:10 PM  
**To:** eFiling Comments  
**Subject:** My comments

It is a very good system and works better than the one in Florida. Now if you could only change the rules so we would not have to provide actual copies of documents previously filed and instead accept a reference to the docket number that would save a lot of time.

Tom Curtis  
Law Office of Thomas M. Curtis  
Thomas M. Curtis, Esq.  
1385 York Ave, Suite 32-B  
New York, NY 10021  
Tel: (212) 734-4915  
Cell: (646) 981-8076

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**From:** James DeBrosse <debrosselaw@yahoo.com>  
**Sent:** Friday, January 17, 2020 5:53 AM  
**To:** eFiling Comments; James DeBrosse  
**Subject:** RE-(E-FILING COMMENTS)-(2020)!

1. -SOMETIMES ITS TOUGH TO LOG ON.
2. -THERE ARE TOO MANY STEPS TO FILE DOCS.
3. WE SHOULD TRY TO STREAMLINE E-FILING.

**James G. DeBrosse, Esq.**  
**Tel: (516) 992-3455**  
**Fax: (718) 425-0863**  
**DeBrosseLaw@yahoo.com**  
**1225 Franklin Ave-(Suite 325)**  
**Garden City NY 11530**

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**From:** Kristina Dispigna <kdispigna1@gmail.com>  
**Sent:** Thursday, January 16, 2020 11:43 AM  
**To:** eFiling Comments  
**Subject:** Comments

If one clerk ok's paperwork and then another clerk rejects it upon resubmission the file should stay in its spot in the queue. It should not go to the back since a representative of the court initially said it was correct.

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**From:** Eddie Doran <doraneddie@gmail.com>  
**Sent:** Sunday, January 19, 2020 12:47 PM  
**To:** eFiling Comments  
**Subject:** Comment on ECF program. Upcoming report.

NYS Court System

As per your request.

**Notice Seeking Comments on Electronic Filing Program**

In preparation for an annual report on e-filing, to be submitted to the Chief Judge, the Governor, and the Legislature, the Chief Administrative Judge is seeking comments from the public addressing users' experience with NYSCEF. Observations and recommendations are welcome from attorneys, litigants, and other members of the public. [View Posted Notice](#) Interested parties may email comments to [efilingcomments@nycourts.gov](mailto:efilingcomments@nycourts.gov), or submit them by letter to Jeffrey Carucci, Statewide Coordinator for E-Filing 25 Beaver St, Room 823 - New York, New York 10004.

**Comment period extended to Jan. 24, 2020**

Search issue comments.

Searching for defendant.

Spelling out full first name no report produced.

Placing first initial report produced.

No info on upcoming events must cross reference with nys ecourt.

Users must use county clerk minutes for old cases and some newer cases that are not ecf filed.

User must use nys ecourt for ecf cases that names search didnt produce return.

Attorneys fail to upload affidavits of service regarding time sensitive lis pendency on real property.

Attorneys fail to upload documents correctly. Sometimes cramming documents into one upload because otherwise fees or cost assessed. Examples stipulations of settlements filed as affidavits of service. Court lose filing fees. Lis pendency merged into summons or complaint. Court doesnt get fees clients exposed to lack of lis pendency on the subject real property.

The list is too long to remember all events but education of current and future attorneys and staff with uploading privileges a must. Should be certified to be allowed to upload onto the public record.

Thanks you in advance.

Sincerely yours

Eddie Doran  
525 Myrtle Avenue Suite C-1  
Brooklyn NY 11205  
Tel 6465330184  
Email Doraneddie@Gmail.com

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**From:** Tanya Dwyer, Esq. <tpdwyeresq@gmail.com>  
**Sent:** Thursday, January 16, 2020 2:01 PM  
**To:** eFiling Comments  
**Subject:** Comments on Electronic Filing Program

Hi,

E-filing is wonderfully convenient EXCEPT when notices from your old firm come to your new firm because notices are linked to your registration email. I think notices should go to whichever email we direct or we should be able to opt out of notices. There should be a way to get off the notice list and redirect them to the appropriate attorney. It's hard enough to keep up with notices for relevant cases; we should be allowed to opt out.

Thanks,  
Tanya

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**From:** John E. Finnegan <JFinnegan@mcfnylaw.com>  
**Sent:** Friday, January 03, 2020 11:25 AM  
**To:** eFiling Comments  
**Subject:** Expansion of E-filing

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

E-filing has revolutionized litigation practice. The efficiencies it has introduced are tremendous. The sooner that Matrimonial, Family Court and Criminal matters are included, the better. If there is a way to automatically integrate the NYSCEF system with etrack, or any other calendaring system, the efficiencies would increase. Thank you for the opportunity to comment.

John E. Finnegan, Esq.  
Montalbano, Condon & Frank, P.C.  
67 North Main Street  
New City, NY 10956  
845-634-7010 x1270 (Office)  
845-634-8993 (Fax)  
845-641-8255 (Cell)  
[Jfinnegan@mcfnylaw.com](mailto:Jfinnegan@mcfnylaw.com)  
[jfinnegan@msn.com](mailto:jfinnegan@msn.com)

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**From:** Cheri Fiordeliso <cfiordeliso@boylancode.com>  
**Sent:** Friday, January 17, 2020 3:41 PM  
**To:** eFiling Comments  
**Subject:** Comments on Electronic Filing Program

Good afternoon –

This is a message I emailed to [efile@nycourts.gov](mailto:efile@nycourts.gov) back in August that I thought I would pass along:

I have a general observation that I thought I would share with you. As I review the Document List to a case our office filed, I am realizing that the NYSCEF notifications are nowhere found on the system. I feel this would be helpful to all parties if there was a separate tab for “Court Notifications” (or something along those lines) in case an email notification has been missed or a party is entering late in a case. Our emails get flooded with notifications and can easily be overlooked.

For example, I received a notification regarding the assigned Judge and when the return date is, however, there is no mention of a court date (or any dates) on the docket. I think this information should be noted under the “comments” tab, but is left blank. Again, I feel this would be helpful to have more information regarding all court notifications be stated on the court system. It’s like telling a “story” of the case. The Federal Court system is really good about this. It would be great if the state courts could mirror some of the features available on the federal court dockets.

I felt I needed to share my suggestion as I view the dockets daily. Hope for a resolution in the near future.

Thank you,

Cheri Fiordeliso  
Client Services Coordinator



Culver Road Armory  
145 Culver Road, Suite 100  
Rochester, New York 14620  
Office: 585-232-5300  
Direct: 585-238-3533  
Fax: 585-232-3528  
Email: [cfiordeliso@boylancode.com](mailto:cfiordeliso@boylancode.com)  
[www.boylancode.com](http://www.boylancode.com)



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**From:** Rhonda Forde <rhondabforde@gmail.com>  
**Sent:** Thursday, January 16, 2020 10:13 AM  
**To:** eFiling Comments  
**Subject:** Suggestions

We could use an Other category for documents that are not categorized in any specific title that is provided.

***Rhonda Forde  
Hertz, Cherson & Rosenthal, PC  
118-35 Queens Blvd 9th floor  
Forest Hills, NY 11375***

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**From:** E. Ryan Goodman <[rgoodman@wglaw.com](mailto:rgoodman@wglaw.com)>  
**Sent:** Friday, January 17, 2020 3:45 PM  
**To:** eFiling Comments  
**Subject:** Withdrawal of counsel

Hello NYSCEF!

There must be an easier way for attorneys to remove themselves from cases that they are no longer a part of... If an attorney is no longer employed at a specific firm; that attorney should be able to remove themselves from all of those cases from that prior firm. What is the correct procedure for getting this done? Further, cases where a partial stipulation of discontinuance is filed. If we are the parties that were dropped from the case how can we stop getting ECF notifications on that file?

Best regards,

**E. Ryan Goodman, Senior Legal Assistant/Office Manager**

Weber   
Gallagher

1500 Broadway  
Suite 2401  
New York, NY 10036  
T: 646.585.7129, F: 929.342.6001  
[rgoodman@wglaw.com](mailto:rgoodman@wglaw.com), [www.wglaw.com](http://www.wglaw.com)

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Weber Gallagher Simpson Stapleton Fires & Newby LLP

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**From:** Grimm, Eileen <Grimm@ruppbaase.com>  
**Sent:** Wednesday, January 08, 2020 2:11 PM  
**To:** eFiling Comments  
**Subject:** Re: Notice Seeking Comments

I would like to request an expanded choice of drop downs for the choice of type of motion being filed to include: Motion in Limine. Thank you.

**Eileen Grimm**  
Legal Assistant



1600 Liberty Building | Buffalo, New York | 14202 | 716.854.3400 ext. 258 | [email](#) | [website](#)



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**From:** Jeffrey Carucci  
**Sent:** Tuesday, January 07, 2020 3:48 PM  
**To:** Phyllis Mingione; Robert Meade  
**Subject:** FW: E-filing is great !!!  
**Expires:** Sunday, January 12, 2020 12:00 AM

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**From:** Mark C. Gugino, Esq, <mgugino@twcny.rr.com>  
**Sent:** Tuesday, January 7, 2020 12:53 PM  
**To:** Jeffrey Carucci <jcarucci@nycourts.gov>  
**Cc:** Mark C. Gugino, Esq. <mgugino@twcny.rr.com>  
**Subject:** E-filing is great !!!

We do it in bankruptcy court all the time, if family court could do it too it wd awesome.

***Mark C. Gugino, Esq.***  
***Attorney at Law***

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E-mail [mgugino@twcny.rr.com](mailto:mgugino@twcny.rr.com)

---

**From:** Christopher Hammond <ch357@nyu.edu>  
**Sent:** Thursday, January 09, 2020 11:01 AM  
**To:** eFiling Comments  
**Subject:** NYSCEF comments

The system works reasonably well, but issues I would like to see addressed are as follows:

- 1) When I receive NYSCEF notifications, I have to sign in and enter my password over and over again to view each separate document. It would be helpful if the system could remember us so we don't have to waste time doing this.
- 2) The list of options to identify the document being filed is limited, and often does not include an appropriate title for the document I seek to file. Perhaps there could be a field where we could enter our own description of the document being filed.

Christopher Hammond, Esq., Appellate attorney, 3rd Department

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**From:** Richard T Hunter <rthesq@hotmail.com>  
**Sent:** Friday, January 17, 2020 9:25 PM  
**To:** eFiling Comments  
**Subject:** Comment - NYSCEF

I have used NYSCEF for a few complex litigations and think it is great.

Any questions about its use that I have had have been answered about the resource center.

One issue that arose in Suffolk County was that the individual documents in a commercial case started on order to show and summons and complaint had to be individually uploaded after they had been uploaded as one document. There had been no instructions that the documents for such a case should be uploaded individually rather than as one document which the documents had been when they were walked through the court.

Richard Todd Hunter, Esquire  
Attorney At Law  
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Admitted to the District of Columbia and New York Bars

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**From:** Hynes, Rose <rhynesr@bsk.com>  
**Sent:** Monday, January 13, 2020 3:49 PM  
**To:** eFiling Comments  
**Subject:** Comments on Electronic Filing

When a firm is dismissed from a case (via a Consent to Change Attorney or Withdrawal, etc.), can't there be a way NOT to receive future filings on that case once you are no longer associated with the case?

**Rose Hynes**  
Administrative Assistant  
Litigation  
716.416.7072 Direct  
[rhynesr@bsk.com](mailto:rhynesr@bsk.com)



Avant Building - Suite 900, 200 Delaware Avenue, Buffalo, NY 14202-2107

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**From:** Sophia <sophia.jayanty@gmail.com>  
**Sent:** Friday, January 24, 2020 3:29 PM  
**To:** eFiling Comments  
**Subject:** E-filing rules

Dear Committee Members:

As a former tenants' rights attorney representing HIV positive clients, I have faced several difficulties in not having e-filing access for housing court. Housing court and the eviction process relies on an expedited proceeding that requires tenant attorneys to act fast. Filing Orders to Show Cause or answers can require a strict and short deadline. Due to the contracts my non-profit received, my work extended through all the boroughs. Therefore unlike most landlord attorneys, I am not in court all day, particularly not in a single court. Moreover, my office is quite small without a sufficient number of attorneys to cover all the housing courts in the City which are spread out across the boroughs. One other issue, is that clerks routinely close at 4:30, and not 5, shortening the opportunity to file papers timely in comparison to other courts wherein a filing deadline is set for mid-night. I cannot emphasize how deleterious time restrictions on paper filings can be to a low-income tenant and their defense in housing court. For my clients, especially, their health status impairs their ability to come to court when they first receive a marshal's notice. As a result, time and physical barriers reduce their opportunities for justice.

The denial of equal court access in housing court means that low-income and those with disabilities are disproportionately harmed by these obstacles. All State Courts should allow for e-filing so that the quality of an attorney's representation and the justice sought in court is not diminished due to something as minor as technological barriers. This is an access to justice issue and should be resolved as expeditiously as possible.

Sincerely,

Sophia Jayanty

--

**Sophia B. Jayanty Esq.**  
she/her/hers/ella

*"For the master's tools will never dismantle the master's house."*  
~ **A. LORDE**

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**From:** Jones, Eugenia <Eugenia.Jones@wilsonelser.com>  
**Sent:** Wednesday, January 08, 2020 10:39 AM  
**To:** eFiling Comments  
**Subject:** Notice Seeking Comments on Electronic Filing Program

**Follow Up Flag:** Flag for follow up  
**Flag Status:** Flagged

Good morning

My recommendations are the following

1. That we should be able to choose more than one option from the dropdown menu specifically when it comes to motions; for example, if I have a stip/adjourn that is for 2 motion sequences, I would like to be able to choose both rather than do the transaction twice
2. Is it possible to save were we left off an come back to it later; rather than having to start all over again

Thank you for this opportunity

Eugenia Jones  
Managing Clerks Supervisor  
Wilson Elser Moskowitz Edelman & Dicker LLP  
1133 Westchester Avenue  
White Plains, NY 10604  
914.872.7815 (Direct)  
914.323.7000 (Main)  
914.323.7001 (Fax)  
[eugenia.jones@wilsonelser.com](mailto:eugenia.jones@wilsonelser.com)

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For further information about Wilson, Elser, Moskowitz, Edelman & Dicker LLP, please see our website at [www.wilsonelser.com](http://www.wilsonelser.com) or refer to any of our offices.  
Thank you.

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**From:** Brett Kimmel <bk@brettkimmel.com>  
**Sent:** Thursday, January 16, 2020 4:47 PM  
**To:** eFiling Comments  
**Subject:** Comments on E-filing 2020

My practice is essentially entirely devoted to matrimonial and family law matters. I fully support implementation of mandatory e-filing in matrimonial actions. More importantly, however, consensual e-filing should be permitted in ALL counties. Wherever consensual e-filing is permitted, I always take advantage of the opportunity and I have never had a case where my adversary has declined to participate. I can think of no good reason why matrimonial cases should be treated differently as it concerns the e-filing system. Finally, I need to suggest, again, that the courts do away with "hard copy" submissions. Requiring counsel to submit hard copies largely defeats the purpose of e-filing.

Brett Kimmel, Esq.  
Brett Kimmel, P.C.  
275 Madison Avenue - Suite 1711  
New York, NY 10016  
T: 212.867.3141  
F: 646.664.1959

<https://gcc01.safelinks.protection.outlook.com/?url=www.brettkimmel.com&data=02%7C01%7Cefilingcomments%40nycourts.gov%7C19fcb61322dc42ea053a08d79acd9f6e%7C3456fe92cbd1406db5a35364bec0a833%7C0%7C1%7C637148080245680214&sdata=1pr35q1fe356e2s4Ws0%2Bb%2BtcT%2BNtKv0d8ZpX1WEAdrl%3D&reserved=0>

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**From:** vijaya lakshmi <lakshmivijaya1233@gmail.com>  
**Sent:** Friday, January 24, 2020 12:39 AM  
**To:** eFiling Comments  
**Cc:** aoking@brooklynbar.org

e-filing [electronic-filing] is the process of filing .cases in the court electronically with out presence of the party to the court saving time and paper, e-filing of any case is as good as filing case personally in the court. e-filing is advantageous for low cost and safe document , people are aware of this process in most of the country,19,000 ,Matrimonial cases are filled in this way in New York state 42 counties . especially it is good and easy quick process to file the matrimonial cases, The original document relating to the case may be tabled ,in person at the time of hearing in the court, This is the good achievement of matrimonial cases , Advantages of e-filing is low cost. safe., and save the time, i 1,6 million cases were filled including matrimonial cases in this way [till to day]. This shows that how people are liking and using this system. I It is better to increase the training centers,There must be format requirements for documents electronically filed. v l  
b

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**From:** Angela Lipsman <alipsman@rubcorlaw.com>  
**Sent:** Monday, January 13, 2020 3:22 PM  
**To:** eFiling Comments  
**Subject:** New York State Courts Electronic Filing Program

To Whom It May Concern:

As an attorney who practices criminal defense in New York, I am glad to hear that the State of New York has been looking into introducing e-filing in criminal court matters.

New York State has fallen behind in this regard, as, for instance, U.S. courts and the State of New Jersey have had electronic filing in criminal matters for some years now.

I look forward to the day when e-filing is permitted in New York criminal courts.

Thank you for your consideration.

Very truly yours,

Angela D. Lipsman\*  
260 Madison Ave., 22nd Fl  
New York, NY 10016  
(212) 545-8777 (p)  
(917) 722-8206 (f)

\*Licensed to practice in NY, NJ, the SDNY, EDNY, the Dist. of NJ and the Second and Third U.S. Circuits.

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**From:** Matthew Lizotte <matthew@lizottepllc.com>  
**Sent:** Thursday, January 16, 2020 12:10 PM  
**To:** eFiling Comments  
**Subject:** Comments on Electronic Filing Program

Dear Chief Administrative Judge,

I am writing regarding your request for comments on the Electronic Filing Program. My principal recommendation is to review Connecticut's e-filing system and consider incorporating appearance reminders, notifications, and upcoming hearing dates into NYSCEF rather than maintaining a separate system on ECourts. Electronic filing for landlord-tenant matters would also be greatly appreciated by those who practice in your Courts and the environment.

Thank you for your time and consideration of this matter.

--  
Sincerely,

Matthew W. Lizotte, Esq.  
**Lizotte PLLC**  
3 E Evergreen Road, #323  
New City, New York 10956  
Office: (845) 450-0330  
Direct: (845) 450-0337

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**From:** Lyne, Mary J. <mlyne@woodsoviatt.com>  
**Sent:** Thursday, January 16, 2020 9:15 AM  
**To:** eFiling Comments  
**Subject:** need more choices in drop downs

Hi, I'm wondering if it is possible to add a few more choices in the drop down menu regarding the nature of the action. Our firm does foreclosures and while title companies guarantee their work, what is known as a Strict foreclosure of right of redemption sometimes has to be done. If this could be added to the drop down, I would be very happy. It's not a mortgage foreclosure, it takes place after the foreclosure sale, the action is complete. It's just done to tidy up title and we buy a new index number. Thank you.

Mary J. Lyne  
Foreclosure Assistant  
Direct Dial: 585-445-2441  
Direct Fax: 585-362-4505

[mlyne@woodsoviatt.com](mailto:mlyne@woodsoviatt.com)

Firm Phone: 585-987-2800  
Firm Fax: 585-454-3968  
[woodsoviatt.com](http://woodsoviatt.com)



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**From:** Linda Markowitz <linda@rosemarklaw.com>  
**Sent:** Monday, January 06, 2020 12:34 PM  
**To:** eFiling Comments

**Follow Up Flag:** Flag for follow up  
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Dear Judge Marks:

I think e-filing has been very successful and despite my initial trepidation I have been able to adapt and actually been able to e-file myself. My only criticism with the system is the requirement of some or most of the judges to also file "working copies". This defeats the marvelous efficiency of the e-filing system and requires double work on the behalf of myself and my staff requiring us to do the work of e-filing and copying as well. E-filing should not add to anyone's clerical burdens. Clerks can print out copies of things to read more easily than we can print out copies and then bring them over to a courthouse. I find this particularly burdensome at my age in a courthouse that does not have direct access for an older person such as the Westchester County Courthouse. I do not have a staff member that can do this for me at this point in my career.

Thank you very much for the ongoing technological innovations that you are continuing to make.

Linda Markowitz, Esq.  
Partner, Rosenthal & Markowitz, LLP  
399 Knollwood Road Suite 107  
White Plains, New York 10603  
914 347-1292 Telephone  
914 347-1293 Facsimile  
[Linda@RoseMarkLaw.com](mailto:Linda@RoseMarkLaw.com)

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**From:** Emlyn Marte <EMarte@sskblaw.com>  
**Sent:** Friday, January 17, 2020 11:58 AM  
**To:** eFiling Comments  
**Subject:** Suggestions

Hi,

Our firm believes that a drop down for motion to compel should be added.

Thank you!

**Emlyn Marte**  
Paralegal  
180 Froehlich Farm Blvd.  
Woodbury, New York 11797  
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**From:** Lori Minard <loriqueenb2112@yahoo.com>  
**Sent:** Thursday, January 16, 2020 8:25 AM  
**To:** eFiling Comments  
**Subject:** E-Filing for Surrogate's Court

When using the system, I think it is a waste to have to file a Request for Court Action form.

I wouldn't be filing documents on the portal if I didn't need Court Action.

Lori A. Minard, Paralegal  
SARLES, FREY & JOSEPH  
5800 Main Street  
Williamsville, New York 14221  
(716) 626-5200  
(716) 626-1515 - fax

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**From:** Hon. Martha E Mulroy  
**Sent:** Friday, January 17, 2020 1:29 PM  
**To:** eFiling Comments  
**Subject:** Re: input

Thank you for allowing me to respond. I sorry it is at the last minute.

Three concerns:

- 1) If Judgement of Divorce is E-filed, the court does not get notified. We are only notified if the attorney has also provided a hard copy to the court.
- 2) E-filing can affect the statutory requirements of being personally served documents. We as the Court become the process server.
- 3) E-filing shortens the time for responding papers. The statute allows additional time for mailing etc. I understand that when the attorneys agree to E-filed documents, this is expected. I'm just making the observation.

Martha E. Mulroy  
ASCJ Mat Part  
Onondaga County

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**From:** Nancy Oxeer <Noxeer@nytaxreview.com>  
**Sent:** Thursday, January 16, 2020 5:00 PM  
**To:** eFiling Comments  
**Subject:** E-filing Comments

Good afternoon,

I was wondering if a few adjustments to the format could be made.

We are a tax certiorari firm, so we consistently use S/B/L descriptions. I've noticed that when purchasing RJs, one screen requests the Block, Lot and Section; and another screen requests the Section, Block, Lot. It would be great if it were consistent in the same order – Section, Block and Lot, especially when I have more than one Lot to list.

Also, because we work with tax years (ie, 2018/19, 2019/20, etc), it would be of great assistance at commencement of an action, if the tax year I entered is listed at the top of each screen. By the time I get to the last screen, it's a "guess" as to which year I am filing because I may be filing for multiple years.

Other than that, it's been a great asset to use e-file.

Thank you.

*Nancy Oxeer*  
Executive Legal Assistant  
[Noxeer@nytaxreview.com](mailto:Noxeer@nytaxreview.com)

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**From:** Melissa Pickett <mpickett@counselpress.com>  
**Sent:** Wednesday, January 22, 2020 10:00 AM  
**To:** eFiling Comments  
**Subject:** comment on NYSCEF program - Note of Issue

When uploading a multi-volume Record and then the Appellant's Brief there is no option to upload a Note of Issue last. I believe the option does appear on the first list but if you are uploading multiple files and save the Note of Issue for last or forget to upload the Note of Issue first the option isn't present on later lists for that filing event. You have to go back in and start a new filing to upload the Note of Issue. Essentially, a Note of Issue should be added to all supplemental upload lists.

Thanks



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**From:** Milo Primeaux, Esq. <miloprimeauxesq@gmail.com>  
**Sent:** Friday, January 24, 2020 7:10 AM  
**To:** eFiling Comments  
**Subject:** Comments about e-filing

Good morning,

Thank you for opening up public comments on the e-filing system. I have a few brief comments to make based on my individual experience.

Although I am not writing on their behalf today, for transparency I do want to say at the outset that I serve by appointment on the Richard C. Failla Commission of the NYS Courts, which works to make our courts welcoming and affirming to all people regardless of sexual orientation, gender identity, and gender expression.

At this time, my only reason for interacting with the e-filing system is to file name changes for transgender clients. I represent trans folks across all of Upstate NY (anywhere outside NYC and Long Island). Name changes outside NYC usually do not involve court appearances, so I am able to handle the entire case remotely. This was vastly improved by the e-filing system, which has made remote filing a breeze.

However, some specific issues continue to come up when dealing with these name changes:

(1) Despite many counties now participating in e-filing, many rural ones still require working copies of all the papers in addition to the electronic filings. This, in large part, defeats the purpose of electronic filing, but moreover there is no indication on the e-filing site which courts still require this. There have been some cases that I've e-filed and not heard anything back for weeks -- when I call to get a status update, they tell me the case can't move forward without working copies. At this point, I've learned to just call proactively and ask, but it's not readily apparent to other e-filing users and may cause unnecessary delays in an otherwise simply process. **I would encourage the court system to eliminate requests for hard copies when papers are e-filed, and/or make readily apparent on the e-filing system to all users that working copies will also be required.**

(2) Many of my clients are very low-income and are squarely eligible for IFPs/Poor Person Status (PPS). For those clients, I file a motion for PPS along with the other name change documents, but again, depending on the county, there might be an unexplained additional step required of me to ensure that the papers are properly delivered to the attorney for the county of residence. For example, in Monroe County, the process is to file the papers online and then email the attorney for Monroe County with all the same papers for them to review for PPS status. This is not explained anywhere on the e-filing site (or the court or county clerk websites, to my knowledge). Lack of transparency about this resulted in an almost 6-month delay for several cases last year. Now I know better for Monroe County, but it will continue to be a guessing game for other e-filing users and even for myself regarding other counties with rules and processes that are not readily available to e-filing users. **I would encourage the court system to work with county clerks to unify and streamline these processes, thus making the whole system more efficient. Short of that, any county-specific peculiarities in process should be clearly stated and available on the e-filing site at some point during the filing process, possibly a pop-up note upon uploading a PPS document or at the end of the process before submission when indicating that no fee is being paid.**

(3) Most of my clients utilize a provision in the name change law that requests the court waive the statutory publication requirement and permanently seal their records, in order to maintain their privacy and keep them safe from members of the public who might seek to harm them. Although the judge has discretion in whether or not to ultimately grant that request, that same provision in the law *requires* that the judge immediately place the record under temporary seal until

the case can be decided, to provide temporary protections in the meantime. I have handled over 300 name change cases in New York since 2015. I ask for these protections and offer a temporary sealing order for judges to sign in almost 100% of my name change cases, and judges only sign the temporary sealing order at the outset of the case in about 5% of them -- and that number has actually *decreased* since switching over to e-filing. Most judges sign it along with the final order for name change at the end of the proceeding, which defeats the purpose of the temporary sealing order. It means that trans name change applicants, who are incredibly vulnerable to public ridicule, harassment, and violence by members of the public just by virtue of being trans, are subject to discovery members of the public throughout the duration of the name change process. **I would strongly suggest adding the option of marking an uploaded document in some way to bring the court's attention to it as something that needs to be reviewed immediately, OR better yet, to provide some mechanism for automatic sealing at the e-filing stage when such a law is being utilized, to be reviewed and confirmed by a judge during the course of the case.**

(4) It recently came to my attention that some sealed name changes are appearing in google searches associated with an application called Docket Alarm. The court in Monroe County has been alerted to this issue and they are working to investigate and rectify the situation, but this could result in a major breach of critically personal information for vulnerable litigants, including but certainly not limited to name change applicants who seek sealing due to being survivors of domestic violence and/or transgender status. This is probably due in no small part to the fact that these cases are left openly and publicly available at the outset or for their duration before being sealed at the end -- providing plenty of time for a third party site like Docket Alarm to grab the information and make it publicly available. **Whatever the court can do to investigate and rectify this on a wide scale to ensure the safety and privacy of vulnerable litigants is greatly appreciated -- and I point back to my suggestions in the previous paragraph for consideration.**

(5) **One final suggestion would be to consider adding an optional designation of pronouns or honorifics of parties (if known), or a preferred name to be utilized during the court proceeding, particularly where a party's legal name does not accurately reflect the name they go by on a daily basis and/or their personal gender identity.** This would be especially useful in cases not involving legal name changes, so that court staff and judges can see clearly in the docket file the name, honorific, and/or pronoun a party wishes to utilize during the proceeding or appearance, thus avoiding accidental and potentially harmful misgendering of transgender, non-binary, gender-expansive, and gender-nonconforming people. While not every litigant will feel the need to utilize these designators, it will be extraordinarily helpful and useful to those who need it in order to equitably access the court system and be recognized for who they are in the process.

I am happy to answer any questions you have about this. Thank you for your time and attention, and for continuing to make the e-filing system for effective and efficient for all users.

Sincerely,  
Milo

Milo Primeaux, Esq. (he/him or they/them)  
Law Office of Milo Primeaux, Esq.  
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January, 22, 2020

To the Office of Court Administration:

Re: **Comments on NYSCEF**

My name is Stephen Phillip Romine and I am a pro se litigant in New York Supreme Court in Albany and in Appellate Court in the Third Judicial Department. I filed an Article 78 petition (#902202-19) electronically through the NYSCEF system for the first time on April 15, 2019. Due to mitigating circumstances I was not able to file sooner and this was the last day I could file because the Statute of Limitations (SOL) would take effect the next day. When I submitted my documents and checked the record many of my documents were filed multiple times on the document list. There were some other irregularities that happened which I can't recall as that was 10 months ago. The irregularities did cause me great consternation and extensive delay in completing the filing.

In desperation I called up the NYSCEF Resource Center Support for help (646-386-3033) and spoke with a member of the staff who was very helpful. I explained the situation I was facing with the filing irregularities and was asked by the staff person what type of computer I was using. I stated I was filing with a Mac Desktop computer. He was surprised that I could

even file with a Mac and stated that people have all kinds of problems filing with a Mac. Now this was the last day I could file and nowhere on the NYSCEF website was there any mention or warning that there may be problems filing with a Mac computer. Thank God I was able to eventually get my documents properly filed, which I completed 3 ½ minutes before the SOL took effect.

My comments for this office to take notice of are:

- 1- The NYSCEF system needs to be made more compatible with Mac computers which many people use including myself.
- 2- The public should be informed and warned if the NYSCEF system has more problems with certain types of operating systems so people can plan to use a more compatible system the day they file.
- 3- In spite of those irregularities I ran into and brushing with disaster, I am very happy that we have an electronic filing system in New York State. I live a good distance away from Albany and electronic filing makes litigating so much more convenient for me and others who maybe don't have personal transportation.

Thank you for your time and consideration,

Steve Romine P.O. Box 657 Woodstock, New York 12498

*Steve Romine January 22, 2020*

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**From:** Kitson & Schuyler P.C. <pschuyler@kitsonschuyler.com>  
**Sent:** Thursday, January 16, 2020 4:45 PM  
**To:** eFiling Comments  
**Subject:** RE: New York State Electronic Filing Program

To whom it may concern:

I am writing as an attorney who uses NYSCEF on a daily basis. I have the following comments/requests:

- My first comment is that I love the system. It is such a time saver and it continues to be improved. You guys are doing a great job!
  - I would like to see eCourts integrated with NYSECF so that all scheduling for upcoming/past court appearances are listed in a separate tab, or better yet, in the case detail as a separate column.
  - I like the "motion folders" idea and would like to expand it by allowing a "download all" button for getting all motion docs at once
  - I think the folder idea should be expanded by grouping all orders of the court in one folder, all stipulations in another folder that would appear at the top of the document list
  - I think there should be clearer rules about what is allowed to be uploaded. All discovery demands should be permitted to be uploaded to the case and that service is effective upon posting.
  - When will it be possible to upload non-pdf files, or is this really possible? There are times I've considered using video as exhibits, but haven't because I didn't want to put my client through the expense.
  - I am stretching things here, but it would be handy if there was a desktop application that would sync all documents automatically to my computer by case.
  - Lastly, I would like to print a single list of all my cases in a pdf format. You can't do that now.
- Thanks for all your hard work to build this system. I am confident that you will continue to expand and improve NYSCEF.

Sincerely,  
Peter Schuyler

Peter Schuyler, Esq.  
Kitson & Schuyler P.C.  
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**From:** Marie Smith <msmith@npfslaw.com>  
**Sent:** Monday, January 13, 2020 11:59 AM  
**To:** eFiling Comments

The system is great for filing papers, but then it seems to be a waste of time and paper to also have to submit working copies and then another to bring in to court on the return date.

## Marie Smith

Paralegal to John J. Nicolini, Esq.  
Nicolini, Paradise, Ferretti & Sabella  
114 Old Country Road #500  
Mineola, NY 11501  
516-741-6355

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**From:** Michael Stutman <Michael.Stutman@sslip.com>  
**Sent:** Friday, January 03, 2020 4:25 PM  
**To:** eFiling Comments  
**Cc:** Dylan Mitchell  
**Subject:** Filing comments

**Follow Up Flag:** Flag for follow up  
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I support mandatory eFiling with some carve outs to be established after consulting with appropriate bar groups

Michael Stutman, Partner  
Stutman Stutman & Lichtenstein, LLP  
655 Third Avenue--11th Floor  
New York, New York 10017

Direct: 646 688 4748

Mobile: 917 455 3355

Past President--American Academy of Matrimonial Lawyers, New York

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**From:** Taylor, Aaron <Aaron.Taylor@erie.gov>  
**Sent:** Thursday, January 16, 2020 4:26 PM  
**To:** eFiling Comments  
**Subject:** Unified Court System electronic filing annual report comments

Mr. Carucci,

I am a Document Clerk working at the Erie County Clerk's Office. My comment is regarding the filing of Clerk Default Judgments in the following action types.

Other Matters - Consumer Credit (Card) Debt Buyer Plaintiff

Other Matters - Consumer Credit (Card) Original Creditor Plaintiff

Other Matters - Consumer Credit (Card) Secondary Debt Buyer Plaintiff

The Current process for these action types is disjointed and inefficient inviting error and delays in the review of proposed documents at multiple points leading to the entry and docketing of judgment. Furthermore, it inhibits all flexibility and changes to the action without Court and/or Clerk's Office intervention to circumvent the NYSCEF system requirements and allow for the necessary document submissions to be made. I will outline the major (not all) problems this causes followed by a simple suggestion to help solve them. I will be as brief and concise as possible.

The issue revolves around the required Additional Mailing (Court Notice) that is completed by the Court and the required Affidavit submissions (also completed by the Court) attached to the Judgment – Clerk Default Proposed completed by the Clerk's Office. In Erie County, there are currently (as of 01/15/2020) 973 pending Judgment – Clerk Default Proposed documents in these action types that cannot be reviewed yet/no longer require review/other circumstances many of which have multiple pending affidavits associated with them dating back into actions commenced in 2017.

Currently the Additional Mailing is submitted outside the NYSCEF system. Once it is mailed by the Court the document type Court Notice is uploaded into NYSCEF. After the service period has passed the Court reviews the proposed Affidavits in their queue. In the instance of a defect, the document titled Defect Checklist is uploaded into NYSCEF by the Court. In the instance where the Court finds no defect, the Court notifies the Clerk to go ahead and enter/docket the judgment (outside of NYSCEF). If the circumstances of the action change (ex. a stipulation of settlement is entered into between the parties), it is impossible for the filing attorney to proceed with the action without the Court/Clerk's Office working around NYSCEF system requirements to enable the filing attorney to submit necessary documents. This presents several problems including but not limited to....

- There is no record of the submitted mailing in the action as it is done outside the NYSCEF system. Attorneys currently send the Additional Notices to different addresses. The process involves several levels of sorting and inter-office forwarding to reach the correct department.
- There is no record of the Court notifying the Clerk to enter/docket Judgment as it is done outside the NYSCEF system. Again, multiple levels of inter office forwarding/sorting.
- The Affidavits that require Court review are bound to the Judgment – Clerk Default (Proposed) submitted to the Clerk's Office. **THIS IS THE LARGEST PROBLEM.** These documents can only be submitted simultaneously and must all be submitted regardless of necessity. Depending on the timing/change in circumstance this leads to numerous problems including but not limited to...
  - Submission of Judgment and Affidavits prior to Court Notice being filed causing both the Court and Clerk's Office to both have pending documents that they cannot review and no time frame as to when the Additional Notice will be received to begin the review process.
  - Submission after the service period has passed. The Court goes to review the affidavits after the service period has passed. If the documents are not yet submitted for review then the Court has to periodically check all the pending actions individually to see if the documents have been submitted or not.

(remember the clerk also has a pending judgment they cannot do anything with as the affidavits are attached to it)

- Court approves documents but notice of approval isn't received by the Clerk's Office. The Judgment is just pending review and since the approval is outside of NYSCEF and lost in transit it stays pending until the filing attorney inquires about it months later.
- Judgment based on default in stipulation of settlement entered into after the commencement of action cannot occur without intervention. Here no Court review is required. However, the filer is still required to submit the affidavits (some not necessary) to the Court because they are attached to the Judgment – Clerk Default Proposed. The Filing attorney either submits other documents under incorrect title and contacts the Court to approve them, contacts the Clerk's Office to contact the Court to approve them, contacts the Clerk's Office to change the case type, submits judgment and waits to see what happens making it fall onto the Clerk's Office / Court to notify them that action is required to make their submission "work" in the NYSCEF system, or do something else unpredictably that leads to other problems.
- Other smaller problems that will be resolved if these major problems are solved. Mainly, these stem from the inability to locate the exact step in the process that the action is at as several parts are handled outside NYSCEF and not accurately tracked. With no notice being given to the filing users/Court/Clerk's Office actions sit stagnant and documents pend for sometimes years (we do our best to clear out the very very old ones). It's a mess.

My suggestion would be to require a Court Notice Proposed (or other proposed document type) containing the Additional Mailing to be submitted through the NYSCEF System by the attorney for the plaintiff. The Affidavits that are currently attached to the Judgment Clerk Default Proposed would instead be attached to this Court Notice Proposed and all route to the Court at the same time where they will eventually be reviewed and approved. Following the submission of the Court Notice Proposed, the Court can process the Court Notice Proposed and upload their Court Notice in the order that they are received through the NYSCEF system as opposed to whenever they happen to get sorted through to the appropriate office. Since the Affidavits that the Court reviews are now attached to the Court Notice Proposed (as opposed to the Judgment Clerk Default Proposed) there will be no disconnect when the service period has passed as the Affidavits must be available for review due to the Affidavits being required by the NYSCEF system at the time of filing the Court Notice Proposed. In addition, this will eliminate the submission of Judgment/affidavits before the Court Notice is completed as the Court Notice Proposed and Affidavits are submitted together. This will also eliminate the sorting and inter office processes as the submission is going through the NYSCEF system. In addition, this will allow filing attorneys flexibility with changes of circumstance as they will not be forced to file affidavits/documents to the Court where no Court review is required for the entry of judgment (ex. Stipulation of settlement default). After Court review, if no defect is found, the Court would then upload an Approved Checklist (or other document title) that notifies all filing users that their submission has been reviewed (the same way a defect checklist would notify them) and **THEN** the filing attorney for the plaintiff may submit their Judgment Clerk Default Proposed which can be immediately reviewed and entered/docketed since all the required documents and reviews have already been completed and documented through the NYSCEF system.

This simple change of adding a proposed notice and attaching the proposed affidavits to the proposed notice instead of the proposed judgment would enable the only pending documents to be the affidavits awaiting the service period to pass which can be immediately reviewed after such period without further delay. Also, the addition of the approved checklist will allow for the filing attorney to know when their action review is complete so that they can submit their judgment for entry/docketing and also show the Clerk reviewing the Judgment Clerk Default Proposed that the Court has completed their review. In addition, it would be clear and easy to tell what has been completed and what has not been completed on the path to the judgment being entered/docketed for all involved. Lastly, it would eliminate the inter office shuffle and make these actions much more manageable as each department involved would only get the documents that they require at the time they are required to be reviewed.

Thank you for your time,  
Aaron

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**From:** Laura Trachtman <lmt@traxlaw.com>  
**Sent:** Thursday, January 02, 2020 4:54 PM  
**To:** eFiling Comments  
**Subject:** Comments

**Follow Up Flag:** Flag for follow up  
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Hello,

Please please please implement e-filing in matrimonial actions. Everything is done on a computer these days. Having to physically go to court to purchase an index number, file a complaint, or make a motion is a total waste of money, time and energy—one has to go to the clerk to get it approved, then go pay for it, then go back to the clerk for review, and then go back AGAIN to see if it's been approved—that's a whole day wasted. I've put together matrimonial motion papers in hard copy in duplicate and it's a nightmare. Especially for those of us like me who don't like to rely on others for help, it is so much easier to simply organize the PDFs in a folder and then upload them and pay via credit card. It's environmentally friendly, too, as we don't have to use so much energy, paper, and ink to deal with this. Also, such a huge savings on time and money, as we don't have to either take the papers to court ourselves or hire a service to do so.

There's no doubt but that e-filing will become the norm and not the exception in every single type of case that we deal with; it only makes sense for matrimonial actions, and family and criminal court actions too, to be e-filed. I just had to purchase an index number in Kings County for a matrimonial in December 2019, and I was shocked and actually rather indignant to find that Kings County wasn't a matrimonial e-file county. It is so much easier. I do it for myself, and for my older co-counsel who aren't as comfortable on computers. Even filing for others takes less time than assembling hard copies and taking it over to court. Also, there's so much more time to file — the clerk's office closes at 4:45PM or so, and I can literally file until just about midnight on e-file.

E-filing was literally the best thing to happen to the court system in my lifetime. Please make mandatory e-filing on everything.

Thank you for your consideration of my opinion.

Best,  
LMT

**LAURA M. TRACHTMAN**  
**TRACHTMAN & TRACHTMAN**  
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**From:** Peter Traub <PTraub@stevensandtraub.com>  
**Sent:** Thursday, January 16, 2020 4:29 PM  
**To:** eFiling Comments  
**Subject:** E-File Recommendation

Dear Sir/Madam:

Pursuant to a recent notice, I would like to suggest a drop down box that simply states "Notice of", allowing us to precisely file notices that are not necessarily listed in the menu of choices.

Sincerely

Peter P Traub, Esq.  
Stevens & Traub, PLLC  
336 West 37th Street, Suite 430  
New York, New York 10018  
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(F) 212 966-7448  
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**From:** Maureen Ware  
**Sent:** Wednesday, January 22, 2020 3:15 PM  
**To:** eFiling Comments  
**Subject:** public comments

Hello,

As a Judge's secretary I would find it very helpful if I could file and Order from within the case. Many times I need to go into the document list to make sure which motion the Order applies to, but then I have to go out of the case in order to file the document.

Thank you,

*Maureen P. Ware*  
Secretary to Hon. J. Scott Odorisi  
NYS Supreme Court  
415 Hall of Justice  
Rochester, NY 14614  
Phone: (585) 371-3645  
Fax: (585) 784-4211



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**From:** John F. Werner  
**Sent:** Saturday, January 18, 2020 6:51 PM  
**To:** eFiling Comments  
**Subject:** Fwd: Matrimonial and Criminal E Filing  
**Attachments:** Electronic Filing of Matrimonial Cases - 2020 Memo.pdf; ATT00001.htm

John F. Werner  
205 East 82 Street  
New York, NY 10028  
January 17th, 2020

Mr. Jeffrey Carucci  
Statewide Coordinator for  
Electronic Filing  
Office of Court Administration  
25 Beaver Street, Rm 823  
New York, NY 10004

Re: Requests for Comments, New York State Electronic Filing Program

Dear Mr. Carucci:

I respond to Chief Administrative Judge Lawrence K. Marks' December 23, 2019 requests for comments on the NYS Unified Court Systems electronic filing system. I am an unaffiliated attorney, but for more than 50 years, until August 2020, had been employed by the NYS Unified Court System and for the last 30 years of that period I served as Chief Clerk and Executive Officer of the Supreme Court, Civil Branch, New York County. I am also a longstanding member of the Chief Administrative Advisory Committee on Civil Practice (George Carpinello, Esq. Chair, Jessica Cherry, Esq., Counsel) and of the New York City Bar Association's Council on Judicial Administration (Michael Regan, Chair). Of course, the thoughts I express here are my own and my own alone, and I know various others, including committees and bar associations, will speak for themselves on these matters to the extent that they may choose to do so.

Given, as mentioned above, my long service as Chief Clerk in New York County, and the critical role which you, Mr. Carucci, have yourself had in developing e-filing in that New York County and throughout NY State, you know that I am quite familiar with the history of e-filing in our state, which was first authorized in 1999 essentially two counties of our state, New York County and Monroe County, in Commercial Division cases and on a consensual basis only. As is well known, after e-filing was first authorized in 1999 in Monroe County the then County Clerk of that county had her own concerns and requirements in regard to this medium of filing and for almost 20 years after authorized there was not a single case was e-filed in that county. Further, only modest resources for the program were allocated in New York County and in the UCS Department of Technology ("DOT"), and so these many years later it is a great tribute to what became the UCS E-Filing Resource Center and DOT that e-filing has expanded so successfully, including on a mandatory basis in so many actions types (and with only few action types in which mandatory e-filing was excepted entirely), in so many courts in so many counties throughout the state. A great deal could be said about how this was accomplished, but this is not the place for that.

Of course, there are those who would and do say that e-filing in our NYS courts has not progressed quickly enough and has been much too limited in its authorization. Many compare progress of e-filing in our NYS Courts with the advance of e-filing in our Federal Courts. It is a fair comment I think that our Federal Court counterparts have pursued e-filing under their own exclusive egis and have not looked to the US Congress for authorization. Clearly that is a simpler model in which to function, but we are pleased with the support we have received from the NYS Legislature. This said the expertise in such matters in our very complex, indeed overly complex NYS court system, reposes in the New State Court System itself, and after all of these years of experience with e-filing I think it time that responsibility for managing and expanding e-filing in the NYS courts should be left largely to the NYS Court System itself, which would of course always do that in consultation with bar associations, local practitioners and the like.

As for the proposed amendments to CPLR Article 21A and other relevant statutes set forth in Judge Marks' December 23, 2019 memorandum, I personally believe all should be adopted in their entirety, including the authorization of mandatory e-filing in matrimonial actions, and that the case for doing the latter is made persuasively in the December 20th, 2019 memorandum of the Hon. Jeffrey Sunshine, Statewide Coordinating Judge of Matrimonial Cases (see attached). Some have suggested that the confidential nature of matrimonial cases does not lend such cases to e-filing. However, those well informed on this subject would make the exact opposite argument, i.e., e-filing of actions of whatever sort can ensure greater confidentiality where required than hard copy filing of such matters. All matrimonial documents in NYSCEF are confidential and will remain that way in conformity with DRL 235. Such documents are not retrievable on-line by anyone other than a participating attorney who is representing a party or a participating party representing themselves. Any e-mail sent via NYSCEF is secure in that the matter is itself confidential and any link to a document will not be accessible without an authorized party signing into the system. And again, informed opinion suggests that e-filed matrimonial files are more secure than paper filings in that they are not sitting largely unattended on a shelf in a county clerk's office, left on a copying machine by someone making a copy, or out on a desk visible to anyone else in the courthouse. Even court users are limited in their access in that the Chief Clerk and the County Clerk is required to authorize those within the court who should have access to matrimonial files in NYSCEF and only those authorized persons will be able to view a matrimonial file. Further, should there ever be a need to ascertain who accessed a document and when, that information is readily available v ia tracking of log-in information, user ID, and/or IP address.

As to concerns raised from time-to time, and resistance in some quarters to digitizing confidential files of whatever sort, the simple fact of the matter is that many County Clerks in NYC and beyond are already digitizing hard copy filings by scanning them. And such material, including material confidential by statute, e.g., matrimonial cases, or material sealed by court order, are still made available within the courts to authorized judges and court personnel in digital format. So, those who are under the impression that resisting the e-filing of such material will preclude its digitization are simply wrong.

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