

Electronic Filing Rules of the Appellate Division

Approved by Joint Order of the Departments of the New York State
Supreme Court, Appellate Division
December 12, 2017

1245.1. Definitions.

For purposes of this section:

- (a) The term “NYSCEF” shall mean the New York State Courts Electronic Filing System, and the “NYSCEF site” shall mean the New York State Courts Electronic Filing System website located at www.nycourts.gov/efile.
- (b) The phrase “authorized e-filer” shall mean a person who has registered as an authorized e-filing user with the NYSCEF system pursuant to 22 NYCRR 202.5-b (c).
- (c) Any reference to the “court” or the “Appellate Division” means the Appellate Division of the Supreme Court of the State of New York for the Judicial Department having jurisdiction over the cause or matter; any reference to the “clerk” means the clerk of that court or a designee, unless the context of usage indicates the clerk of another court.
- (d) The word “cause” or “matter” includes an appeal, a special proceeding transferred to the Appellate Division pursuant to CPLR 7804 (g), a special proceeding initiated in the Appellate Division, and an action submitted to the Appellate Division pursuant to CPLR 3222 on a case containing an agreed statement of facts upon which the controversy depends.
- (e) The word “document” shall mean a brief, motion, application, record, appendix, or any other paper relating to a cause or matter. “Document” shall not include correspondence, other than letter applications.
- (f) The phrase “electronically file” or “e-file” shall mean the filing and service of a document in a cause or matter by electronic means through the NYSCEF site.
- (g) The phrase “hard copy” shall mean a document in paper format.
- (h) The phrase “exempt litigant” or “exempt attorney” shall mean, respectively, an individual or attorney who is exempt from e-filing pursuant to section 1245.4 of this Part.

1245.2. Designation of Case Types Subject to E-filing.

The court may designate e-filing in such cases and case types as it deems appropriate.

1245.3. Entry of Initial Information for Electronic Filing.

(a) Appeals or Transferred Matters – Entry of Contact Information. In any appeal or transferred proceeding of a type designated by the Appellate Division for e-filing, counsel for the appellant or the petitioner, unless an exempt attorney, shall within 14 days of filing of a notice of appeal, or entry of an order granting leave to appeal, or entry of an order transferring a matter to the Appellate Division:

(1) register or confirm registration as an authorized e-filer with NYSCEF; and

(2) enter electronically in NYSCEF such information about the cause and parties, and e-file such documents, as the court shall require.

(b) Appeals or Transferred Matters – Service of Notice of Appellate Case or Docket Number. In any matter described in subdivision (a), counsel for the appellant or the petitioner, unless an exempt attorney, shall within seven days of receipt from the court of an appellate case or docket number for the matter:

(1) serve upon all parties in hard copy as provided by CPLR 2103 notification of that case or docket number, together with other pertinent information about the case and such documents as the court shall require, on a form approved by the Appellate Division; and

(2) e-file proof of service of this notification.

(c) Original Proceedings – Commencement by Electronic Filing. Unless an exempt attorney, counsel for a petitioner commencing an original proceeding of a type designated by the Appellate Division for e-filing shall:

(1) register or confirm registration as an authorized e-filer with NYSCEF;

(2) e-file the notice of petition (or order to show cause), petition and supporting documents;

(3) obtain from the court a case or docket number for the matter; and

(4) serve upon all parties in hard copy as provided in CPLR 2103 and court rule

(i) the notice of petition (or order to show cause), petition and supporting documents; and

(ii) on a form approved by the Appellate Division, notification of the case or docket number; and

(5) e-file proof of service of the submissions specified in subsection (4).

(d) Entry of Information by Respondents and Other Parties. Within 20 days of service of the notification of the case or docket number as required in subdivision (b) or (c), counsel of record to each other party to the matter, unless an exempt attorney, shall:

- (1) register or confirm registration as an authorized e-filer with NYSCEF; and
- (2) enter electronically in NYSCEF such contact information and additional information as the court may require.

(e) Designation of Other Persons and Electronic Filing Agents.

(1) An authorized e-filer may designate another person to e-file a document on his or her behalf using the authorized e-filer's user identification and password, but shall retain full responsibility for any such e-filed document.

(2) Designation of an electronic filing agent. An authorized e-filer may designate another person or entity, including an appellate printer, to e-file documents on his or her behalf as a filing agent if that agent is also an authorized e-filer. Such filing agent shall e-file a statement of authorization, in a form approved by the Appellate Division, prior to or together with the first e-filing in that action by the agent. The principal authorized e-filer shall retain full responsibility for any document e-filed by such filing agent.

1245.4. Exemptions of Certain Persons from Electronic Filing.

(a) Personal Exemptions. The following persons are exempt from e-filing, and shall file, serve and be served in hard copy:

(1) "exempt litigants," who shall be unrepresented litigants other than litigants who voluntarily participate in e-filing as set forth in subdivision (d); and

(2) "exempt attorneys," who shall be attorneys who certify in good faith, on a form provided by the Appellate Division, that they lack either (i) the computer hardware and/or connection to the internet and/or scanner or other device by which documents may be converted to an electronic format; or (ii) the requisite knowledge in the operation of such computers and/or scanners necessary to participate, pursuant to CPLR 2111 (b) (3) (A) or (B). Such certification shall be served on all parties and filed with the court in hard copy.

(b) Notice of Hard Copy Filing. An exempt attorney shall include with each document filed in hard copy in an e-filed matter a notice of hard copy filing on a form provided by the court.

(c) Entry of Information the Other Parties. The court may direct another party to scan and upload documents filed in hard copy by an exempt attorney or exempt litigant, and to enter additional case information in NYSCEF.

(d) Voluntary Participation. A pro se or unrepresented litigant may voluntarily participate in e-filing in a cause or matter by:

(1) recording his or her consent electronically in the manner provided at the NYSCEF site;

(2) registering as an authorized e-filer with the NYSCEF site, and entering case and contact information about the particular cause; and

(3) e-filing documents as provided under this Part.

(e) Withdrawal of Consent. An unrepresented litigant who has consented to participate voluntarily in e-filing in a matter may withdraw such consent at any time by filing and serving on all parties a notice of intent to cease e-filing, on a form provided by the Appellate Division.

1245.5. Electronic Filing and Service.

(a) All authorized e-filers who have entered information for a particular cause as set forth in sections 1245.3 (a), (c) or (d) or 1245.4 (d) of this Part shall thereafter e-file and be served electronically in that matter.

(b) Prior to the expiration of the 20-day period for entry of information described in section 1245.3 (d) of this Part, filing and service of documents by, and service upon, parties who have not entered such information shall be in hard copy.

(c) Upon expiration of the 20-day period for entry of information described in section 1245.3 (d) of this Part, service and filing by and upon all parties other than exempt attorneys and exempt litigants shall be by e-filing. Thereafter, an attorney who has neither entered information nor given notice as an exempt attorney pursuant to section 1245.4 (a) (2) of this Part shall be deemed served with any e-filed document.

(d) At all times, service by and upon, and filing by, exempt attorneys and exempt litigants shall be in hard copy. E-filers shall e-file proof of any service made in hard copy.

(e) Site Instructions. Technical instructions for e-filing documents shall be set forth on the NYSCEF site (www.nycourts.gov/efile).

(f) Formatting. In addition to compliance with the court's general rules for document formatting, e-filed documents filed pursuant to this Part shall comply with the formatting requirements set forth in attachment A.

1245.6. Hard Copy Filing and Service.

(a) Filing of Additional Hard Copies.

(1) Unless otherwise directed by the court, authorized e-filers shall, in addition to submitting electronic filings, file hard copies of documents as follows:

(i) appellate briefs, records, appendices, agreed statements in lieu of record: one original and five copies.

(ii) papers in original proceedings, transferred proceedings, motions, applications: such number as required by court rule in matters not subject to e-filing.

(2) Authorized e-filers shall delay the filing of such additional hard copies of documents until receipt of email notification that the clerk has reviewed and approved the electronic version of the document, and shall file the hard copies within two business days of such notification. A failure to file such additional hard copies of documents shall cause the filing to be deemed incomplete.

(b) Filing of Unbound Copy of Documents by Exempt Attorneys and Exempt Litigants. Exempt attorneys and exempt litigants filing and serving documents in hard copy shall additionally file, together with the bound copy or copies of the document in such number as required by court rule, a single unbound copy of the filing, containing no staples or binding other than easily removable clips or rubber bands.

(c) Motions and Applications Seeking Emergency Relief. Where a motion or application seeks interim or emergency relief, the court may permit the initial submissions of a party or parties to be filed and served in hard copy, and e-filed thereafter. All such filings, other than filings by an exempt litigant, shall be accompanied by a notice of hard copy submission on a form approved by the Appellate Division.

(d) Technical Failure.

(1) If the NYSCEF site is subject to technical failure pursuant to 22 NYCRR 202.5-b (i), authorized e-filers shall file and serve documents in hard copy and e-file those documents within three business days after restoration of normal operations at that site.

(2) If an authorized e-filer is unable to e-file a document because of technical problems with his or her computer equipment or internet connection, the e-filer shall file and serve the document in hard copy, together with a notice of hard copy

submission in a form approved by the Appellate Division, and shall e-file those documents within three business days thereafter.

1245.7. Timeliness of Filing and Service; Rejection by Clerk.

(a) Filing of E-filed documents. For purposes of timeliness under a statute or court rule or directive, an e-filed document is deemed filed when:

(1) the document has been electronically transmitted to the NYSCEF site; and

(2) the appropriate fee, if any, has been paid to the court either through the NYSCEF site or, where permitted, by delivery to the office of the Clerk.

(b) Service of E-filed Documents. Upon receipt of an e-filed document and appropriate fee, if any, NYSCEF shall immediately notify all e-filers in the matter of the receipt and location of the document. For purposes of timeliness of service under a statute or court rule, at the issuance of such notification the document shall be deemed served upon all parties other than exempt attorneys and exempt litigants.

(c) Rejection by the Clerk. An e-filed document deemed filed for purposes of timeliness under this Part may thereafter be reviewed and rejected by the Clerk for any reason provided by this Part or any applicable statute, rule or order, or as otherwise unsuitable for filing.

(d) Hard Copy Filing or Service. The timeliness of service or filing in hard copy pursuant to these rules shall be as provided by statute or court directive.

1245.8. Confidentiality; Sealed Documents; Redaction.

E-filed matters deemed confidential by statute or court directive, as well as sealed documents or documents that are the subject of an application to seal in an e-filed matter, shall be filed and maintained on the NYSCEF site in a manner that precludes viewing by the public and such other persons as the case may require. In all matters, authorized e-filers shall attest to compliance with statutory redaction requirements (e.g., General Business Law § 399-ddd) and relevant sealing requirements in filings.

1245.9. Authorized Record; Scanning of Documents by Clerk.

(a) The court may deem documents e-filed or uploaded by the parties to be the official record of a cause or matter.

(b) The clerk may scan and upload hard copy filings in a cause, and may deem such uploaded documents to be the official record copy of the filing.

1245.10. Rejection of Non-Compliant Documents; Modification of Electronic Filing Procedures.

(a) Rejection of Documents. The clerk may refuse to accept for filing or e-filing any document that does not comply with this Part or any applicable statute, rule or order, or is otherwise unsuitable for filing, and may direct that the document be refiled.

(b) Modification of Procedures. The court or its designee may at any time modify or discontinue e-filing in a matter for good cause shown.

ATTACHMENT A

Formatting Requirements for Documents Electronically Filed

1. General. In addition to compliance with the court's general rules for document formatting, e-filed documents filed pursuant to this Part shall
 - a. be identical in content to the hard copy;
 - b. comply with text searchable PDF archival format (PDF/A);
 - c. contain bookmarks linking the tables of contents of briefs and records to the corresponding page of the document;
 - d. be paginated to correspond to the hard copy; and
 - e. be scanned at a resolution sufficient to ensure legibility.
2. Multiple Volumes. Each volume of a multi-volume record or appendix shall be submitted as a separate e-filed document.
3. Corrections. Where the court directs filing of corrected documents, such corrected documents shall be filed electronically and by hard copy.
4. PDF Initial View. The "initial view" of a PDF shall be the Bookmarks Panel and Page.
5. PDF File Size. E-filed documents shall each be no greater than 100MB in size.

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Please consult the electronic filing webpage of each Department of the Appellate Division for additional information about these formatting requirements.