



# SUPREME COURT CIVIL TERM KINGS COUNTY COUNTY CLERK OF KINGS COUNTY

## PROTOCOL ON COURTHOUSE AND COUNTY CLERK PROCEDURES FOR ELECTRONICALLY FILED CASES (August 5, 2019)

Attorneys and unrepresented litigants seeking information about how the New York State Courts Electronic Filing System (“NYSCEF”) works are advised to consult the User’s Manual and FAQs, both available at the NYSCEF website ([www.nycourts.gov/efile](http://www.nycourts.gov/efile)). What follows is an explanation of how traditional courthouse and County Clerk filing requirements for the processing of cases are applied in e-filed cases. These procedures endeavor to minimize the need for trips to the courthouse by counsel and unrepresented litigants, and to avoid inconvenience generally.

The NYSCEF system does not change the rules applicable to civil litigation. As such, the protocols promulgated herein, as well as any additions or amendments thereto, do not change applicable rules or statutes with respect to civil practice as defined by the New York State Civil Practice Law and Rules (“CPLR”) and the IAS Part Rules as they apply to action types being filed in the NYSCEF system.

Attorneys and self-represented litigants are advised to check the NYSCEF website ([www.nycourts.gov/efile](http://www.nycourts.gov/efile)) for updates to the NYSCEF system and for updates to the e-file court rules promulgated after issuance of this protocol.

Official Case Record: The official record of a document in an e-filed case is the electronic record of the document stored by the County Clerk [Uniform Rule 202.5-b (d)(4)].

### A. E-Filed Cases Generally

1. **Cases Commenced via NYSCEF:** Cases that are commenced by filing of the initiating papers with NYSCEF are identified as e-filed cases by assignment of a special index number (i.e., Index Numbers beginning with 500,000). The Supreme Court’s Civil Case Information System (“CCIS”) will further identify e-filed cases by the addition of a suffix to the index

number (e.g. 500136/2006E). This suffix should be used on all documents filed with the court in e-filed matters.

**2. Mandatory E-Filing:** All cases required to be e-filed are listed in Uniform Rule 202.5-bb (Mandatory E-Filing Rules) and on the NYSCEF website. All such cases must be commenced by filing with the County Clerk electronically through NYSCEF and all subsequent documents in such cases must be e-filed. Any questions regarding mandatory e-filing in Kings County can be e-mailed to [kcco-efile@nycourts.gov](mailto:kcco-efile@nycourts.gov).

Unrepresented litigants are exempt from e-filing. They can serve and file documents in paper form and must be served with documents in paper form. However, an unrepresented litigant may participate in e-filing. For information on how to participate in e-filing, unrepresented litigants should contact the Kings County Clerk's e-filing department at [kcco-efile@nycourts.gov](mailto:kcco-efile@nycourts.gov) or visit [www.nycourts.gov/efile-unrepresented](http://www.nycourts.gov/efile-unrepresented). Unrepresented litigants are also encouraged to visit [www.nycourthelp.gov](http://www.nycourthelp.gov) or contact the Help Center (room 122c). An unrepresented litigant who consents to e-filing may cease participation at any time by filing the "Notice of Intent to Cease E-Filing" form EF-6. ([See Forms Section on NYSCEF Website.](#)) However, the other parties may continue to e-file their court documents in the case.

An attorney who certifies in good faith that he or she lacks the equipment or knowledge needed to e-file and have no staff member or employee under his or her direction who has such knowledge and equipment may opt out of participation in e-filing in a mandatory case by filing a "Notice of Opt-Out from Participation in Action Subject to Mandatory Electronic Filing" form EFM-2 with the Clerk. ([See Forms Section on NYSCEF Website.](#))

In all matters, the executed form shall be filed with the County Clerk's E-File Department in person (360 Adams St., Room 189). An attorney may also seek an exemption from the Justice assigned upon a showing of good cause.

**3. Consensual E-Filing:** All cases authorized to be e-filed are listed in Uniform Rule 202.5-b (Consensual E-Filing Rules) and on the NYSCEF website. Any questions regarding consensual e-filing in Kings County can be e-mailed to [kcco-efile@nycourts.gov](mailto:kcco-efile@nycourts.gov).

**4. E-Filed Cases Where One or More Parties Opt(s) Out:** If in an e-filed case a party opts out or obtains an exemption from participating in e-filing, the case shall remain an e-filed matter, and all documents to be filed with the court shall be electronically served on all participating attorneys, parties and the court. Non-participating parties shall file and serve and be served in hard copy format. Pursuant to the E-Filing Rules, the filing party shall submit to the County Clerk or Supreme Court Clerk the original hard copy documents in normal format together with a "Notice of Hard Copy Submission – E-Filed Cases" form EFM-3 ([see Forms Section on NYSCEF Website](#)). In addition, an unbound hard copy must be provided to the Supreme Court Clerk. Unrepresented parties are not required to file an opt-out form or hard copy submission form, per 22 NYCRR 202.5-b(b)(2)(ii).

The image copies of documents filed in hard copy are public records available for public inspection. It is the responsibility of the filer to ensure that the hard copy documents comply with

New York law governing exclusion of social security numbers and confidential personal information in documents filed with a state court (see Gen. Bus. Law, §399-dd), redaction rule (Uniform Rule 202.5 (e)), See B(10) and (11) of this Protocol.

**Although NYSCEF will notify the consenting parties that a document has been filed, any party that has opted out must also serve the documents on the opposition in paper format and file an Affidavit of Service with the County Clerk and/or Court.**

## **B. Filing of Papers Generally**

**1. Papers Must Be Filed to the NYSCEF System (“the system”); Paper Documents Not Accepted:** All mandatory e-filed cases must be commenced electronically. Unless otherwise provided by in the E-Filing Rules or this Protocol, the Kings County Clerk will not accept commencement documents in paper form nor will the court accept subsequent documents in that form in these cases. Paper copies (“Working Copies”) of motion papers are required by some Justices of the Court. Consult individual IAS Part Rules and see Section 7 herein.

**2. Commencement Under Seal or Anonymous Caption:** If a party wishes to commence a case under seal or to proceed under an anonymous caption:

In a NYSCEF case, if a case is filed with an anonymous caption and an accompanying OSC to maintain the anonymous caption and to seal, the Kings County Clerk files the case as anonymous pending court review. Same procedure for a paper filing. If a tort case is filed with an Anonymous caption, an OSC seeking an Anonymous caption and to seal documents and a request for restricted status in NYSCEF, the County Clerk temporarily restricts access to the documents pending the OSC. The NYSCEF restricted status lasts for five days after which the filing is reverted to a public record. Restricted status permits the parties and authorized court staff to have access, but not the public. To retain the restricted status beyond the five-day period, the County Clerk must be served with a signed OSC granting continuation of the restricted status.

If a tort case is filed with the names of the parties and an OSC seeking sealing of documents in the action accompanied by a request for restricted status filed in NYSCEF, the County Clerk temporarily restricts access to the documents pending the OSC. The NYSCEF restricted status lasts for five days after which the filing is reverted to a public record. Restricted status permits the parties and authorized court staff to have access, but not the public. To retain the restricted status beyond the five-day period, the County Clerk must be served with the OSC granting continuation of the restricted status. If the filer has any questions, please contact Administration at the Kings County Clerk’s Office at [kcco-efile@nycourts.gov](mailto:kcco-efile@nycourts.gov) before filing any documents. See also Section K.3(a) herein.

**3. Notice of Hard-Copy Submission:** Where in accordance with the E-Filing Rules a party submits a document in hard copy in an e-filed case (principally, a document submitted by a non-participating party (e.g., an attorney) in a consensual case, an emergency filing made in

accordance with the Mandatory E-Filing Rules, and any document filed with the court in hard copy by an attorney who has opted out of participation in mandatory e-filing, the document must bear the back page facing out, a “Notice of Hard Copy Submission - E-Filed Cases” form EFM-3. ([See Forms Section on NYSCEF Website.](#))

Under the rules, a participating emergency e-filer must electronically file the documents initially filed in hard copy form within three (3) business days of the emergency filing; the originals will be discarded after the documents have been processed and the failure to e-file as required will therefore lead to an incomplete record.

**4. Errors Upon Submission:** Submission of documents which, upon examination, require correction or addition will result in notification to the filer advising that there is a problem with a document. The filer shall make the required corrections and/or additions and resubmit the corrected document using the “Refile this document” link. In the event a document is returned for correction, the original file date will be preserved. For corrections of documents filed with the Kings County Clerk which require a court order, refer to the procedure in 22 NYCRR 202.5-b(d)(3)(iii) and section B(11) of this protocol.

**5. Index Numbers:** In cases commenced electronically by the filing of initiating papers with the NYSCEF system and payment of the statutory fees, the Kings County Clerk will issue an NYSCEF designated index number and the filer shall be notified via the NYSCEF system of the index number assigned and filing date. Such index number must be affixed to all document submissions, filings and communications to the Kings County Clerk and Supreme Court. If counsel faces exigent circumstances that require accelerated assignment, counsel may contact Administration of the Kings County Clerk at [kcco-efile@nycourts.gov](mailto:kcco-efile@nycourts.gov), during normal business hours of the court.

**6. Fees:** Court fees in NYSCEF cases must be paid via NYSCEF by a credit or bank card (MasterCard, Visa, or American Express). Fees are no longer accepted in person in the Kings County Clerk’s Office in NYSCEF cases.

**7. Working Copies of Documents for Judicial Review:** Unless otherwise directed by the Court or as described herein, and with the exceptions listed below, in all NYSCEF cases in which an RJI has been filed, working copies of e-filed documents that are intended for judicial review must be submitted to the court. Working copies are not required of documents that are only processed by a support office (e.g. preliminary conference request, note of issue). Working copies shall include exhibit tabs and backs; for motion papers, the motion sequence number and the return date and part. The confirmation notice with the motion sequence number on it should be the back page of the motion facing out.

In addition, the filer of a working copy must firmly bind thereto, with the back page facing out, a copy of the Confirmation Notice that was generated by NYSCEF when that document was e-filed. Working copies that are submitted without the related Confirmation Notice will not be accepted. The official record of a document in an e-filed case is the electronic record of the document stored by the County Clerk [Uniform Rule 202.5-b(d)(4)] and working copies will not be considered part of the official record in a case. Working copies are intended only for the use

of the Justice and will be discarded after the Justice is finished with them. Therefore, if counsel fails to properly e-file a document, it will not be part of the court record.

**NOTE: For court parts not requiring working copies, please refer to the individual Justices' rules.**

**8. Authorization Form - Filing Agent:** A firm or person (other than one employed by a governmental entity) acting as filing agent for an attorney or party to a case must file an authorization form (accessible on the NYSCEF website) prior to or together with the first e-filing by that attorney or party in that action. Uniform Rule 202.5-b (d)(1)(ii). An attorney or unrepresented litigant who files through a filing agent must nevertheless have a User ID and Password so that filing by the agent can be associated with an attorney of record or unrepresented litigant.

**9. Filing a Document Where Size, Consistency or Context Prevent E-filing:** With limited exceptions, as set forth in the Uniform Rules and herein, all documents to be filed with the court in a NYSCEF case shall be filed online via the NYSCEF system. However, should the size, consistency or context of a hard copy document preclude electronic filing, the user shall electronically file a "Notice of Hard Copy Submission - E-Filed Cases" form EFM-3. ([See Forms Section on NYSCEF Website.](#)) Any hard copy submitted pursuant to this section shall include, as a cover page firmly fastened thereto, a copy of the Confirmation Notice received from the NYSCEF site confirming receipt of the "Notice of Hard Copy Submission - E-Filed Cases". Any party may object to such hard copy filing. The Court, in response to such objection, may, following the hard copy filing, fashion such relief as it deems appropriate pursuant to and in furtherance of the Uniform Rules and these protocols, including, but not limited to, an Order directing the filing party to file such documents online via the NYSCEF system. When exhibits are impractical to file pursuant to Uniform Rule 202.5-b(d)(7), an additional "Notice of Hard Copy Exhibit Filing" form EFM-4 is required to be submitted. ([See Forms Section on NYSCEF Website.](#))

**10. Social Security Numbers:** An attorney or unrepresented litigant filing a document via the NYSCEF system must comply with the requirements of General Business Law §399-dd(6), which often require redaction of any social security number that appear in the original document. The NYSCEF system automatically redacts portions of filed documents which apparently contain social security numbers pursuant to 22 NYCRR 220.5-b(k). In the event the filing party receives e-mail notice through NYSCEF that a social security number in a filed document has been redacted, and the filing party concludes such redaction is erroneous, the filer should click on the link provided in the e-mail to permit the County Clerk to revert the redaction. For Confidential Personal Information, see Uniform Rule 202.5(e) and B(11) herein.

**11. Procedure to Restrict Upon Failure to Redact: Uniform Rules of the Supreme and County Courts § 202.5:** In accordance with this protocol, the Kings County Clerk will temporarily restrict documents erroneously filed containing CPI upon request by submitting Notification of Confidentially Issue or Error (NYSCEF Form EFM-24) or Request for Restricted Access (NYSCEF Form EFM-25). Both forms must be accompanied by an application to the court. If the court grants an extension beyond the five-day temporary restriction authorized by the court rule, it is incumbent on the filing party to notify the County Clerk pursuant to CPLR 8019(c)

by filing Notification of Order Extending Restriction (NYSCEF Form EFM-26) and the court order with the County Clerk to authorize further extension of the restricted access.

Documents erroneously filed for procedural issues (e.g. incorrect county) will be returned for correction by the County Clerk or Supreme Court and is covered by Protocol B(4) herein.

12. **Exhibits:** In the NYSCEF system, each exhibit should be uploaded as a separate PDF file. After uploading a primary document, please choose the document type "Exhibit", enter the appropriate number or letter, and be sure to place a check mark to the right of "Attach to main document". Each exhibit shall bear a separate cover sheet clearly marked as Exhibit A, Exhibit B, etc.

13. **Technical Failures:** When filing by electronic means is hindered by a NYSCEF technical failure (as set forth in Uniform Rule §202.5-b (i)), a party may file with the appropriate Clerk in hard copy. Except for deadlines that by law cannot be extended (e.g. Statute of limitations, Notice of Appeal), the time for filing of any document that is delayed due to technical failure of the NYSCEF system shall be extended for one day for each day on which such failure occurs, unless otherwise ordered by the court.

14. **Amending the Caption:** If counsel wishes to amend the caption by stipulation or as of right, counsel must e-file a "Notice to County Clerk Amendment to Caption" form EF-23. ([See Forms Section on NYSCEF Website.](#)) If the court, by order, grants leave to amend the caption, counsel shall submit to the County Clerk's E-File Department via NYSCEF a copy of that order and a completed "Notice to the County Clerk - CPLR § 8019 (c)" form EF-22. ([See Forms Section on NYSCEF Website.](#))

#### **C. Requests for Judicial Intervention**

An RJI with the relevant required addendum in a NYSCEF case shall be submitted via NYSCEF. Once e-filed, the RJI and any accompanying document will be forwarded to the relevant support office for random assignment of the case and processing of the document. A filer or counsel need not appear (as to Proposed Orders to Show Cause, however, see below). A filer who seeks assignment to the Commercial Division must submit with the RJI a Commercial Division RJI Addendum [Uniform Rule 202.70 (d)] "Request for Judicial Intervention" form EF-4. ([See Forms Section on NYSCEF Website.](#)) A copy of the pleadings must be submitted only if the document has not previously been e-filed. If the RJI seeks intervention with regard to a document that is intended for review by a Justice, such as a motion, a working copy of the RJI must be submitted with the working copy of the motion and the NYSCEF Confirmation Notice.

#### **D. Motions on Notice**

The motion must be filed with NYSCEF and the motion fee paid. The moving documents must be e-filed no later than eight (8) days prior to the return date. After papers on motions have been e-filed, working copies thereof, with Confirmation Notice firmly attached as the back page facing out, must be submitted. (Each document or group of documents that is separately bound shall bear a Confirmation Notice.) Working copies lacking the Confirmation Notice will not be accepted. The Confirmation Notice must indicate the sequence number of the motion being submitted and the date and part where the motion is returnable. Working copies without Confirmation Notices will not be accepted.

WORKING COPIES OF MOTION PAPERS MUST BE SUBMITTED IN THE MOTION SUPPORT OFFICE (ROOM 227) AS EXPLAINED HEREIN. THEY MUST NOT BE DELIVERED TO THE PART OR CHAMBERS, EXCEPT WHERE THE INDIVIDUAL JUSTICE'S PART RULES PROVIDE OTHERWISE; DOING SO WILL CAUSE ADMINISTRATIVE CONFUSION AND POSSIBLE MISPLACEMENT OF PAPERS. Any such submission shall be sent in a timely manner (kindly review individual Justice's rules) and be conspicuously marked on the outside "NYSCEF Matter;" lack of such marking may delay processing.

1. **Exhibits:** Whenever possible, attorneys submitting exhibits in NYSCEF cases should make each exhibit a separate attachment to an affidavit/affirmation in the system (i.e., multiple exhibits should not be filed as a single PDF).
2. **Notification of Decisions and Orders:** After issuance of a decision and order by the court on a motion/petition in a NYSCEF case and transmittal of the decision and/or order by the court to the County Clerk pursuant to 22 NCYRR 202.5-b(b), the document will be processed and entered by the County Clerk into the NYSCEF system, which constitutes entry [Uniform Rule 202.5-b (h)(i)], as will be reflected in a legend on the document. NYSCEF will immediately transmit notice of this event via e-mail, including a link to the entered document, to all participating attorneys and unrepresented litigants. Such transmittal should not be confused with Notice of Entry. (See Section L).

#### **E. Long Form Orders on Motions**

If the Court directs that an order be settled or submitted on a motion in a NYSCEF case, the proposed order, with Notice of Settlement where required, and any proposed counter-order shall be filed with the Court via NYSCEF. The relevant clerk's office will process the documents in the customary manner.

WORKING COPIES OF PROPOSED ORDERS WITH NOTICE OF SETTLEMENT MUST BE SUBMITTED IN THE MOTION SUPPORT OFFICE (ROOM 227) AS EXPLAINED HEREIN. THEY MUST NOT BE DELIVERED TO THE PART OR CHAMBERS, EXCEPT WHERE THE INDIVIDUAL JUSTICE'S PART RULES PROVIDE OTHERWISE; DOING SO WILL CAUSE ADMINISTRATIVE CONFUSION AND POSSIBLE MISPLACEMENT OF PAPERS. Any such submission shall be sent in a timely manner (kindly review individual Justice's rules) and be conspicuously marked on the outside "NYSCEF Matter;" lack of such marking may delay processing. After an order/counter-order has been signed, it will be scanned, and the County Clerk will affix the entry stamp into the NYSCEF system, which will immediately transmit notice of this event via e-mail, including a link to the entered document, to all participating attorneys and unrepresented litigants in the case. Such transmittal does not constitute Notice of Entry. See Section L.

#### **F. Orders to Show Cause**

##### **1. Proposed Orders to Show Cause & Supporting Documents to be E-Filed:**

Except as provided in the following paragraph, Proposed Orders to Show Cause and supporting documents in all NYSCEF cases must be submitted by filing with the NYSCEF system; original documents will not be accepted by the Clerk. Counsel must comply with Uniform Rule 202.7(f)

regarding notice of the application. See also Commercial Division Rule 20 (Uniform Rule 202.70).

**2. Permissible Submissions in Hard Copy:** If a party seeking a TRO submits an Affirmation/Affidavit demonstrating significant prejudice from the giving of notice (see Rules 202.7(f) and Commercial Division Rule 202.70) or, if in accordance with the rules a party to a mandatory e-filed case is exempt from participating or seeks to submit documents in an emergency, the party must first proceed to the Kings County Clerk's office to pay the required statutory fee, and then present the Proposed Order to Show Cause and supporting documents to the Ex-Parte Office in hard copy form. The papers must be accompanied by a completed "Notice of Hard Copy Submission - E-Filed Cases" form EFM-3 with the back page facing out. ([See Forms Section on NYSCEF Website.](#)) A Proposed Order to Show Cause and supporting documents that must be presented to a Justice outside normal court hours shall be presented in hard copy. In all situations described in this paragraph (other than that of an exempt party), documents submitted in hard copy form must thereafter be e-filed, as set forth below.

**3. Working Copies:** Except for instances covered by section (2) hereof, a working copy of a Proposed Order to Show Cause and the supporting documents with Confirmation Notice(s) must be submitted to the Ex-Parte Office. A second working copy of the proposed order only, to which a Confirmation Notice shall not be attached, shall be submitted simultaneously.

**4. Hard Copy Service:** In cases in which hard copy service is made of documents that were submitted in hard copy form pursuant to section (2) hereof and where no party is served electronically, the filing attorney or party shall, no later than three (3) business days after service, e-file the supporting papers [designating them in the NYSCEF document type drop-down menu on the filing screen as "Supporting Papers to OSC (After Service)]," together with proof of hard copy service. Failure to do so will cause the County Clerk file to be incomplete. The Clerk will e-file the signed Order to Show Cause after the deadline for service has passed.

**5. Declination:** If the Justice declines to sign a Proposed Order to Show Cause, the Clerk will electronically file the declined order. If the Proposed Order to Show Cause and supporting documents were filed with the Court in hard copy form pursuant to section (2) hereof, the filing attorney or party (other than an exempt party) shall file the supporting documents with NYSCEF no later than three (3) business days after the filing by the Clerk. Failure to do so will cause the County Clerk file to be incomplete.

**6. Signed OSC:** Signed OSC are also available for viewing at <https://iapps.courts.state.ny.us/webcivil/FCASDocumentSearch>

**7. E-Service of Signed OSC and Supporting Documents:** If the Court directs that the signed Order to Show Cause and supporting documents be served electronically, a conformed copy of the signed order should be designated as "Conformed Copy of OSC" in the NYSCEF document type drop-down menu on the filing screen.

#### **G. Ex Parte Applications (Other than Orders to Show Cause)**

**1. Generally, Proposed Applications to Be E-Filed First; When Working Copy Required:** Proposed Ex Parte applications in a matter required to be e-filed shall be e-filed. Unless

otherwise directed by the Court, working copies of e-filed documents must be submitted. Working copies shall include exhibit tabs and backs, and, for motion papers, the motion sequence number. In addition, the filer of a working copy must firmly bind thereto, with the back page facing out, a copy of the Confirmation Notice that was generated by NYSCEF when that document was e-filed. Working copies that are submitted without the related Confirmation Notice will not be accepted. The official record of a document in an e-filed case is the electronic record of the document stored by the County Clerk [Uniform Rule 202.5-b (d)(4)]. Working copies are intended only for the use of the Justice and will be discarded after the Justice is finished with them. Thus, if counsel fails to e-file a document, it will not be part of the court record. Ex Parte applications in Foreclosure matters shall be submitted to the Foreclosure Department, 360 Adams Street, Tenth Floor, North. All other Ex Parte applications shall be filed in room 295.

**2. When Applications May Be Submitted in Hard Copy Form:** If the circumstances underlying a proposed Ex Parte application make it necessary that advance notice to the other side be avoided (e.g., Ex Parte order of attachment), the application may be submitted in hard copy form with a completed “Notice of Hard Copy Submission - E-Filed Cases” form EFM-3 ([see Forms Section on NYSCEF Website](#)) firmly appended thereto as a back page facing out. If a proposed application requires a fee paid stamp or proof of payment from the County Clerk or the approval of the Attorney General or the like, or where pursuant to statute or rule original documents or documents bearing original signatures must be submitted in support of the application, the application shall be submitted in hard copy form with a completed “Notice of Hard Copy Submission – E-Filed Cases” form EFM-3. ([See Forms Section on NYSCEF Website.](#)) The filer shall e-file the application within three business days after service.

**3. Infant’s Compromise Orders:** When a proposed Redacted Infant’s Compromise Order is e-filed, the e-filed redacted copy shall comply with Uniform Rule 202.5. A decretal paragraph shall be included, for the Justice’s review, directing the County Clerk to seal the signed unredacted order per Uniform Rule 216. The unredacted order shall be hand delivered to the Justice's chambers. If the court issues an order directing the sealing of the order, the applicant shall contact the County Clerk’s E-File Department at [kcco-efile@nycourts.gov](mailto:kcco-efile@nycourts.gov) and shall file with NYSCEF a Notification for Sealing in Electronically Filed Case ([see Forms Section on NYSCEF Website](#)) and a copy of the order to effectuate the sealing. The County Clerk will, during regular business hours of the court, seal the file or the document(s) in question as directed by the court, both in the NYSCEF system and, if any covered documents are found therein, in a hard copy file. If the court issues an order directing the sealing of the order that has not yet been e-filed, counsel must e-file a “Notification for Sealing” form EF-7 ([see Forms Section on NYSCEF Website](#)) along with a copy of the order and must contact the County Clerk’s E-File Department prior to e-filing the document to be sealed. The County Clerk will e-file the document under seal.

#### **H. Requests for So-Ordered Stipulations**

If an attorney wishes to submit a stipulation to be “so ordered,” he or she should file the document with NYSCEF, designating it on the filing menu as a “Stipulation to be So Ordered

(Proposed).” The Clerk will print out a hard copy and forward it to the Justice assigned or transmit the document to the Justice electronically. No appearance by counsel is needed.

### **I. E-file Procedures Regarding Service on Parties in NYSCEF**

Pursuant to the E-Filing Rules, service of interlocutory documents is made by posting a document to the NYSCEF site, which automatically and immediately transmits an email notice of the filing, including a link to the document, to all participating counsel and unrepresented litigants on the case. The Rules also authorize service by other methods permitted by the CPLR. If service by such other method is made, proof of service must be filed with NYSCEF.

### **J. Service of Orders on the County Clerk and Support Offices**

1. **Service on the County Clerk:** If an order in a NYSCEF case directs that the County Clerk act, a copy of the order must be served on the County Clerk (CPLR § 8019 (c)), as the order will usually expressly provide. This shall be done by filing with NYSCEF a completed “Notice to the County Clerk - CPLR § 8019 (c)” form EF-22. ([See Forms Section on NYSCEF Website](#)).

2. **Service on a Supreme Court Support Office of the Court:** If an order in a NYSCEF case directs that notice of such order must be given to the Supreme Court Support office by counsel, such notice shall be given by transmitting a copy of the order by e-mail to [kings-efile@nycourts.gov](mailto:kings-efile@nycourts.gov) . Counsel shall enter in the subject line “Service of Order” and a brief identification of the type of order involved. In addition, counsel shall set forth in the body of the e-mail message a concise description of the action directed by the order. This identifying and descriptive information will assist the Supreme Court clerk in processing the order expeditiously.

3. **Service on Both a Supreme Court Support Office and the County Clerk:** If an order needs to be served on both the County Clerk and a Supreme Court Support office, counsel should follow the steps set forth in both sections 1 and 2 above.

### **K. Secure Documents and Sealing of Documents**

1. **Social Security Numbers:** “No person may file any document available for public inspection... in any court of this state that contains a social security account number of any other person, unless such other person is a dependent child, or has consented to such filing, except as required by federal or state law or regulation, or by court rule.” GBL 399-dd (6). Regarding Confidential Personal Information, see Uniform Rule 202.5(e). See section B(11) of this protocol.

2. **Secure Documents Status Repealed:** In the past, e-filed documents were allowed the designation of “secure” which only permitted access to the parties and court staff. That section of the rules (Uniform Rule 202.5-b (d) (3) (iii)) was deleted by Administrative Order effective April 15, 2013. Documents previously filed in secure status will retain that status unless otherwise directed by the court. It is the responsibility of counsel and parties to comply with rules restricting disclosure of confidential personal information. See Uniform Rule 202.5 (e).

3. **Sealing: Compliance with Part 216; Filing Procedures:** If counsel for a party seeks to have documents sealed in NYSCEF, specific steps, as set forth below, must be taken and an order pursuant to Part 216 of the Uniform Rules obtained.

(a) Commencing a New Case Under Seal: Anonymous Caption:

The filer must submit an application seeking an anonymous caption along with the commencement documents. The caption must be entered as anonymous by counsel when commencing the action in NYSCEF. In addition, the attorney must file all documents to be sealed as part of the application as restricted documents. Those documents are temporarily restricted for five days unless a judge extends the time or decides whether the documents should be sealed and the caption remain anonymous. If the court grants an extension beyond the five-day temporary restriction authorized by the court rule, it is incumbent on the filing party to notify the County Clerk pursuant to CPLR 8019(c) by filing Notification of Order Extending Restriction (NYSCEF Form EFM-26) and the court order with the County Clerk to authorize further extension of the restricted access.

(b) Commencing a New Case Under Seal In Hard Copy: Anonymous Caption:

Where an attorney seeks to obtain a sealing order for a case file at the outset of the case and cannot e-file the action via NYSCEF, the party shall submit, in hard copy form with a “Notice of Hard Copy Submission - E-Filed Cases” form EFM-3 ([see Forms Section on NYSCEF Website](#)), the commencement document together with a proposed order to show cause seeking a sealing order and a TRO restricting access to the file pending the hearing on the application. The papers should be presented to Window #4 of the Kings County Clerk’s Office for issuance of an index number and payment of the statutory fee. The filer must then proceed to Window #5 to file an RJI and pay the statutory fee. Thereafter, the filing party should proceed to the Ex Parte Office, which will refer the application to an Ex Parte Justice. When the judge signs or denies an order on this action type, the filer must promptly inform the Kings County Clerk. Upon receipt of said order and documents, the Kings County Clerk’s Office will create an interlocutory action in E-file and then seal the document(s) per the court order, or make an appropriate entry in accordance with the court order.

(c) Application for Sealing Order in a Pending E-File Case:

**VIA NYSCEF**

If a party to an action is making a motion to seal in NYSCEF, the attorney must file all documents to be sealed as part of the application using the “Request For Restricted Status” functionality, restricting the selected document(s) for five days. To use this functionality, the filer must file all documents in the motion, including those documents to be sealed. Once all documents are selected and uploaded, the filer must select document type “Request For Restricted Status” and upload the appropriate form (NYSCEF Form EFM-25). The documents restricted are automatically made public after five days unless a judge extends the time or decides whether the documents should be sealed and the caption remain anonymous. If the court grants an extension beyond the five-day temporary restriction authorized by the court rule, it is incumbent on the filing party to notify the County Clerk pursuant to CPLR 8019(c) by filing Notification of

Order Extending Restriction (NYSCEF Form EFM-26) and the court order with the County Clerk to authorize further extension of the restricted access.

## **IN PERSON**

If a party wants to seal documents in a NYSCEF action and cannot e-file in a case that is currently in NYSCEF, the party must move for a sealing order by filing a motion to seal in hard copy form, with a “Notice of Hard Copy Submission - E-Filed Cases” form EFM-3 ) annexed ([see Forms Section on NYSCEF Website](#)). If the motion is made in hard copy, any opposition or reply papers must only be submitted in hard copy form, with said Notice of Hard Copy Submission attached.

### **(d) Implementing Sealing Order**

- (i) **Sealing Existing E-File in Whole or in Part:** If the Court issues an order directing the sealing of a complete existing NYSCEF file or a document or documents already filed in NYSCEF, the applicant shall file with the NYSCEF system a “Notification for Sealing” form EF-7 ([see Forms Section on NYSCEF Website](#)) together with a copy of the court’s order. No further action by counsel is required. The Kings County Clerk will seal the file or the document(s) in question as directed by the Court, both in the NYSCEF System and, if any of the covered documents are found therein, in the hard copy file. Counsel should be made aware that sealing of the file will take place during regular business hours of the court only.
- (ii) **Sealing Document or Documents Not Yet E-Filed:** If the Court issues an order directing the sealing of a document that has not yet been e-filed, the document to be sealed must be presented (unless the court directs otherwise) to the Kings County Clerk in hard copy form with a copy of the court’s sealing order.
- (iii) **Identifying Sealed Documents:** Further, submission of documents sealed by court order or mandated by law, shall be clearly labeled as SEALED on the title page of the document submitted and, where applicable, be accompanied by a copy of the court order directing or permitting the sealing of same.

(d) **Previously Sealed File:** If a case that was previously sealed pursuant to court order is converted to NYSCEF status, counsel for the parties should promptly alert the Kings County Clerk’s E-File Department at [kcco-efile@nycourts.gov](mailto:kcco-efile@nycourts.gov) that an order sealing the file was issued and a copy of the sealing order shall be provided.

## **L. Entry and Notice of Entry**

The Kings County Clerk shall file orders electronically, which shall constitute entry of the order [Uniform Rule 202.5-b (h)(1)]. The entry of an order by the Kings County Clerk is effectuated when the Kings County Clerk affixes a filing stamp to the order reflecting the date and time of entry, e.g. “Filed: Kings County Clerk 8/10/15 9:15 a.m.”. This is the date which must be reflected in a Notice of Appeal, not the date of the decision.

An email message will be transmitted to all filing users on the case notifying that the order has been entered. Such notice does not constitute service of notice of entry by any party. Notice of Entry is served as follows: a party shall transmit electronically to the parties to be served a

Notice of Entry, a copy of the notification received from the court, and a copy of the order or judgment. See Uniform Court Rule 202.5-b(h)(2). Any Notice of Entry filed prior to entry of the order by the County Clerk will be returned to filer and shall not be refiled until proper entry of the order.

#### **M. Judgments**

1. **General Procedures:** To expedite entry, filers are advised to submit Proposed Judgments through the NYSCEF system as single transactions, and not combined with any other unrelated filings or transactions.

(a) Submission: A party seeking the entry of a judgment must submit a Bill of Costs, interest calculation, any necessary supporting information, or a judgment roll as defined *in* CPLR §5017. If the entry of a judgment is based upon a Decision and Order or Stipulation of Settlement, the submission must also contain a copy of the same pursuant to CPLR §5016(c) or CPLR §3215(i), respectively. The statement for judgment must contain the addresses of the debtor(s) and creditor(s) to be docketed by the County Clerk, as required by CPLR §5018(c)(1). Failure to include the addresses will result in the document being returned to the filer for correction.

(b) Examination: The Judgment Clerk will examine the submission for entry. If the submission is deficient, the deficiencies will be communicated to the submitter via the NYSCEF system. Once corrected, the judgment should be resubmitted via the NYSCEF system.

(c) Notification of Entry: Once the judgment is entered, notification will be sent via the NYSCEF system to the submitting party. Entry consists of both entry as defined by CPLR §5016(a) and recordation of any required statutory fee. Such notification shall not constitute service of Notice of Entry, but instead only notification of entry of the judgment. It shall be the responsibility of the submitting party to serve Notice of Entry on all parties, if required. After entry of *a* money judgment, it is the responsibility of the filing party to ensure proper docketing of a money judgment in the Kings County Clerk's Docketing System, located in the Docket Department of the Kings County Clerk's Office.

2. **Entry of Default Judgments:** A party seeking the entry of a Default Judgment by the Clerk pursuant to CPLR §3215 shall choose the following NYSCEF document type: Clerk Default Judgment (Proposed). If the Bill of Costs is not included on the judgment itself, the filer must choose the Bill of Costs document type and file it as a separate document. The filing fee is forty-five dollars (\$45.00).

(a) Entry of Default Judgments Based on Stipulation: A party seeking the entry of a Default Judgment by the Clerk pursuant to a stipulation that has been previously filed with the Clerk shall choose the following NYSCEF document type: Clerk Default Judgment (Proposed). A copy of the previously filed stipulation shall be affixed to the Proposed Judgment as one PDF file. If the stipulation on which the judgment is based has not yet been filed, or is being filed simultaneously with the judgment, the filer shall choose from Stipulation of Settlement or Stipulation of Discontinuance and pay the required thirty-five dollars (\$35.00) fee. The filer shall choose the following NYSCEF

document type: Judgment to County Clerk-Proposed and attach the Proposed Judgment as a separate PDF file. There is no fee to enter said judgment.

(b) Entry of Judgment Based on Decision and Order: If the entry of a judgment is conditioned upon a previously signed Decision and Order, the filer shall choose the following NYSCEF document type: Judgment to County Clerk-Proposed and a copy of the previously filed Decision and Order shall be affixed to the Proposed Judgment as one PDF file. There is no fee to enter said judgment.

**3. Judgment Signed by the Court:** As prescribed by Uniform Rule §202.5-b(d)(6), a party seeking the entry of a judgment to be signed by the court shall choose the following NYSCEF document type: Judgment-To Court (Proposed). The judgment shall comply with statutory requirements and all necessary supporting pleadings must be filed as separate documents. A working copy of the submission should only be provided to the assigned Justice if indicated in the Justice's part rules. Upon signature by the Court, the original will be forwarded to the Kings County Clerk by the Court for taxation and interest calculation, and the entered judgment will be uploaded by the Kings County Clerk into the NYSCEF site. Notification of such entry will be transmitted by the NYSCEF system to the filer pursuant to Uniform Rule 202.5-b(h)(2), and such notice shall not constitute service of Notice of Entry. Individual court part rules regarding the submission of judgments must be complied with in addition to statutory requirements and protocols.

#### **4. Judgments on Notice/Judgments with Notice of Settlement**

(a) Judgment to be Signed by the Court: Judgments submitted on notice to the Court should comply with specific directions as provided in the order directing same, or comply with Uniform Rule 202.48. A party submitting a Judgment on Notice to the court shall choose the following NYSCEF document type: Notice of Settlement w/ Proposed Jdgmt/Counter Jdgmt and a working copy of the submission should only be submitted if required by the Justice's part rules.

(b) Judgment Entered by the Clerk: A party submitting a Judgment on Notice to the Clerk as specifically directed by court order via the NYSCEF system should choose the following document type: Judgment-To Court (Proposed). The Judgment on Notice must be submitted five (5) days prior to the settlement date, and must include all necessary supporting pleadings to allow entry. Notice of Settlement, Affidavit of Service, and Proposed Judgment shall all be submitted as one PDF file.

(c) Objections: Opposing counsel may object to the taxation of costs and disbursements by submitting the document type, Objections to Taxation/Notice of Re Taxation in the NYSCEF system.

(d) Entry: Upon entry by the Judgment Clerk of the Kings County Clerk, notification of entry shall be communicated via NYSCEF system to the filer, and in cases of objections, to objecting counsel. Notification of entry shall not constitute service of Notice of Entry to or for any party.

**5. Taxation Review:** A party submitting an application to the County Clerk to review taxation of costs without notice pursuant to CPLR §8403 via the NYSCEF system shall submit document type: Objections to Taxation/ Notice of Re-taxation, within the statutory

time provided. Determination of review will be communicated to both filer and opposing counsel via the NYSCEF system by the Judgment Clerk.

**6. Confession of Judgment:** Entry of judgment by confession shall adhere to statutory requirements of CPLR §3218.

(a) Submission: A party seeking entry of judgment by confession via the NYSCEF system shall choose the document types Confession of Judgment (Affidavit of Defendant) and Confession of Judgment for the statement as two (2) separate PDF files. A statutory fee of two hundred and ten dollars (\$210.00) for the assignment of an index number is required, unless the affidavit is executed in conjunction with a pre-existing Kings County action. The statement of judgment must be submitted simultaneously with the affidavit, and the judgment will be entered immediately upon the filing of the affidavit.

(b) Venue: Venue is properly based in Kings County upon either the residence of the confessor at the time of execution of the affidavit, or upon express authorization by the out-of-state confessor designating Kings County as venue in the affidavit.

(c) Entry: Notification will be communicated via the NYSCEF system to the filer upon entry. Such notification shall not constitute service of Notice of Entry, but instead only notification of entry of the judgment. It shall be the responsibility of the submitting party to serve Notice of Entry on all parties. After entry of a money judgment, it is the responsibility of the filing party to ensure proper docketing of money judgments in the Kings County Clerk's Docketing System, located in the Docket Department of the Kings County Clerk's Office.

**7. Foreign Judgments:** Entry of a foreign judgment must comport with statutory requirements. A party seeking entry of a foreign judgment via NYSCEF shall choose the "Judgment – Foreign (5402)" document type.

**8. Docketing Judgments in Tax Certiorari Proceedings:** In tax certiorari proceedings, judgments shall be docketed by the Kings County Clerk to satisfy compliance with CPLR Section 9702(5), when said judgments do not contain provisions for costs and disbursements. If judgments do contain provisions for costs and disbursements, the judgments will be docketed by the Kings County Clerk to satisfy compliance with CPLR Section 5018. In both instances, judgments will be docketed using the first year NYSCEF case number assigned unless otherwise directed by the Court.

**9. Subsequent Judgment or Order:** When a previously entered judgment is affected by a subsequent order or judgment, the Kings County Clerk will make the appropriate notation to the docket entry, as required by CPLR §5019(b).

(a) New or Amended Judgments: In instances where the change to an entered judgment is the result of a new or amended judgment, the notation will be made simultaneously with the entry of the new or amended judgment, and notification of same will be transmitted via the NYSCEF system to the submitting party.

(b) Order: In instances where the change to an entered judgment is the result of an order, notation of the docket will not be made until proper notice is given to the Kings

County Clerk pursuant to CPLR §8019(c). A party seeking the modification of a judgment by order shall choose document type CPLR §8019(c) Notification to Amend Docket, which must include a copy of the order directing the Kings County Clerk to note the docket as part of the attached PDF file.

**N. Subpoena(s)**

A party wishing to serve a Subpoena Duces Tecum on the Kings County Clerk's Office shall select the NYSCEF document type Subpoena Duces Tecum to County Clerk and pay the required twenty dollar (\$20.00) filing fee. The document shall clearly state the index number and caption of the case to be subpoenaed, as well as clearly state the Court or location the file will be subpoenaed to. At least five (5) days' notice is requested to enable the Kings County Clerk to comply with said subpoena.

**O. Discontinuing Actions and Cancelling Notices of Pendency/Lis Pendens:**

Discontinuances of actions and cancellations of Notices of Pendency/Lis Pendens cannot be combined into one document. Select Stipulation of Discontinuance (Post or Pre RJI) or Notice of Discontinuance. If also cancelling the Notice of Pendency/Lis Pendens, select Cancellation Notice of Pendency/Lis Pendens as a second document under the Accompanying Documents menu. The affidavit required by CPLR § 6514 must be attached to the Cancellation of Notice of Pendency/Lis Pendens, if applicable.

**P. Notice of Appeal and Appeal Papers**

A Notice of Appeal shall be filed online in a NYSCEF case with payment of the required statutory fee. The Notice shall be filed in conformity with existing rules and shall contain: The Informational Statement (IS) form as required by the Appellate Division, the Notice of Appeal, as well as a copy of the Decision/Order appealed from and proof of service as one PDF file. Failure to include the necessary components will result in the document being returned for correction. Upon disposition of the appeal, the Kings County Clerk will file the order of the Appellate Division.

An Amended Notice of Appeal may be filed via NYSCEF to correct a clerical defect. The procedure follows that of the original Notice of Appeal, and the filer shall select the NYSCEF document type Amended Notice of Appeal. There is no fee required. Failure to include the necessary components will result in the document being returned for correction.

**Q. Other**

**1. Effect of Communication from the Office of the Kings County Clerk:** *No* email notification from the Kings County Clerk shall be construed or considered to be service of Notice of Entry for purposes of commencement of the statutory time to appeal or otherwise. Such communications from the Kings County Clerk shall only serve as notification of receipt or entry in a ministerial capacity.

2. **Appearances:** Electronically filed documents subject to review and processing by the appropriate clerk's office do not require an appearance by counsel or unrepresented litigants unless otherwise directed or provided for in local rules of practice.
3. **Support:** Any attorney or unrepresented litigant who requires assistance in a NYSCEF case is encouraged to contact the court part with questions about individual part rules or to contact the E-File Resource Center at (646) 386-3033 with any questions about the NYSCEF system. In addition, a computer and scanner is available in the Office of the Kings County Clerk, 360 Adams Street, Room 189, in the Kings Supreme Court Help Center, Room 122C, and in locations designated by the Administrative Judge of Supreme Court for the use of attorneys and unrepresented litigants who need assistance filing in a NYSCEF case.
4. **Duty of Filer to Follow Up:** Once an attorney or an unrepresented litigant file a document using the NYSCEF system, it is their responsibility to investigate the status of their documents.

(a) Pending: Documents that are designated "Pending" in the NYSCEF system have been filed but have not yet been processed by the Kings County Clerk and/or the Supreme Court. The filing party must check the NYSCEF system for status of said document by clicking on the document number located on the case's document list. A pending document may have been approved by the Kings County Clerk's Office but not yet approved by the Supreme Court (e.g., motion or Order to Show Cause).

(b) Processed: Documents that are designated "Processed" in the NYSCEF system have been reviewed and processed by the Kings County Clerk and/or the Supreme Court. In certain cases, a document may be processed by the Kings County Clerk but will still be listed as "Pending" because the Supreme Court has yet to approve said document. The filing party must check the NYSCEF system for status on said document by clicking on the document number located on the case's document list.

(c) Return for Correction: Documents that are designated "Return for Correction" in the NYSCEF system have been reviewed by the Kings County Clerk or the Supreme Court and have been returned to the filer for various reasons. Filers will be notified via email of the returned document and it is the filer's responsibility to read the comments made by the Kings County Clerk or the Supreme Court Clerk reviewing the document and to make the noted corrections. The filer must refile the corrected document by following the instructions provided on the document list. Filers should not file a new document to replace a document returned for correction. Instead the corrected document should be refiled using the "Refile this document" link in NYSCEF.

ANY ATTORNEY OR UNREPRESENTED LITIGANT WHO REQUIRES ASSISTANCE IN A NYSCEF CASE IS ENCOURAGED TO CONTACT THE E-FILING RESOURCE CENTER AT (646) 386-3033 WITH ANY QUESTIONS ABOUT THE NYSCEF SYSTEM. YOU MAY ALSO CONTACT THE KINGS COUNTY CLERK'S E-FILING

DEPARTMENT AT [KCCO-EFILE@NYCOURTS.GOV](mailto:KCCO-EFILE@NYCOURTS.GOV) FOR PROCEDURAL QUESTIONS, OR YOU MAY CONTACT THE KINGS COUNTY SUPREME COURT E-FILING DEPARTMENT AT [KINGS-EFILE@NYCOURTS.GOV](mailto:KINGS-EFILE@NYCOURTS.GOV).

Dated: August 5, 2019

HON. LAWRENCE KNIPEL  
ADMINISTRATIVE JUDGE FOR CIVIL MATTERS  
KINGS COUNTY

HON. NANCY T. SUNSHINE  
KINGS COUNTY CLERK

CHARLES A. SMALL, ESQ.  
CHIEF CLERK FOR CIVIL MATTERS  
KINGS COUNTY