



**ELECTRONIC FILING**  
*in the* NEW YORK STATE COURTS

REPORT *of the* CHIEF ADMINISTRATIVE JUDGE *to the* LEGISLATURE,  
*the* GOVERNOR, *and the* CHIEF JUDGE *of the* STATE *of* NEW YORK

EXCELSIOR



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*“Technology is critical to our efforts to enhance the efficiency and productivity of court operations, as well as to improve our service to the public. E-filing is the centerpiece of these efforts. It reduces costs and saves time for both the court system and litigants, improves access to the courts, and sharply reduces the environmental impact of litigation. E-filing is the future of our court system, and we must expand, thoughtfully and carefully, but also diligently, the use of this powerful tool.”*

A handwritten signature in black ink, reading "Janet DiFiore". The signature is written in a cursive, flowing style.

**CHIEF JUDGE JANET DIFIORE**

Chief Judge of the State of New York

## Preface

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I am pleased to submit this report on the status of New York’s electronic filing (“e-filing”) program<sup>1</sup>.

In 1999, the first year in which e-filing in the New York courts was authorized<sup>2</sup>, not a single case was e-filed. Sixteen years later, in 2015, we witnessed a major milestone in this program – the one millionth case was e-filed. That so many cases have been e-filed after a very slow start reflects a sea change in the attitude of the bench and the bar, and a recognition that e-filing is the future of the court system and the way that, going forward, we will be doing business. In particular, this achievement reflects the confidence of the bar in the reliability and security of the New York Courts’ e-filing system.

In this report, we assess e-filing as it stands today, describe recent progress, and set forth our plans for the future. This report also serves as a vehicle by which we share comments on e-filing received from the various e-filing Advisory Committees, the County Clerks, the bar, and the public<sup>3</sup>. I believe that this report shows that we have already accomplished much, and are poised to make further significant gains.

The success of this program has been the result of a group effort, and I want to acknowledge our many partners, including the bar, the County Clerks, and the Advisory Committees that have helped to shape this program and to ensure that it is responsive to the needs of all e-filers. I also want to thank the Legislature and the Governor for the significant legislative amendments of 2015 (described in this report), which have given us the authority and flexibility to implement this program in a manner that best meets the needs of the bench, the bar, the County Clerks and, ultimately, the people of New York.

Special thanks are also due to Jeff Carucci, the Statewide Coordinator for E-filing in the New York State Courts, who is a tireless champion of e-filing. I also want to thank Bob Meade, Kevin Egan and Phyllis Mingione for their assistance in producing this report.

Dated: June 1, 2016



**HON. LAWRENCE K. MARKS**

*Chief Administrative Judge of the State of New York*

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1. This report is submitted to the Legislature, the Governor, and the Chief Judge of the State of New York, pursuant to chapter 367 of the Laws of 1999, as amended (see L. 2009, c. 416; L. 2010, c. 528; L. 2011, c. 543; L. 2012, c. 184; and L. 2015, c. 237).
  2. L. 1999, c. 367.
  3. The members of the various e-filing Advisory Committees are set forth in Appendix A. Comments on e-filing from the Advisory Committees, the County Clerks, the bar, and the public are set forth, respectively, in Appendices B to E. The Judiciary’s responses to the comments received are set forth in Section III of this Report.

## I. Executive Summary

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The e-filing program in New York, and the computer application through which the program functions, *i.e.*, the New York State Courts Electronic Filing System (NYSCEF), have proven to be very reliable and very successful. County Clerks, courts, judges, and the bar have embraced e-filing enthusiastically and the result has been that, with each passing year, the e-filing program has continued to expand. To date, more than *one million* cases have been e-filed through NYSCEF.

In this report, the Unified Court System (“UCS”) highlights recent progress in e-filing across the state, generally evaluates the e-filing program as it now operates, and sets forth plans for the future. Among the matters we address: development that is underway to bring an up-to-date case management system to the Supreme Court statewide and to integrate that system with NYSCEF; the discussions and analysis that are occurring in order to bring the Appellate Divisions into NYSCEF and so provide seamless e-filing in trial courts and on appeal; and the ongoing discussions between the court system and the relevant e-filing Advisory Committees<sup>4</sup> that are aimed at expanding e-filing into criminal and Family Courts. We also describe the training and outreach efforts the Judiciary has undertaken to assist users new to NYSCEF to make the transition to e-filing in a simple manner and to facilitate input from attorneys and other stakeholders.

In 2015, the Legislature enacted a major reform of the State’s e-filing statutes upon the recommendation of the UCS<sup>5</sup>. While we believe that even more legislative action could be taken to enable New York to make the best use of e-filing, the UCS will not be seeking such action in the current session of the Legislature. We do, however, anticipate promoting further e-filing reform in 2017.

Finally, this report provides a vehicle for County Clerks, bar associations and other groups, individual attorneys and the public to present comments on and suggestions for the e-filing program. Our responses to those comments and suggestions are set forth in Section III.

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4. Subparagraphs (ii) through (vi) of paragraph (t) of subdivision two of section 212 of the Judiciary Law, as added by chapter 237 of the Laws of 2015, direct the Chief Administrative Judge to maintain a series of broadly-representative advisory committees to consult with him or her in the implementation of e-filing in particular courts.

5. L. 2015, c. 237.

## II. The Status of E-filing in the New York State Courts

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### A. The 2015 Report and Chapter 237 of the Laws of 2015

In last year's e-filing report<sup>6</sup>, we set forth in detail the history of e-filing in the New York courts. Those who wish to know how e-filing has evolved in New York are urged to consult that history. For present purposes, it is enough to say that, from a slow beginning (in 1999), e-filing has grown greatly and has clearly become a major success. It has proven to be reliable, efficient, convenient and secure. Furthermore, the well-documented experiences of attorneys and other users, judges, courts and County Clerks – with consensual e-filing programs and, since their inception in 2010, with mandatory programs, as well – have been overwhelmingly positive.

The benefits of e-filing are significant and far-reaching. For counsel, it greatly simplifies and reduces the cost of the filing and service of documents. It also is very convenient as it makes the case file accessible online to all counsel of record at any time and from anywhere. In addition, e-filing sharply reduces record storage and retrieval costs, eliminates the burden and expense of serving hard-copy papers on opposing parties and minimizes the need to travel to the courthouse.

For courts and public officials, e-filing likewise has demonstrated many benefits. It has increased productivity and reduced costs for both the courts and the County Clerks. It has enhanced the efficiency and effectiveness with which judges can manage and administer their inventories, providing them and their law clerks with easy access to case files even on the weekends or at night from home. In our 2015 report, we provided estimates of the cost savings and improvements in productivity that e-filing has brought.

In addition to all of these benefits, e-filing contributes to a greener, more environmentally responsible system of justice, by sharply reducing both the vast amount of paper consumed by the litigation process and the need to travel to serve and file papers.

Pointing to the proven track record of e-filing in New York through the NYSCEF system, the UCS submitted a legislative proposal in 2015 designed to extend throughout the court system the cost-savings, improved efficiency and countless other benefits that e-filing has to offer. That proposal was enacted as chapter 237 of the Laws of 2015. Chapter 237 makes permanent aspects of the e-filing program, principally, mandatory e-filing that had been scheduled to expire on September 1, 2015. Chapter 237 also streamlines the program's administration and gives the Chief Administrative Judge broad authority and discretion to administer e-filing, and to expand it in locations, courts and case types in ways and on schedules that make the most sense for all involved. This change provides the courts with the flexibility necessary to move efficiently toward the fulfillment of our vision of a modern court system in sync with the digital age.

Furthermore, chapter 237 simplifies the legal landscape of e-filing. Since the inception of e-filing in New York, that landscape had consisted of a lengthy series of complicated Unconsolidated Laws. Because of their location and awkward structure, these statutes made it difficult for the bar to determine what the law governing e-filing was at any specific time. By contrast, chapter 237 incorporates all relevant e-filing statutes into a series of Consolidated Laws, i.e., in the Civil Practice Law and Rules, the Surrogate's Court Procedure Act, the Criminal Procedure Law, the Court of Claims Act, the Family Court Act and the New York City Civil Court Act. This has made them more readily accessible and given them greater clarity.

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6. <http://www.nycourts.gov/publications/pdfs/EFile-Report-Assembled3.17.15.pdf>

Finally, chapter 237 also makes the following significant changes to the mandatory e-filing program:

- The pilot status of the mandatory program is eliminated and authorization for the program is made permanent;
- Additional classes of cases are excepted from the mandatory e-filing program, including CPLR Article 70 (Habeas Corpus) proceedings in all counties, and actions based on consumer credit transactions and residential mortgage foreclosure actions in any county in which mandatory e-filing has not heretofore been authorized for these case types<sup>7</sup>; and
- The Chief Administrative Judge is authorized administratively to add new courts to the mandatory program (formerly this could be done only through legislation).

## B. E-Filing Today and Plans for the Future

### 1. Overview and Recent Developments

E-Filing procedures are set forth in the Uniform Rules for the Trial Courts<sup>8</sup>. Administrative Orders issued by the Chief Administrative Judge specify in what courts, locations, and types of cases e-filing may be employed<sup>9</sup>. The most recent Administrative Order (AO/79/16), dated March 18, 2016, addresses both consensual and mandatory e-filing. It authorizes consensual e-filing:

- In Supreme Court in 20 counties<sup>10</sup> in a variety of types of actions, including all kinds of actions (with narrow exceptions) in some counties and, in many others, commercial, contract, tort, and tax *certiorari* cases;
- In Surrogate's Court in 20 counties<sup>11</sup>, with Westchester the most recent addition (as of March 21, 2016);
- In the Court of Claims in the Albany District (12 counties<sup>12</sup>) and in the New York City District (seven counties<sup>13</sup>); and
- In the New York City Civil Court for no-fault cases involving claims by providers of healthcare services against insurers.

This Order also provides for mandatory e-filing:

- In various categories of cases in Supreme Court in 14 counties<sup>14</sup>; and
- In Surrogate's Court in ten counties<sup>15</sup>.

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7. Prior to enactment of this law, e-filing statutes had already excepted the following classes of cases from the mandatory e-filing program: CPLR Article 78 cases, Mental Hygiene Law Article 81 cases, Election Law cases and matrimonial actions.

8. 22 NYCRR Parts 202 et seq. For the rules governing the various elements of the program, see sections 202.5-b and 202.5-bb (Supreme Court); 206.5 and 206.5-aa (Court of Claims); 207.4-a (Surrogate's Court); and 208.4-a (New York City Civil Court).

9. The Administrative Orders are posted on the NYSCEF website ([www.nycourts.gov/efile](http://www.nycourts.gov/efile)).

10. Albany, Bronx, Broome, Cortland, Dutchess, Erie, Kings, Livingston, Nassau, Niagara, Oneida, Onondaga, Ontario, Orange, Queens, Richmond, Rockland, Suffolk, Tompkins and Westchester.

11. Allegany, Cattaraugus, Cayuga, Chautauqua, Cortland, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Queens, Seneca, Steuben, Tompkins, Wayne, Westchester, Wyoming and Yates.

12. Albany, Clinton, Columbia, Essex, Franklin, Greene, Rensselaer, Saratoga, Schenectady, Ulster, Warren and Washington.

13. Bronx, Kings, Nassau, New York, Queens, Richmond and Suffolk.

14. Bronx, Dutchess, Erie, Essex, Kings, Nassau, New York, Niagara, Oneida, Onondaga, Queens, Rockland, Suffolk and Westchester.

15. Cayuga, Chautauqua, Erie, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates.

The cases subject to mandatory e-filing in the ten Surrogate's Courts are probate and administration proceedings and miscellaneous proceedings relating thereto. In the Supreme Court in nine of the 14 counties having mandatory e-filing, including New York, Rockland and Westchester, the affected categories of cases consist of all types of actions excepting only the five statutorily-exempt categories (*i.e.*, Article 70 and Article 78 proceedings, and matrimonial, Mental Hygiene Law Article 81 and Election Law matters) and, in some instances, consumer credit and residential foreclosure matters. In the remaining five counties having mandatory e-filing in Supreme Court, the affected categories of cases are more restricted, e.g., in Nassau, they include only commercial matters, civil forfeitures, *in rem* tax foreclosures and tax *certiorari* cases; in Kings, Commercial Division matters and, as of March 21, 2016, torts; and, in Queens, medical, dental and podiatric malpractice actions and foreclosure actions addressing real property and mechanics liens.

From 1999, when e-filing first was authorized in New York, through March 2016, over *one million* cases have been e-filed with NYSCEF. Through the same period, about 10.2 million documents have been e-filed. Some of these individual documents, of course, are short, but many are lengthy and any single one of them may run for hundreds of pages.

At present, there are 83,524 attorneys and other registered active users of the NYSCEF system<sup>16</sup>. This figure includes unrepresented litigants who have chosen to participate and attorneys appearing *pro hac vice* who register with NYSCEF, as well as firms serving as authorized agents for attorneys.

Since chapter 237 went into effect, mandatory e-filing programs have been initiated in Supreme Court in Dutchess, Niagara, and Oneida Counties. Also, existing mandatory e-filing programs in Supreme Court in Kings and Suffolk Counties have been expanded to include additional case types. With each e-filing rollout and expansion, we have provided advance public notice of our plans and consulted broadly with interested groups.

The UCS's Statewide Coordinator for E-filing in the State Courts is in frequent contact with court administrators and County Clerks about the operation of e-filing in their courts and counties. Through such contacts, the Coordinator identifies courts and County Clerks offices that may be ready to proceed with e-filing, either on a consensual or mandatory basis. If such expansion requires an adjustment or addition to the NYSCEF software to meet the needs of a court or County Clerk, the Statewide Coordinator examines whether such changes can be made and when the expansion may occur. Formal notice and community consultation take place whenever an expansion is to occur. As provided in chapter 237, the appropriate Advisory Committee is consulted as part of the process. And, as had been the practice since the earliest days of the e-filing program, expansions in Supreme Court have always taken place by agreement of the County Clerk and the UCS.

We anticipate that, by the end of 2016, other counties will be added to the list of those participating in the e-filing program, covering cases in both Supreme Court and Surrogate's Court.

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16. All NYSCEF files, unless sealed or otherwise restricted, are viewable by the general public. To file documents, however, one must obtain a user ID and password. New York attorneys can use the same credentials set up in their attorney registration online account for any case in which they represent a party. Attorneys admitted *pro hac vice* need separate credentials for each case in which they are participating. A user ID is also available for authorized agents -- non-attorney users who work for a lawyers' service/law firm. Unrepresented parties may obtain a user ID either to commence a case or to respond to a case against them. New screens have been developed to assist in the expedited issuance of these IDs.

## 2. Improvements to Software and Productivity Enhancements

We continuously monitor the NYSCEF system to ensure that it meets the needs of all users, including the courts, County Clerks, attorneys and self-represented litigants, and that it remains as efficient, effective and easy-to-use as possible. As a result of this monitoring, many enhancements are made to the software each year. From time to time, as well, improvements are made in response to suggestions or comments from attorneys, legal organizations, self-represented persons, court staff and representatives of County Clerks. Likewise, input is obtained from the several Advisory Committees.

In March 2016, for instance, enhancements were made to the NYSCEF document list that reorganized the documents into a more user-friendly display. In addition, some months ago, NYSCEF introduced a new option for the filing of the Request for Judicial Intervention (RJI). In the past, an RJI form had to be completed by hand and then scanned into NYSCEF, even though the form calls for some information that would already have been electronically inputted into NYSCEF. Now, however, there is an alternative to completion by hand-scanning – *i.e.*, NYSCEF can create the RJI using data already inputted by the filer and then, with the click of a button, the completed RJI can be uploaded to the NYSCEF case file.

We anticipate that other improvements to the NYSCEF software will be made in 2016, including the addition of functionality to facilitate on-line viewing of documents (*e.g.*, text-searchable technology). We will especially be considering ways to avoid duplication of work and enhance efficiency throughout NYSCEF.

E-filing offers the potential for significant improvement in productivity in the courts and the County Clerk offices through reduction in data entry. At least since 1986, case data, such as the caption, has been recorded in the records of the court and the County Clerk through manual key strokes at a computer terminal. E-filing, however, presents the opportunity for the electronic transfer of key elements of data from NYSCEF to the case management program of the court or County Clerk. In the course of creating the case file in NYSCEF or filing an individual document in an existing case, the filer must enter information about the case or filing in electronic format. This data is subject to possible automated electronic transfer to the case management system of the court or County Clerk, provided that that system has been designed with the capacity to receive and incorporate such data<sup>17</sup>. To the extent that this data can be so transferred, the workload of the staff of both court and County Clerk will significantly be reduced.

In various counties around the state, data is transferred from NYSCEF electronically to County Clerks who seek such data, through a web service. This process has worked well and has proven helpful to the County Clerks, as is confirmed by comments set forth in Appendix C.

We noted in 2015 that the UCS had installed up-to-date case management software in the Surrogate's Court that would be capable of automatically accepting the electronic transfer of data from NYSCEF. This software, which is known as the Universal Case Management System ("UCMS"), is now operational in Surrogate's Courts statewide and is already partially integrated there with NYSCEF, so that images of documents can easily be transferred from NYSCEF to the software. The program will be further integrated to permit regular transfer of data from NYSCEF to the UCMS in Surrogate's Court, with a significant improvement in productivity for the court.

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17. In speaking of data transfer, we mean that the data in question remains in NYSCEF and fulfills its function there, but that, in effect, a copy of that data is also forwarded to a court's or County Clerk's case management system.

The UCMS is not yet operational in Supreme Court, Civil Term. Although in many aspects it is universal, it must and does differ in important respects between the various trial courts. Since there are very important differences in civil practice and in the types of documents filed in the Supreme Court, Surrogate's Court and other courts, the UCMS must be adjusted for each type of court. We have been working to bring the UCMS to Supreme Court with the goal of integrating it with NYSCEF. Since our 2015 report, court staff have been working closely with the UCS Department of Technology (DOT) on this effort. We anticipate that the UCMS will be introduced on a test basis in Supreme Court in the first quarter of 2017, probably first in Westchester County Supreme Court. After this initial test is launched, we anticipate the introduction of UCMS on the same basis in Erie County Supreme Court and in New York County Supreme Court, Civil Term. When the software is fully operational, it will be possible to integrate it with NYSCEF. Once extensive testing ensures that the system meets the operational requirements of the courts, we expect to roll out the software, integrated with NYSCEF, in Supreme Court in the remaining counties statewide by 2018.

### **3. Training and Outreach to the Bar**

The UCS has made a major effort to be responsive to the needs and concerns of the bar with regard to e-filing, providing training programs and resources, including an on-line training section of the software where users can experiment without limitation. Assistance is also available from the court system's help center, the UCS e-filing Resource Center, by phone and e-mail throughout the business day, every day, for anyone who may need it. The comments made about the Resource Center and its staff by users have long been favorable and complimentary and continue to be so. We are most grateful to our staff for providing this outstanding level of service, which could not have been achieved without the exceptional knowledge and dedication that they have displayed.

Although NYSCEF is, to a large degree, intuitive, training has been offered in many locations for those who feel the need for it. For example, we offer training on a weekly basis in New York City for users in the greater metropolitan area. Similar training is available in other participating counties around the State. Whenever NYSCEF is introduced into a new court or county, we provide training. For over two years, the Resource Center has, in addition, been offering live training on-line on a regular basis, through the NYSCEF website, which is clearly a great convenience for attorneys and other users, who can access it through their desktop or laptop.

Training is offered at no cost, and two hours of Continuing Legal Education (CLE) credit is offered to attorneys who take advantage of it. Thus far, the UCS has provided thousands of hours of such free CLE credit. The UCS also has provided extensive training to judges and the staff of law firms, County Clerks and court personnel.

We will be continuing and expanding this training effort in 2016 and beyond.

### **4. Mandatory E-filing**

Much of the growth in e-filing has occurred since 2010, when mandatory e-filing was first authorized, beginning in May of that year, with commercial cases in the New York County Supreme Court. By now, many thousands of mandatory e-filing cases have been filed with the NYSCEF system in Supreme Court and Surrogate's Court. From the perspective of the courts and County Clerks, there have been very few problems with e-filing in these cases and no significant difficulties have come to the attention of the court system. This is borne out in the comments we have been receiving from the County Clerks of counties in which e-filing has been implemented, comments we have included in Appendix C of this report.

Similarly, the response to mandatory e-filing by the Advisory Committees (with which we met most recently in March 2016), the bar, and the public has been extremely favorable. They have reported very few problems with mandatory e-filing; and their overall positive reaction is well demonstrated in the Comments section of this report (Appendices B, D and E), which will be discussed below.

## 5. Exemptions from E-filing

One potential concern for the administrators of an e-filing program is whether some prospective users might lack the knowledge or equipment necessary to e-file. The e-filing statutes and implementing rules provide that, even when e-filing is mandatory in the covered courts and case types, any attorney who lacks the equipment or the knowledge required to e-file can be exempted from doing so by filing a form certifying as much.

Unrepresented parties likewise are not required to participate in e-filing. In fact, chapter 237 flipped what had been a presumption of participation for unrepresented litigants involved in mandatory e-filing cases – a presumption that could be countered only if such litigants affirmatively chose to opt out of e-filing. Now the law is that unrepresented litigants are presumed not to participate in e-filing unless they affirmatively express the intent to do so. They are no longer obliged to file an opt out form. In a mandatory e-filing case, they simply file and serve, and are served with, court documents in hard copy. If, however, they choose to e-file, they may do so, in which event all they must do is apply for a user ID and password, and e-file in the same manner as all other parties to the case<sup>18</sup>.

## 6. E-filing in the Appellate Divisions

In our 2015 report, we discussed the introduction of e-filing in the Appellate Divisions. As of this time, there is a commitment in the four Departments to e-filing through NYSCEF. Under the direction of the Statewide Coordinator, a working group has been examining the processing of documents in all the Departments and has been studying how best to implement e-filing through NYSCEF in appellate cases. The goal is to develop a module for appellate e-filing—the same module for all four Departments—that can be incorporated into NYSCEF. The module must efficiently accommodate all aspects of appellate practice, including briefs, records, motions and the like. Two key issues are how the NYSCEF record in the trial court will relate to the record on appeal and how most efficiently to handle a transfer of the trial court record to the Appellate Division. With the very dedicated assistance of each Department, the analysis is ongoing. Once a sound concept for a module has been developed and agreed upon, the Statewide Coordinator will work with the DOT to create the appellate application that will be incorporated into NYSCEF. These efforts will ensure that e-filing is smooth and seamless in cases in the trial courts and thereafter, as well, in the Appellate Division.

We hope that by the end of this year we can begin the technical work necessary to create the application, with a view toward the commencement of *beta* testing in the second quarter of 2017. Here, too, a test period will be needed to ensure that the application functions correctly from a technical perspective and that, in practice, it satisfies all requirements of the Appellate Divisions, as well as the needs of the appellate bar.

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18. NYSCEF staff worked closely with the staff of the court system's Access to Justice Program to create several explanatory pages on the e-filing website specifically designed to help unrepresented persons who want to e-file.

## **7. E-filing in Criminal and Family Court Cases**

Advisory committees with broad-based membership have been established to guide in the planning and implementation of e-filing in criminal and Family Court matters. In addition, work has begun on the design of modules that will permit e-filing through NYSCEF in the authorized types of cases. As part of this process, especially careful attention will be given to the issues of security and confidentiality. Here, too, we are planning for a future in which data entered into NYSCEF in criminal and Family Court cases can automatically be transferred to and incorporated into relevant fields in integrated UCMS's for criminal and Family Court cases, thereby generating substantial labor efficiencies for these courts. Once design and functionality have been fully agreed upon, the UCS DOT will build the module, followed by a pilot test prior to implementation. As work advances on these projects, we will be continuing our consultations with the designated Advisory Committees, the bar and the public. We are confident that once rules for criminal and Family Court matters are proposed, promulgated and implemented, the response of the bar and users to e-filing in these cases will be just as favorable as their response has thus far been in civil cases and Surrogate's Court proceedings.

## III. Comments on E-filing in New York

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### A. Solicitation of Comments

As required by section one of chapter 237 (codifying Judiciary Law 212(t)), the UCS, in connection with preparation of this report, has solicited comments on the implementation of e-filing in New York State. We wrote to all County Clerks in counties in which e-filing has been implemented in civil cases in Supreme Court, as well as to state, local and other bar groups, along with legal aid groups, public defenders and other similar groups or organizations. At our meetings with the several Advisory Committees, we advised that we would be reaching out to their members to solicit their input; and we have done so. In addition, we have prominently placed solicitation notices on the UCS website and in the *New York Law Journal*, seeking comment from the public and the bar.

We have informed the recipients of these notices that the Chief Administrative Judge would be submitting this report and that any comments received would be included in the report. We have also posted all comments received from any source on the UCS website<sup>19</sup>.

The comments received are attached as appendices to this report as follows:

- **Appendix B:** Advisory Committee Comments
- **Appendix C:** County Clerk Comments
- **Appendix D:** Comments from Bar Groups and from Legal Service Providers and Other Groups
- **Appendix E:** Comments from Unaffiliated Attorneys, NYSCEF Users and the Public

### B. Summary of and Response to Comments

Overall, the comments received are very favorable to e-filing and NYSCEF. Among such comments in support are the following:

- [O]ne area in which the New York State Judiciary has absolutely excelled in is the technological arena more particularly, the advent, implementation, and utilization of the New York State Courts Electronic Filing System (NYSCEF).
- [A]n excellent system very well designed.
- I think your site is the best in the nation ....
- E-filing is a dream for a solo practitioner.
- NYSCEF is better than the Federal system.
- [T]he e-file system is tremendously convenient.... When I have had an issue, the people at the help number were fast and helpful.
- The President of the Albany County Bar Association wrote that when he made his first e-filing, he was amazed at how easy it was. E-filing is quick, easy to use and will save lawyers and their clients time and money. The Association is now promoting expansion of e-filing in Albany County.
- Being able to file electronically is a HUGE convenience. In complex, multi-party cases, the ability to simply upload one PDF in lieu of printing, collating, stapling, addressing and mailing numerous copies is more accurate, more convenient, and more reliable. Similarly, proof of service is a certainty .... In short, I cannot overstate how vastly superior life is with e-filing.

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19. <http://www.nycourts.gov/rules/efiling/PDF/public-comments-user-experience.pdf>

- One attorney described e-filing as an excellent innovation, and wished it were available in even more courts than those in which it operates at present.
- The system is great. Extremely well organized. A pleasure!
- NYSCEF stand[s] out from other courts. The system has continued to get better each year. The NYSCEF Resource Center has done everything that it can to train law firm employees along with making sure no phone call to their office goes unanswered.... This group of dedicated clerks goes beyond the call of duty.

We also received comments from many County Clerks. These Clerks all expressed great satisfaction with e-filing. They described concrete benefits and efficiencies that NYSCEF has brought to their operations and to the work of the attorneys in their locales. For instance, a County Clerk in a county where e-filing was recently introduced wrote, that “[i]n a very short time [e-filing] has changed the way we do business ....”<sup>20</sup> Another stated that “[t]here is a constant collaboration of efforts between our county and the e-filing resource center to continuously enhance the system. NYSCEF staff is always willing to address any concerns and provide improvements to the system”<sup>21</sup>. A third wrote that his “office appreciates that the staff at NYSCEF listens to our comments and accepts suggestions for improvements to the system. In addition, each one of the Resource people deserve gold stars for their patience in assisting us and those customers we direct to the Resource Center”<sup>22</sup>.

A County Clerk in an upstate county with a comprehensive consensual program said that e-filing has “resulted in less errors in filings, less employee time actually filing and scanning hard copy filings and less employee staff time verifying filed documents. A side benefit and cost savings has been the elimination of the cost of shredding paper documents that were scanned and verified”<sup>23</sup>. A County Clerk in a county with an expanding mandatory program wrote that “[o]verall, the move toward E-Filing has been very positive and we look forward to expanding the cases which must be electronically filed. My office would like to make all current consensual cases mandatory as well as include criminal, Article 78 and Mental Hygiene cases in the next phase of implementation”<sup>24</sup>. A County Clerk in a county where a mandatory program has been in effect for four years wrote that “NYSCEF provides tremendous convenience for our customers... saves taxpayer dollars...is easy to learn and use... We believe strongly that NYSCEF has become part of the foundation of court administration and we want nothing more than to be the county where e-filing is comprehensive and embraced by our customers and partners in the courts”<sup>25</sup>.

A County Clerk from a county with a significantly expanded mandatory program wrote “[t]he NYSCEF system is more than an electronic filing system, it is also a powerful and effective communication tool, which provides immediate notice to all parties of filed documents, as well as notice to a filing party of the need to remedy a procedural defect which precludes filing, e.g. improper venue”<sup>26</sup>. Another wrote that “[a]s a recently elected new County Clerk, I have participated in learning the e-filing system with one of my

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20. Letter of Hon. Sandra J. DePerno, County Clerk of Oneida County.

21. Letter of Hon. Audrey I. Pheffer, County Clerk of Queens County.

22. Letter of Hon. Christopher L. Jacobs, County Clerk of Erie County.

23. Letter of Elizabeth Larkin, County Clerk of Cortland County.

24. Letter of Judith A. Pascale, County Clerk of Suffolk County.

25. Letter of Timothy C. Idoni, County Clerk of Westchester County.

26. Letter of Nancy T. Sunshine, County Clerk of Kings County.

Deputies and also participated in training from NYSCEF from the attorneys' point of view as well as from the point of view of recording clerks. What I can say is I am quite impressed at what I perceive as a simple, not cumbersome system to use"<sup>27</sup>.

Some of the comments included specific suggestions for improvement or offered criticisms of the program.<sup>28</sup> We have reviewed all comments received and will be considering the possible implementation of the suggestions made. Where improvements to NYSCEF can be made, however, or where court operations that involve some aspect of e-filing can be made better, we are eager to continue to make changes. Ongoing and regular improvement has been a hallmark of our efforts thus far.

The following is a summary, by category, of comments or suggestions, along with our responses.

### 1. File Size

Some commentators suggested that the system be modified in some fashion to accommodate the filing of larger documents. If the file is very large, it can take some time for the documents to load. NYSCEF places a maximum limitation of 100 megabytes on any one document, which is substantial. Indeed, one commentator complements NYSCEF for its handling of large documents: "Just about every court in the country will have a PDF file restriction, but NYSCEF continues to remain one of the few courts that allows a larger size requirement, which makes large filings take a lot less time"<sup>29</sup>. Nevertheless, we will examine this issue to see if any improvements are practical.

Another commentator suggested that it might be useful for appellate purposes if the entire trial court case file could be downloaded at once. As explained above, we are studying implementation of e-filing in the Appellate Divisions, including treatment of the file, and so we will be working with the Appellate Divisions to develop a convenient method of bringing the e-file trial court record before the Appellate Division. A final decision has not been reached on the file-size question, but we are aware of its importance. A sound procedure will improve efficiency and bring greater convenience to e-filing attorneys in cases destined for the Appellate Division and to the Justices and staff of that court. The functionality developed here will also allow us to expedite downloads in all case types at the trial-court level.

### 2. E-filing, Integration of Systems and Appearance Information

A bar group, though describing e-filing as "a tremendous boon to the court system, judges and attorneys," suggests that software be developed that will avoid duplication of entries in County Clerk and court computer applications<sup>30</sup>. As discussed above and in our 2015 report, the UCS has been very much aware of the need to eliminate duplication of entries, and avoid the delays and confusion that such duplication may entail. We are already transferring images and data from NYSCEF to County Clerks as requested and have begun transfer of images to the case management system in Surrogate's Court with data transfer to follow. And, we will shortly be bringing such transfers to Supreme Court.

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27. Letter of Lisa Dell, County Clerk of Onondaga County.

28. Some of these suggestions or comments are detailed, narrow, technical, or relate to operations in a particular court and so are not appropriate for discussion here. Other suggestions and criticisms were based on a misunderstanding of the NYSCEF system and how it functions. For example, a few legal assistants complained that despite e-filing, they still must mail all documents. This is incorrect. E-filing imposes no such requirement. Service is effected, at no charge, through NYSCEF, permitting service to be done more quickly and with greater security and reliability than can be achieved through the mail.

29. Comments of JoAnn DiSanti, National Docketing Association Submission, March 25, 2016.

30. Comments of New York City Bar Association, p. 2.

Several commentators suggested that the NYSCEF e-filing system be modified so as to permit what are known as e-Track notifications. E-Track is a court system application that, at no charge, allows attorneys to sign up for e-mail notifications of developments or changes in the status of a case, such as an adjournment of the return date on a motion or a conference. The e-Track system also provides e-mail reminder notifications in advance of future appearances to users who request this functionality in their cases. Those commenting seek the added convenience of having e-Track incorporated into NYSCEF so as to allow users to record cases for notification without having to go into e-Track.

One of the commentators who raised this suggestion also proposed that future and past court appearances be visible on NYSCEF. Such information is accessible on line (e.g., in New York County Supreme Court Records On-Line Library (Scroll)), but the attorney seeks to have that information accessible in one place, in the NYSCEF application.

The suggestion for including e-Track in NYSCEF would bring an additional level of convenience for users of the NYSCEF application. The convenience, however, would be limited since what is being discussed primarily is the initial recording of a case for e-Track notifications, which is a one-time event.

Beyond this, the technical problems that may be presented by this proposal and the suggestion regarding appearance information may outweigh the benefits that would come from them. The applications in question were created at different times using different software. NYSCEF was intended to be, as its name indicates, a filing (and service) system, not a full-blown case management system. Giving NYSCEF major case management features may require a substantial amount of programming. We believe that it is more likely to be productive overall if, over the next year, we concentrate our programming resources, which are not without limitation, and our energy on advancing e-filing in the Appellate Divisions and in criminal and Family Courts.

It may, however, be possible for us to provide in the NYSCEF file a link to the case management system of the court for that case and we will evaluate this. Information on appearances (upcoming conference dates, adjourned dates on motions, and so forth) would not be in NYSCEF, but it would be very convenient if it were accessible through NYSCEF. We will examine the possibility of creating such a link without excessive programming that might delay our progress on other fronts. Since we are currently studying integration of NYSCEF with the UCMS in Supreme Court with the objective of eliminating duplicative data entry, we may have before us an opportunity to consider a link from NYSCEF to the UCMS.

### **3. Case Action Capabilities**

One commentator suggests that a functionality should be added to NYSCEF that would allow a case to be marked off calendar electronically rather than requiring attorneys to appear in court to request an adjournment. Motion filers, it is suggested, should also have the option of having the motion heard “on the papers” so as to avoid unnecessary court appearances.

These suggestions go beyond NYSCEF’s mandate of being a filing and service system, with document retrieval and history functions, and would enter the judge’s domain where individual judges manage their own courtrooms and calendars. Different judges, even within a single county or courthouse, may handle these matters in different ways. It is certainly true statewide and NYSCEF is a statewide application. In such a complex environment, it would be difficult to implement these suggestions through NYSCEF. But, if such a course were pursued, here, too, significant programming work would probably be required to bring the suggestions to fruition; and, for now, we think programming resources can be better employed elsewhere.

#### 4. Exclusions from Mandatory E-filing

There are currently seven Supreme Court Civil case types that may not be included in a mandatory e-filing program: (1) CPLR Article 78 cases; (2) CPLR Article 70 cases; (3) MHL Article 81 cases; (5) Election Law cases; (5) matrimonial cases; (6) certain residential foreclosure cases; and (7) certain consumer debt cases. CPLR 2111 (b)(2)(A)<sup>31</sup>.

Several County Clerks have urged that these exclusions from the mandatory e-filing program be eliminated<sup>32</sup>. Other County Clerks have focused specifically on expanding mandatory e-filing by eliminating the present exclusions for Article 78 proceedings and matrimonial actions<sup>33</sup>. Bar groups and individual attorneys, including one foreclosure defense firm, have observed that mandatory e-filing should be extended to Article 78 proceedings, matrimonial actions, and residential foreclosure actions<sup>34</sup>. It should be noted that in the general experience of consensual e-filing in matrimonial cases in Westchester and Rockland Counties (and more recent consensual authorizations in Cortland, Dutchess, Livingston, Ontario, and Tompkins Counties), no problems of note have arisen in these venues, nor have there been any complaints<sup>35</sup>.

On the other hand, one provider of free legal services to low- and moderate-income defendants in foreclosure cases in New York City has noted that mandatory e-filing in foreclosure actions should be terminated “given the problems experienced with e-filing by foreclosure defendants” (comments of Legal Services NYC, *et al*).

In light of the County Clerk, bar group, and individual attorney comments cited above, the comments of this legal services group appears to be in the minority. Nothing indicates that, in the wake of enactment of chapter 237 in 2015, any of the problems are widespread, ongoing, or have not been addressed by the outreach and support efforts undertaken by the courts, County Clerks, NYSCEF staff and the Office of Court Administration, including Deputy Chief Administrative Judge Fern Fisher’s Access to Justice Program.

It is our view that some, if not all, of the exclusions from the mandatory e-filing program should be repealed<sup>36</sup>. We already have considerable experience with the *consensual* e-filing of cases in one of the case types currently excluded from the mandatory program. Specifically, in Westchester and Rockland Counties, matrimonial cases have been subject to e-filing on a voluntary basis since April 1, 2013, and January 6, 2014, respectively, and in fact many such cases have been e-filed on that basis. (More recent authorizations permit consensual e-filing of matrimonial cases in Cortland, Dutchess, Livingston, Ontario, and Tompkins Counties.)

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31. Under CPLR 2111(b)(2-a), the exclusions for foreclosure and consumer credit cases do not apply to any county in which a mandatory e-filing program that embraced such matters had been instituted prior to August 31, 2015, the effective date of chapter 237, namely, Erie, Essex, New York, Queens, Rockland, Suffolk, and Westchester Counties for foreclosure actions, and Erie, New York, Onondaga, Rockland, and Westchester Counties for consumer credit cases. This exemption provision is scheduled to expire on September 1, 2017, however. L. 2015, c. 237, §11. As of that date, mandatory e-filing will be prohibited in these two types of cases in the counties listed here. We expect that next year we will make a recommendation to eliminate or extend the September first sunset provision.

32. Letter of Lisa Dell, County Clerk of Onondaga County; letter of Nancy T. Sunshine, County Clerk of Kings County; letter of Audrey I. Pfeffer, County Clerk of Queens County.

33. Letter of Judith A. Pascale, County Clerk of Suffolk County; letter of Timothy C. Idoni, County Clerk of Westchester County.

34. See comments in Appendix C and Appendix D.

35. Nor is there any reason to be concerned about the privacy of matrimonial files in e-filed cases. DRL 235 requires that matrimonial files be treated confidentially, and e-filing is consistent with that requirement. A functionality now in operation in NYSCEF, and in place since e-filings of this type began, restricts access to documents e-filed in matrimonial cases. When a case is designated as matrimonial, it is automatically treated confidentially so that there is no public access to the NYSCEF file.

36. This would simply mean that the Chief Administrative Judge would enjoy discretionary authority to include those matters in the mandatory e-filing program in a particular county. He or she would be under no obligation to exercise this authority in any or all counties, however. Instead, only in those counties where the court, the County Clerk and the matrimonial bar have clearly signaled their comfort with this practice.

No problems of note have arisen in these venues, nor have there been any complaints<sup>37</sup>. We believe that the demonstrated success of the programs in this class of cases would continue if they were to be made subject to mandatory e-filing.

While we agree with those commentators urging a repeal of the exclusions, particularly the exclusion for matrimonial cases, we are not seeking such a legislative change this year. However, we anticipate that next year, with additional experience to rely on, we will be in a position to seek repeal of one or more of the current exclusions from mandatory e-filing in Supreme Court civil cases.

## 5. Self-Represented Litigants

In two letters, we received comments from some legal service groups raising concerns. One commentator noted that the process of opting out is difficult, suggesting that it might be a good idea to require paper filing when a defendant is unrepresented (comments of Legal Aid Society of Northeastern New York). Under chapter 237, however, unrepresented persons no longer must opt out to avoid the obligation to e-file. They are automatically exempt from e-filing and need take no steps to enjoy that exemption. To the contrary, unrepresented parties must affirmatively opt in to e-file in a mandatory case and, in the absence of such action, must be served with documents in hard copy. The second letter is from a group of providers of free legal services to low- and moderate-income New Yorkers in foreclosure cases in New York City (comments of Legal Services NYC, *et al*). This letter raises concerns that have to do in good part, not with weaknesses in the law or in our e-filing procedures, but with apparent failings on the part of clerks in individual instances in some counties to follow established procedures in these cases. Many of their concerns have already been brought to the attention of the relevant clerk's offices by e-filing staff. A complaint is made that in one county, plaintiffs have e-filed documents without serving hard copies on unrepresented parties who are not participating in e-filing. The law makes clear that an unrepresented person is not a participant in e-filing and so must be served in hard copy unless that unrepresented person acts affirmatively to opt in.

Therefore, the action of these plaintiffs is not only out of compliance with e-filing rules, but also with the CPLR<sup>38</sup>. Procedures have been in place through emails and onscreen to alert a party when there are non-participating parties, and we will continue to evaluate for future enhancements that may clarify and assist in obtaining this information. The second letter also mentions some detailed operational issues that will be addressed and that should be resolvable, such as one involving the wording of the notice of mandatory e-filing served at commencement. A complaint is made that some scans of documents in one county have not been legible. Poor on-line legibility does not affect non-participating parties because all documents must be served on them in hard copy. Illegible images, however, are a concern for participating parties, but they are easily corrected when brought to the attention of the court or the Resource Center.

In addition to the point-by-point responses, concerted efforts by court, County Clerk and NYSCEF staff, the Office of Court Administration and counsel to Deputy Chief Administrative Judge Fern Fisher's Access to Justice Program in education, outreach, and institutional assistance to self-represented litigants have alleviated many of these concerns.

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37. One reason there have been no problems with the voluntary e-filing of matrimonial cases surely lies in the security of the NYSCEF system and, particularly, the existence of reliable safeguards on the confidentiality of documents filed in matrimonial cases. A functionality now in operation in NYSCEF, and in place there since e-filings of this type began, restricts access to documents e-filed in matrimonial cases. These documents would continue to be so treated in the future. When a case is designated as a matrimonial one and every case in NYSCEF must be given a case-type designation it would automatically be treated confidentially so that there would be no access by the public to the NYSCEF file.

38. See Uniform Rule S 202.5(e) (5) and CPLR 2103(e).

## 6. Working Copies

Several correspondents have suggested that e-filing would work even more efficiently if the need for working hard copies of e-filed documents was reduced. We agree that the need for hard copies of e-filed documents should be reduced. However, the requirement to submit paper working copies is within the discretion of the assigned judge. We have and will continue to explore ways to facilitate and encourage less reliance on working copies. We are taking measures to promote the on-line reading of e-filed documents by enhancing system features and providing additional hardware for our Judges and court staff. Enhancements include built-in software that automatically converts virtually all e-filed documents into a text-searchable format. We are testing a separate application that would allow chambers staff to annotate e-filed documents as if on paper. Anticipated hardware upgrades include laptops, tablets, and dual monitors for PCs, all of which will facilitate the managing and reading of on-line documents.

The Advisory Committee established to assist rollout of e-filing in civil cases in Supreme Court supports these proposals in their recommendations for addressing this issue<sup>39</sup>. The Advisory Committee suggests that the UCS continue to explore ways to reduce reliance on working copies and we will be doing that. It also specifically recommends that court personnel be provided with dual monitors so that submissions can easily be reviewed on one monitor while a decision is composed on the other, ensuring that submissions are made text searchable so that court personnel can easily search e-filed documents, and offering training to court personnel to teach skills and share strategies that increase the comfort level of court attorneys and judges working with documents in NYSCEF. These are all excellent suggestions, and we will continue to explore ways to give them effect.

## 7. E-filing in Criminal Cases

Some commentators have submitted suggestions for procedures to be followed in e-filing in criminal cases. As explained above, no module has yet been developed for e-filing in criminal cases. Discussions about how best to apply e-filing technology to the special needs and dynamics of criminal cases are in progress. The suggestions that have been submitted in response to our solicitation in preparation of this report will be considered by the Advisory Committee on e-filing in criminal cases and by the Statewide Coordinator as the process of consultation and development proceeds.

One of the matters raised by those corresponding with us about their e-filing experience involves the confidentiality of information in criminal cases. We are aware of the sensitivity of this issue. We note that chapter 237 specifically addressed this subject<sup>40</sup>. As discussions proceed, this issue will be given close attention by the Advisory Committee and the UCS, and we will invite public input to help inform handling of any confidentiality issues.

Because efforts to expand e-filing into the criminal courts are in such early stages, it would be premature to comment now on the operational details mentioned in the suggestions received.

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39. Letter of Hon. Timothy C. Idoni, Committee Chair and Westchester County Clerk.

40. See CPL 10.40(2)(d) [as added by L. 2015, c. 237 §4].

## Conclusion

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In sum, significant progress has been made in harnessing the power of e-filing, especially since the enactment of chapter 237 in 2015. However, there is much that remains to be done. The UCS will continue to work closely with its partners, including the County Clerks and the bar, to ensure that e-filing is implemented in a thoughtful and careful manner, so that the full potential of this technology to improve our system of justice is realized.

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# Appendix A

Advisory Committees - Membership

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## **SUPREME CIVIL COURT E-FILING COMMITTEE**

For Purposes of Statutory Consultation Requirement under L. 2015, c. 237.

**Committee Chair:**                    **Hon. Timothy C. Idoni**  
County Clerk, Westchester County, NY  
White Plains, NY

**Committee Vice-Chair:**        **Jeffrey Carucci**  
First Deputy Chief Clerk, NYS Supreme Court, New York County  
E-Filing Statewide Administrator

**Staff:**                                 **Holly Nelson Lütz, Esq.**

### **Members:**

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*Author 1999 Supplement for CPLR – Electronic Filing; participated in drafting*  
*User Manual for filing court papers by electronic means and designed web pages*  
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**Hon. Elizabeth Larkin**  
***County Clerk, Cortland County***  
Cortland, NY

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***Syracuse University College of Law***  
***Board Member, Empire Justice Center***  
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**John M. Lundin, Esq.**  
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**Daniel Marren, Esq.**  
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District Administrative Judge, 8<sup>th</sup> Judicial District*  
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Member: WBASNY - Technology and Social Media, Co-Chair; Nassau County WBA- past Pres.,  
Nominating and Diversity Committees, Chair; Long Island Hispanic Bar Assoc.-past Pres. and  
current Sec.; Puerto Rican Bar; NYSBA – Diversity Committee; Nassau County Bar Assoc.;  
Criminal Courts Bar Assoc. of Nassau County.*  
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**Hon. Nancy T. Sunshine**  
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Brooklyn, NY

## **SUPREME CRIMINAL COURT E-FILING COMMITTEE**

For Purposes of Statutory Consultation Requirement under L. 2015, c. 237.

**Committee Chair:**           **Hon. Michael V. Coccoma**  
**Deputy Chief Administrative Judge for the**  
**Courts Outside New York City**

**Committee Vice - Chair:**   **Jeffrey Carucci**  
**First Deputy Chief Clerk, NYS Supreme Court, New York**  
**County, E-Filing Statewide Administrator**

**Staff:** Paul McDonnell, Esq.

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**Charles Diamond**  
***Chief Clerk, Albany County Supreme Court***  
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***Chief of Staff, Kings County District Attorney's Office***  
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***Bronx Defenders, Executive Director***  
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**Risa Gerson, Esq.**  
***Office of Indigent Legal Services***  
***Director of Quality Enhancement for Appellate and Post-Conviction Litigation***  
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***Dutchess County Clerk***  
***NYS Association of County Clerks, President***  
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***President – Chief Defenders Association of New York***  
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***Case Management Coordinator, New York County Supreme Court***  
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***Assistant District Attorney***  
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## **NYC CIVIL COURT E-FILING COMMITTEE**

For Purposes of Statutory Consultation Requirement under L. 2015, c. 237.

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New York, NY

**Committee Vice-Chair:** Jeffrey Carucci  
First Deputy Chief Clerk, NYS Supreme Court, New York  
County, E-Filing Statewide Administrator

**Staff:** Holly Nelson Lütz, Esq

### **Members:**

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New York, NY

**Richard W. Kokel, Esq.**

***Member: NYSBA - Membership Committee, Member of the Executive Committee for the Torts, Insurance and Compensation Law section, and the Chair of the No-Fault Committee (TICL).***

New York, NY

**Joseph Minogue**

***Deputy Chief Clerk V, New York City Civil Court - Kings County***

Brooklyn, NY

**Mitchell B. Nisonoff, Esq.**

Department of Consumer Affairs, New York City

***Member: NYCLA –Civil Court Practice Section Committee***

New York, NY

**Alia Razzaq**

***First Deputy Chief Clerk, New York City Civil Court - Citywide***

New York, NY

**Lawrence N. Rogak, Esq.**

Lawrence N. Rogak LLC

***Insurance Law Practice***

Oceanside, NY

**Michael James Rivers, Esq.**

Law Offices of Aloy O. Ibuzor

(No fault defense for Travelers/Citi Group)

***Member: NYSBA – Torts, Insurance and Compensation Law – No Fault Committee (TICL)***

New York, NY

**Rachel Siskind, Esq.**

Silversmith & Associates Law Firm, PLLC

***NYCLA –Civil Court Practice Section, Co-Chair***

New York, NY

**Serena Springle**

***Deputy Chief Clerk V, New York City Civil Court - New York County***

New York, NY

## **SURROGATE'S COURT E-FILING COMMITTEE**

For Purposes of Statutory Consultation Requirement under L. 2015, c. 237.

**Committee Chair:**                   **Hon. Craig Doran**  
**Administrative Judge, 7th Judicial District**

**Committee Vice-Chair:**       **Jeffrey Carucci**  
**First Deputy Chief Clerk, NYS Supreme Court, New York**  
**County, E-Filing Statewide Administrator**

**Staff:** Michele Gartner, Esq.

### **Members:**

**Elena F. Cariola, Esq.**  
Gallo & Iacovangelo LLP  
*Surrogate Court Practice (Trusts & Estates)*  
**Member: Bar Association of Monroe County; NYSBA**  
Rochester, NY

**Ronald M. Cerrachio**  
**Chief Clerk, New York Surrogate's Court, Richmond County**  
Staten Island, NY

**Michael Cipollino**  
**Chief Clerk, New York Surrogate's Court, Suffolk County**  
Riverhead, NY

**Rita K. Gilbert, Esq.**  
Hyman & Gilbert, PC  
**Member: Westchester Women's Bar Association - Trusts & Estates section of Supreme and**  
**Surrogate Court Practice, Co-Chair; Westchester County Bar Association; NYSBA – Elder Law**  
**Section, Co-Chair (former)**  
Larchmont, NY

**Margaret M. Gribbon**  
**Chief Clerk, New York Surrogate's Court, Queens County**  
Jamaica, NY

**Michael P. Hausler**  
**Chief Clerk, New York Surrogate's Court, Bronx County**  
Bronx, NY

**Kevin M. Kearney, Esq.**  
Hodgson Russ LLP  
**Member: Erie County Bar Association;**  
**The Volunteer Lawyers Project, Director and President**  
Buffalo, NY

**Deborah Kearns**  
**Chief Clerk, Albany Surrogate's Court**  
Albany, NY

**John Olivieri, Esq.**  
White & Case LLP  
**Member: BACNY - Trusts, Estates and Surrogate's Court Committee, Chair**  
New York, NY

**Susan Patnode, Director**  
**Rural Law Center of New York**  
Plattsburgh, NY

**Shannon Pozzuolo, Esq.**  
**The Legal Aid Society of Rochester – Staff Attorney**  
**Assists and represents persons in Monroe County Surrogate's Court**  
Rochester, NY

**John J. Reddy, Jr., Esq.**  
Reddy, Levey & Ziffer, PC  
**Practice – Trust and Estates, Estate Litigation, Estate Planning, Estate Administration**  
New York, NY

**Kera M. Reed, Esq.**  
Nancy Burner & Associates, PC  
**Practice - Estate Administration; eligible Part 36 appointee as Guardian ad Litem**  
E. Setauket, NY

**Charles T. Scott, Esq.**  
Greenfield, Stein & Senior LLP  
**Westchester County Surrogate; Court Attorney Referee; Chief Clerk (1988-2010)**  
**Member: NYSBA - 9<sup>th</sup> Judicial District Representative (2009-present)**  
New York, NY

**Myrna M. Socorro, Esq.**  
Socorro & Associates  
**Practice – Estate Administration, Advance Directives: Last Will and Testament**  
Bronx, NY

**Ronald J. Weiss, Esq.**  
Skadden Arps  
**Member: NYSBA - Trusts and Estates Law Section Committee (immediate past Chair); BACNY - Estate and Gift Taxation Committee – (former member)**  
New York, NY

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# Appendix B

Advisory Committee Comments

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**WESTCHESTER COUNTY CLERK**

**Timothy C. Idoni**  
County Clerk

**March 24, 2016**

**Hon. Lawrence K. Marks**  
Chief Administrative Judge  
25 Beaver Street  
New York, New York 10004

Dear Judge Marks,

This letter is intended to fulfill the obligation of the Supreme Court Advisory Committee to consult with the Chief Administrative Judge regarding the state's experience with programs in the use of electronic means for the commencement of actions and proceedings and the service of papers therein.

The committee has met four times since the August 31, 2015 enactment of comprehensive e-filing legislation (Ch. 237 of the Laws of 2015):

- The first meeting was held on December 3, 2015 and focused on proposed mandatory e-filing in Dutchess and Niagara counties as well as the expansion of the existing mandatory program in Suffolk County. This meeting resulted in Administrative Order 194/15, which was signed on December 14, 2015 formally launching the mandatory e-filing programs in Dutchess and Niagara counties and expanding the existing mandatory program in Suffolk County, effective December 15, 2015.
- The second meeting was held on January 15, 2016, and focused on proposed mandatory e-filing in Oneida County. This meeting resulted in Administrative Order 10/16, which was signed on February 1, 2016, formally launching the mandatory e-filing program in Oneida County, effective February 1, 2016.
- The third meeting was held on February 10, 2016, and focused on the expansion of the existing mandatory program in Kings County. This meeting resulted in Administrative Order 79/16, which was signed by the Chief Administrative Judge on

110 Dr. Martin Luther King, Jr. Blvd. White Plains, New York 10601 (914) 995-3080 FAX (914) 995-3172

- **March 18, 2016**, formally expanding the existing mandatory e-filing program in Kings County, effective March 21, 2016.
- *The fourth meeting was held on March 10, 2016, and focused on issues to be presented to Chief Administrative Judge for the 2016 report.*

At each of the three meetings that focused on the creation or expansion of mandatory programs, committee members considered the steps taken to notify bar associations, legal organizations, and other interested persons of the proposed programs. The committee then discussed the public comments received in response to this required outreach. A total of twenty-nine comments were received and discussed at these meetings. Although many comments addressed the proposed expansions, other comments raised issues regarding existing protocols. The general comments were overwhelmingly positive, but in some instances offered suggestions for improving the system.

One common thread, expressed in nine comments, involved the working copies requirements of many judges. The e-filing rules provide in §202.5-b(d) (4) that “the court may require the parties to provide working copies of documents filed electronically” and working copy is defined in §202.5(b)(2)(vii) as “a hard copy that is an exact copy of a document that has been electronically filed”. As electronic filing expands in New York State, our committee hopes that you will continue to explore ways to facilitate less reliance on what are commonly known as “working copies” by judges and their staff. Specific actions that could be taken which were discussed included:

- **Providing relevant court personnel with dual monitors** so that submissions can be reviewed on one monitor, while a decision is composed on the other monitor.
- **Insuring that submissions are made text searchable** so that court personnel have an incentive to search the electronic submission, rather than paging through the working copy to find a particular reference.
- **Offering hands-on training to court personnel to teach skills and share strategies that increase comfort level when working with electronic images as opposed to working copies.**

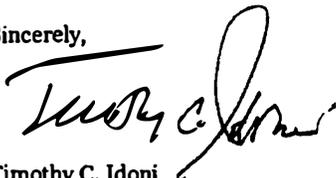
The committee also discussed the on-going need to support pro se litigants who are provided with the option to participate in electronic filing. While this issue was not raised in public comments, committee members acknowledged that the recognition of the needs of pro se litigants was made clear in the most recent e-filing legislation. The elimination of the “opt out” requirement for pro se litigants has been well-received but committee members felt the courts should continue to focus on insuring that pro se litigants are properly supported in e-filing counties. Specific actions that were proposed by members of the committee included:

- The NYSCEF Resource Center and the Access to Justice Office providing training to e-filing counties, law libraries and help centers regarding the new, user-friendly unrepresented litigant pages within the NYSCEF website.
- The NYSCEF Resource Center providing counties with mandatory programs with written materials, including posters and a small handout, that will alert unrepresented litigants that they do not need to e-file but will point them to assistance if they wish to e-file.
- The availability of additional hardware, such as scanners, in law libraries and help centers, to assist those unrepresented litigants who wish to e-file and may not have access to the necessary hardware.

While our committee has offered some items for your consideration, our dedicated members, who represent a broad spectrum of the legal community, feel that the implementation of electronic filing throughout New York State has been a tremendous success. Customers enjoy the convenience of filing papers from a home or office and are supported by knowledgeable and dedicated staff at the E-filing Resource Center. The NYSCEF System provides transparency and accountability as litigants can see exactly where documents are and who has processed them. Document flow among the litigants, County Clerk, Chief Clerk of the Courts and judicial chambers occurs more quickly and is documented more accurately. This program's foundation is solid and is able to support continued expansion.

Thank you for considering our input as you prepare your annual report evaluating the state's experience with electronic filing.

Sincerely,



Timothy C. Idoni  
*Westchester County Clerk*  
*Chair, Supreme Court Civil Electronic Filing Advisory Committee*

- |                            |                               |
|----------------------------|-------------------------------|
| cc: Ronald Younkings, Esq. | Adrienne Koch, Esq.           |
| John W. McConnell, Esq.    | Celeste L. M. Koeleveld, Esq. |
| Jeffrey Carucci            | Hon. Elizabeth Larkin         |
| Holly Nelson Lütz, Esq.    | Professor Lynn S. Levey       |
| Michael Alperstein, Esq.   | John M. Lundin, Esq.          |
| Dennis J. Bischof, Esq.    | Daniel Marren, Esq.           |
| Thomas F. Gleason, Esq.    | Linda Mejias, Esq.            |
| Jeffrey Harradine, Esq.    | Hon. Anthony J. Paris         |
| John R. Higgitt, Esq.      | James M. Paulino, Esq.        |
| Adrienne Holder, Esq.      | Hon. Joseph Provoncha         |
| Hon. Brad Kendall          | Michael H. Reich, Esq.        |
| Karen Jordan               | Charles Small, Esq.           |
| Henry Kennedy, Esq.        | Hon. Nancy T. Sunshine        |

## **State of New York**

**Hon. Craig J. Doran**  
**Supreme Court Justice**



**Seventh Judicial District**  
**Administrative Judge**

**April 1, 2016**

**Hon. Lawrence Marks**  
**New York State Unified Court System**  
**Office of Court Administration**  
**25 Beaver Street, Room 852**  
**New York, NY 10004**

**Hon. Marks:**

This letter is intended to fulfill the obligation of the Surrogate's Court Advisory Committee to consult with the Chief Administrative Judge regarding the State's experience with programs in the use of electronic means for the commencement of proceedings and the service of papers therein and containing recommendations for further appropriate legislation.

The committee has met once since the August 31, 2015 enactment of comprehensive e-filing legislation (Ch. 237 of the Laws of 2015).

The meeting was held on March 9, 2016. The first topic of discussion was the 2015 e-filing legislation and the responsibility of the advisory committee to consult with the Chief Administrative Judge.

The committee next focused on the initial stages of expanding the mandatory e-filing program into Oneida County for all case types, which include estates, trusts, guardianships, and adoptions. The committee reviewed the initial request from the District Administrative Judge and the Surrogate of Oneida County requesting implementation of this mandatory program. It also discussed the next steps in the process required by the new legislation, including outreach to the organized bar, legal organizations, and other persons affected by the proposed expansion.

The committee discussed the consultations with the Chief Administrative Judge regarding the state's experience with e-filing in the Surrogate's Court and any recommendations for further appropriate legislation specifically for the 2016 report.

**COUNTY COURTHOUSE**  
**(585) 412-5292**

**27 NORTH MAIN STREET**  
**FAX: (585) 412-5328**

**CANANDAIGUA, NY 14424**  
**CDORAN@NYCOURTS.GOV**

Hon. Lawrence K. Marks  
Page 2  
April 1, 2016

Although no comments were received from any practitioner, NYSCEF user, or other interested person or organization, the committee agreed that the issue of working copies be discussed in the future. The discussion included the use of technology to lessen the instances in which judges and judicial staff require working copies. Ideas included encouraging and facilitating more widespread use of dual monitors, computer programs that allow mark ups on electronic documents, bookmarking, and text searchable documents.

Very truly yours,



Craig J. Doran  
Supreme Court Justice  
Chairman, Surrogate's Court E-Filing Committee

COUNTY COURTHOUSE  
(585) 412-5292

27 NORTH MAIN STREET  
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**STATE OF NEW YORK  
UNIFIED COURT SYSTEM**  
EMPIRE STATE PLAZA  
4 ESP, SUITE 2001  
ALBANY, NEW YORK 12223-1450  
(518) 453-8650

**LAWRENCE K. MARKS**  
CHIEF ADMINISTRATIVE JUDGE

**MICHAEL V. COCCOMA**  
DEPUTY CHIEF ADMINISTRATIVE JUDGE  
COURTS OUTSIDE NEW YORK CITY

March 28, 2016

Hon. Lawrence K. Marks  
Chief Administrative Judge  
New York State Unified Court System  
25 Beaver St.  
New York, New York 10004

RE: Supreme and County Court (Criminal) Advisory Committee

Dear Judge Marks:

This letter is intended to fulfill the obligation of the Supreme and County Court (Criminal) Advisory Committee to consult with the Chief Administrative Judge regarding the state's experience with programs in the use of electronic means for the commencement of proceedings and the service of papers therein and containing recommendations for further appropriate legislation.

The Committee has met once since the August 31, 2015 enactment of comprehensive e-filing legislation (Ch. 237 of the Laws of 2015). The meeting was held on March 4, 2016 to discuss and evaluate the programs in the use of electronic means for the filing of accusatory instruments and the filing and service of papers in pending criminal actions and proceedings pending in Supreme and County Courts. The Legislature has authorized consensual e-filing for these matters on a state-wide basis and has authorized mandatory e-filing in up to six counties, with the consent of the district attorney, criminal defense bar, and the county clerk. At this juncture, this advisory committee cannot report on the experience with e-filing in these criminal matters in Supreme and County Courts. No e-filing programs have been implemented as yet. However, the advisory committee has discussed the steps that must be taken to launch an e-filing program in this court.

The Committee looks forward to continue working together and expects to be able to report on the progress made toward implementing a program in the 2017 report.

Very truly yours,

A handwritten signature in black ink that reads "Michael V. Coccoma".

Michael V. Coccoma  
Deputy Chief Administrative Judge  
Courts Outside New York City

MVC/dmz



**MICHAEL McLOUGHLIN**  
FIRST DEPUTY CHIEF CLERK

**Family Court of the State of New York  
City of New York**

60 LAFAYETTE STREET  
NEW YORK, N.Y. 10013

March 29, 2016

Honorable Lawrence K. Marks  
Chief Administrative Judge  
New York State Court System  
25 Beaver Street  
New York, N.Y. 10004

Re: Report of Family Court Advisory Committee on e-Filing

Dear Judge Marks,

This letter is intended to fulfill the obligation of the Family Court Advisory Committee to consult with the Chief Administrative Judge regarding the state's experience with programs in the use of electronic means for the commencement of proceedings and the service of papers therein and containing recommendations for further appropriate legislation.

The Committee met twice since the August 31, 2015 enactment of the comprehensive e-filing legislation (Ch. 237 of the Laws of 2015). The initial meeting was held on March 9, 2016 to discuss and evaluate the programs in the use of electronic means for the commencement of actions and proceedings and the service of papers in the Family Court. A second meeting, held on March 16, 2016, demonstrated current e-filing practices in New York County Supreme Civil Court in an effort to help committee members envision how e-filing in Family Court might be accomplished.

The Legislature has authorized consensual e-filing for all case types in the Family Court on a state-wide basis and has authorized mandatory e-filing for proceedings under Article 3 (juvenile delinquency) and Article 10 (abuse and neglect) of the Family Court Act in up to six counties.

At this juncture, this advisory committee cannot report on the experience with e-filing in the Family Court. No e-filing programs have been implemented as yet. However, the advisory committee has discussed the steps that must be taken to launch an e-filing program in this court.

We have also requested comments from our members on behalf of their agencies regarding the plans for e-filing in Family Court. One comment received referred to larger agencies having the ability to access all of the electronically filed cases in which they are a party. They were also concerned with the notification process, as they would need the notification of the electronic filing to be forwarded to more than just the assigned attorney to ensure coverage of the case, etc. We will make certain these issues are discussed in future meetings, as well as all other issues/concerns we come across.

The committee looks forward to continue working together and expects to be able to report on the progress made toward implementing a program in the 2017 report. Thank you for considering our input regarding the plans for e-filing in Family Court.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Michael McLoughlin". The signature is written in a cursive, flowing style.

Michael McLoughlin  
Chairperson,  
Family Court Advisory Committee on e-Filing

cc: Ron Younkins, Esq.  
John McConnell, Esq.  
Barry Clark, Esq.  
Jeffrey Carucci  
Janet Fink, Esq.  
Committee Members

Civil Court  
of the  
City of New York



CAROL ALT  
CHIEF CLERK

111 CENTRE STREET  
NEW YORK, NEW YORK 10013

April 6, 2016

Hon. Lawrence K. Marks  
60 Centre Street, Room 629  
New York, NY 10007

Dear Judge Marks:

This letter is intended to fulfill the obligation of the NYC Civil Court Advisory Committee to consult with the Chief Administrative Judge, regarding the State's experience with programs in the use of electronic means for the commencement of proceedings and the service of papers therein.

The Committee has met once since the August 31, 2015 enactment of comprehensive e-filing legislation (Ch. 237 of the Laws of 2015). The meeting was held on March 10, 2016 to discuss and evaluate the programs in the use of electronic means for the commencement of actions and proceedings and the service of papers in the NYC Civil Court.

The Legislature has authorized consensual e-filing for all case types in this court and has authorized mandatory e-filing for actions brought by a provider of health care services, as specified in Insurance Law § 5102(a), against an insurer for failure to comply with Insurance Law § 5108(b).

At this juncture, this Advisory Committee cannot report on the experience with e-filing in the NYC Civil Court. No e-filing programs have been implemented as yet. However, the Advisory Committee has discussed the steps that must be taken to launch an e-filing program in this court. The Committee looks forward to continue working together and expects to be able to report on the progress made toward implementing a program in the 2017 report.

Very truly yours,  
  
Carol Alt  
Committee Chair

---

# Appendix C

County Clerk Comments

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Sandra J. DePerno  
County Clerk

Diane B. Abraham  
1st Deputy Clerk



Deputy County Clerks  
Gary Artessa  
Brenda Breen  
Patricia Ferrone  
Lynarda J. Girmonde

## CLERK OF ONEIDA COUNTY

County Office Building • 800 Park Avenue • Utica, New York 13501

Phone: (315) 798-5776 • Fax: (315) 798-6440

March 14, 2016

Mr. Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
NYS Unified Court System  
New York County Courthouse  
60 Centre Street  
New York, NY 10007

RE: New York State Courts Electronic Filing Program

Dear Mr. Carucci:

Oneida County went live with the New York State Courts Electronic Filing Program on February 1, 2016. My staff and myself could not be happier.

The training provided by Chris Gibson and Maureen Galvin to my staff, prior to going live, was exceptional. Both were patient and very thorough with my staff. I would like to commend them both.

In the short time that my office has been involved in this program, I have already seen the benefits. My staff no longer need to data enter captions, action types or document types. Filings enter the office as scanned images, eliminating the cost of scanning and reviewing the scanned images for quality. Staff time is being better utilized than placing paper filings in the proper file jacket. The cost of purchasing paper file jackets is eliminated.

Oneida County chose to mandatory e-File rather than consensual. It has been the experience of the Oneida County Clerk's Office, that making a program consensual, you have trouble drawing participation.

I would encourage my fellow colleagues in the New York State Association of County Clerks who have reservations to embrace this program. In a very short time it has changed the way we do business in the Oneida County Clerk's Office.

Respectfully submitted,

Sandra J. DePerno  
Oneida County Clerk  
sdeperno@ocgov.net  
800 Park Avenue  
Utica NY 13501  
(315) 798-5776



Queens County Clerk  
Clerk of the Supreme Court  
Commissioner of Jurors



Audrey I. Pheffer  
Queens County Clerk  
Clerk of the Supreme Court &  
Commissioner of Jurors

March 25, 2016

Alexis Cuffee  
First Deputy County Clerk

Ruth Deutsch  
Second Deputy County Clerk

Jo Ann Shapiro  
Second Deputy County Clerk

Alexandra Zervopoulos, Esq.  
Counsel to the County Clerk

Francis K. Kenna, Esq.  
Chief Deputy County Clerk  
Jeffrey Carucci  
Office of Court Administration  
60 Centre Street  
New York, NY 10007

Dear Mr. Carucci:

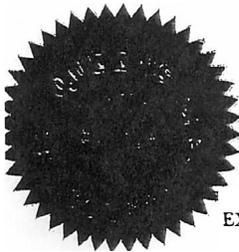
Queens County has been pleased to have been involved in the implementation of mandatory electronic filing in foreclosure and medical malpractice matters and looks forward to its expansion to commercial matters this summer. Mandatory electronic filing has proven to be very cost-effective. It has greatly reduced the number of paper filings in the system, conserving staff time, storage, paper and printing costs.

Additionally, electronic filing promotes greater convenience to its users and the public. It provides instant access to court records without the need to come into the courthouse. Users and the public are able to commence actions, file and view court documents from their own computers even in off hours, weekends and snowstorms.

There is a constant collaboration of efforts between our county and the e-filing resource center to continuously enhance the system. NYSCEF staff is always willing to address any concerns and provide improvements to the system. We look forward to continue working with NYSECEF to expand mandatory electronic filings in all case types, including tort actions, in Queens County.

Sincerely,

Audrey I. Pheffer  
Queens County Clerk



EXECUTIVE OFFICE: 88-11 Sutphin Boulevard, Room 105, Jamaica, New York 11435, (718) 298-0601  
89-17 Sutphin Boulevard, Room 244, Jamaica, New York 11435, (718) 262-7223  
120-55 Queens Boulevard, Room CJ1, Kew Gardens, New York 11415, (718) 298-0621  
25-10 Court Square, Room B58, Long Island City, New York 11101, (718) 298-0624



## COUNTY OF ERIE

**CHRISTOPHER L. JACOBS**

COUNTY CLERK

March 23, 2016

Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
NYS Unified Court System  
New York County Courthouse  
60 Centre Street  
New York, New York 10007

Dear Mr. Carucci:

Thank you for the opportunity once again to comment upon electronic filing (e-filing) of civil cases in Supreme Court in Erie County in connection with the Annual Report of the Chief Administrative Judge of the New York State Courts.

Erie County has been accepting civil cases electronically since 2007 and began filing mandatorily on April 14, 2013. Since then nearly all case types have been phased in and only a very limited number of case types are currently maintained in paper or as digital records.

As stated previously, the most obvious advantage to e-filing is the reduction or elimination of paper. In fact, an unanticipated advantage is the availability of file cabinets for the storage of other records, such as criminal record files. This allows more expedient access to records not directly related to electronically filed records. Significant savings in time and expense in handling, filing, retention, and ultimately destruction of paper as well mailing costs have been realized.

The advantages to the filer are now also obvious. Because documents can be viewed and printed anytime of the day, our staff is now employed more in processing and maintaining court records, rather than searching and pulling files for copies or to answer questions. The ease with which the files can be opened is a distinct convenience to both court users and the public.

ERIE COUNTY HALL • 92 FRANKLIN STREET • BUFFALO, N.Y. • 14202 • PHONE: (716) 858-8865 • FAX: (716) 858-6550

Jeffrey Carucci  
March 23, 2016  
Page 2

Our only regret is that we did not implement internal processes for standardization of the indexing of captions in the beginning. We are concerned generally, that many records will not easily be found in the future, or may only be found by search of an Index Number.

During the past year, two significant changes, one involving the process of accepting documents for electronic filing and the other being an added functionality to the system, were implemented. Beginning in late 2014 but actualized in early 2015, persons not represented by an attorney could choose to electronically file actions, but if not choosing to do so, were no longer required to complete and present an "Opt-out" form. In reality, unrepresented litigants are now nearly automatically exempted from electronically filing and must affirmatively "opt in," in effect, should the litigant choose to participate.

Erie County had decided while e-filing was consensual to maintain all documents electronically at the State (NYSCEF) rather than either importing the files to our system or managing bifurcated files. When e-filing became mandatory in Erie County, we continued the practice in the case of unrepresented litigants, of scanning and uploading the original documents to NYSCEF. With the elimination of the opt-out forms, the process became more streamlined; no longer are we required to explain the process to enable the filer to make an informed decision of whether to participate or not while others wait in (a now diminishing) line, an explanation of how the document will be maintained and where viewed is made to the unrepresented litigant. Written information is available in the office for those unrepresented individuals who wish to participate directly in electronic filing. As a result of the processes already in place in the Erie County Clerk's Office, the changes following the elimination of the required "opt-out" forms were not even a bump in the road.

The second more significant change was the addition of the Request for Judicial Intervention ("RJI") functionality which requires the filer to complete fields previously set forth in the RJI form and allows the system to "build" the RJI, giving the filer the option of filing the system completed form or uploading the form filled in and scanned by the filer. This enhancement has eliminated the variety of multiple RJI forms, improved the legibility of the document, and creates the appropriate document, including Addenda, based upon case type.

In lockstep with the RJI functionality, is the construct within the NYSCEF system to make available only those documents appropriate to the case type. The most notable application of the functionality is within the new Consumer Credit Card Transaction case types. After filing and choosing one of the case types, the filer is allowed access by Document Name to those proofs required by the new rule, i.e. Affidavit of Facts of Original Creditor, and prohibited from uploading of the Proposed Default Judgment unless the required Affidavits have been previously filed. These provisions within the system have permitted the routing of these documents and diminished or eliminated search time by the clerks processing the Credit Card cases.

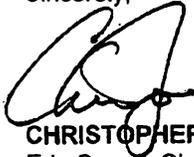
Jeffrey Carucci  
March 23, 2016  
Page 3

In short, once the concepts of the NYSCEF system are understood, the logic of the system provides a structure and standardization to the processes underlying the New York Civil Procedure Law and Rules. The Erie County Clerk's Office appreciates that the staff at NYSCEF listens to our comments and accepts suggestions for improvements to the system. In addition, each one of the Resource people deserve gold stars for their patience in assisting us and those customers we direct to the Resource Center.

Because of the efficiencies arising from our participation in electronic filing, this Office has been able to develop consistent administrative processes with regard to the system, itself, to maintain the integrity of records management by the Erie County Clerk.

Overall, I remain pleased and proud to be one of the first counties to participate voluntarily in e-filing and one of the first mandatory counties. I remain convinced that the users in the Erie County Clerk's Office feel very positive about the system and are pleased that the County has engaged so actively in the process.

Sincerely,



**CHRISTOPHER L. JACOBS**  
Erie County Clerk

## COUNTY CLERK'S OFFICE – CORTLAND COUNTY

**ELIZABETH LARKIN**  
County Clerk

**TAMMY BARRIGER**  
Deputy County Clerk

**BROOKE KNICKERBOCKER**  
Deputy County Clerk

**Sonia Ganoung**  
Director, Motor Vehicles

Courthouse  
46 Greenbush Street, Suite 105  
Cortland NY 13045-3702  
(607) 753-5021  
Fax (607) 753-5378

Motor Vehicle (607) 753-5023  
Fax(607) 753-5500  
elarkin@cortland-co.org



March 8, 2016

Jeffrey Carucci  
Statewide Coordinator for E-filing  
Office of Court Administration  
60 Centre Street  
New York, NY 10007

Dear Mr Carucci:

Thank you for asking for comments, suggestion and observations regarding New York States's e-filing system. In Cortland County we began consensual e-filing in January of 2014. In the first year about 17% of our civil filings were e-filed. In 2015 almost 39% of our cases were e-filed. This resulted in less errors in filings, less employee time actually filing and scanning hard copy filings and less employee staff time verifying filed documents. A side benefit and cost savings has been the cost of shredding paper documents that were scanned and verified.

I cannot praise the resource center in Manhattan enough. Anytime we need assistance they treat us as a number one priority and walk us through issues, help us navigate the site or document our concerns and promptly get back to us. As time has gone by the need to call them has diminished to the point that their assistance is now seldom needed. The NYSCEF team works hand and hand with our vendor, Info Quick Solutions, to provide our County Clerk's Office with an excellent system that is flexible enough to add new procedures as needed that improve service to our filers and searchers.

Sincerely,

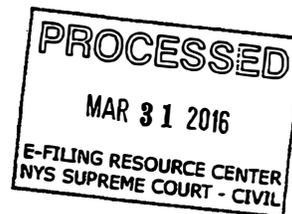
Elizabeth Larkin  
Cortland County Clerk

COUNTY OF SUFFOLK



OFFICE OF THE COUNTY CLERK

JUDITH A. PASCALE  
COUNTY CLERK



March 18, 2016

Mr. Jeffrey Carucci  
Statewide Coordinator for E-Filing  
NYS Office of Court Administration  
60 Centre Street, Room 119M  
New York, NY 10007

Dear Mr. Carucci:

Thank you for the opportunity to provide comments on Suffolk County's experience with electronic filing ("E-filing") through the New York State Courts Electronic Filing ("NYSCEF") System.

On December 15, 2015, mandatory E-filing in Suffolk County was expanded to include all case types except matrimonial, mental hygiene and those cases which are special proceedings in nature or in fact. Currently, an average of sixty percent (60%) of all new filings are E-filed. The successive broadening of the mandatory filings has also fueled a significant rise in the number of consensual tort filings which has far outpaced the number of mandatory tort filings.

Communication between County Clerk, Chief Clerk and NYSCEF staff has been cooperative and any issues are resolved expeditiously. Staff is fully trained and welcomes the expansion of mandatory e-filed case types as it saves significant time in their daily processing of work. Additionally, attorneys have become much more knowledgeable about the process which has reduced the time staff is involved in fielding questions. Feedback from counsel has been almost exclusively positive. My office, along with the District Administrative Judge and the NYSCEF Resource Center coordinated and hosted two very well attended informative training sessions for attorneys, support staff, municipal employees and others who file or will be filing electronically.

With the recent increase in mandatory e-filed cases this past December, additional operational benefits have been experienced in data entry and filing as those areas continue to see dramatic reductions in document processing time. In addition to this significant operational relief and its direct impact on the public, the need for additional physical storage space has been

Page Two  
Carucci, J.  
March 17, 2016

on a steady decline as the number of mandatory e-filed cases expands. This can most readily be seen through the substantial reduction each year in the number of paper only cases filed (2013 – 34,184, 2014 – 25,153, 2015 – 21,878). Accessibility and preservation of records are two mission critical tasks required of County Clerks and have been greatly enhanced through electronic filing.

Overall, the move toward E-filing has been very positive and we look forward to expanding the cases which must be electronically filed. My office would like to make all current consensual cases mandatory as well as include criminal, Article 78 and Mental Hygiene cases in the next phase of implementation.

Thank you again for the opportunity to allow my office to share our positive experience with E-filing. We look forward to continuing to work together to increase this program's success.

Sincerely,



Judith A. Pascale  
Suffolk County Clerk

JAP/maf



**WESTCHESTER COUNTY CLERK**

**Timothy C. Idoai**  
County Clerk

**March 18, 2016**

**Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
NYS Unified Court System  
New York County Courthouse  
60 Centre Street  
New York, New York 10007**

**Dear Mr. Carucci,**

**Thank you for inviting the Office of the Westchester County Clerk to comment on our positive experience with electronic filing through the New York State Courts Electronic Filing ("NYSCEF") System. We understand our comments may be included in a report on electronic filing being submitted to the Governor, Legislature and Chief Judge of the State of New York.**

**Electronic filing through the NYSCEF System has transformed the way we do business in the Office of the Westchester County Clerk and the results are impressive. Customers enjoy the convenience of filing papers from a home or office and are supported by knowledgeable and dedicated staff at the E-filing Resource Center. The NYSCEF System provides transparency and accountability as litigants can see exactly where documents are and who has processed them. Document flow among the litigants, County Clerk, Chief Clerk of the Courts and judicial chambers occurs more quickly and is documented more accurately. Local tax dollars are saved as our office no longer needs to scan documents, enter indexing data, or process payments by check.**

**At present, all civil actions with the exception of Article 70, Article 78, Election Law, Matrimonial, Mental Hygiene and Name Change actions must be commenced electronically. The electronic filing of Article 70, Article 78, Matrimonial and Name Change actions are permissible, but not required. We are proud to have a significant volume of documents entering and leaving our office electronically each day.**

**110 Dr. Martin Luther King, Jr. Blvd. White Plains, New York 10601 (914) 995-3080 FAX (914) 995-3172**

In 2015, 18,569 of our 22,097 civil actions, or eighty four percent (84%), were commenced electronically. The number of electronically submitted documents, which range from Affidavits of Service to Judgments to Summons and Complaints, increases each year. In 2015, we received 350,086 documents electronically.

Our office has experienced four years with the vast majority of new civil cases being commenced electronically and are extremely pleased the results for the following reasons:

- NYSCEF provides tremendous convenience for our customers
- NYSCEF saves taxpayer dollars
- NYSCEF is easy to learn and use
- NYSCEF is a successful green initiative

In Westchester County, the Office of the Westchester County Clerk recognized that electronic filing could bring efficiencies and cost-savings at exactly the right time. Our office has been able to achieve the following specific cost-savings through the implementation of e-filing:

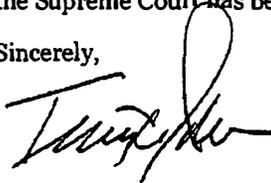
- \$150,000 per year for legal document scanning
- \$25,000 per year for legal document storage
- \$5,000 per year for legal file jackets
- Thousands of dollars in personnel costs each year

In 2015, we saw improvements to both the NYSCEF System and the e-filing process which supported *pro se* litigants. As we look to the future, the Office of the Westchester County Clerk would like to see e-filing expanded so that Election Law and Mental Hygiene cases are eligible for both voluntary and eventually mandatory electronic filing. Further, we would like Article 70, Article 78 and Matrimonial actions to be made eligible for mandatory electronic filing.

We believe strongly that NYSCEF has become part of the foundation of court administration and we want nothing more than to be the county where e-filing is comprehensive and embraced by our customers and partners in the courts.

Thank you for the opportunity to share how successful the electronic filing of civil actions in the Supreme Court has been in Westchester County.

Sincerely,



Timothy C. Idoni  
*Westchester County Clerk*



## COUNTY CLERK'S OFFICE

COUNTY OF KINGS  
SUPREME COURT BUILDING  
360 ADAMS STREET  
BROOKLYN, N.Y. 11201

NANCY T. SUNSHINE  
COUNTY CLERK  
CLERK OF THE SUPREME COURT  
COMMISSIONER OF JURORS

March 21, 2016

Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
NYS Unified Court System  
New York County Courthouse  
60 Center Street  
New York, New York 10007

Dear Mr. Carucci:

The implementation of electronic filing in the Office of the Kings County Clerk has been extremely successful. Attorneys, as well as litigants, have appreciated the ease and efficiency of filing papers electronically from their home, office or any remote location with appropriate computer access.

The success and the positive experience of users with the NYSCEF system is proven by the significant and continuing increase in the e-filing of civil cases. In 2015, 24,040 new civil actions were commenced electronically in the Office of the Kings County Clerk via NYSCEF, approximately 15,000 of which were consensual e-filing cases.

As of March 11, 2016, 3,759 civil actions have been commenced electronically in the Kings County Clerk's Office via NYSCEF, which is approximately 900 more actions than were e-filed on March 11, 2015. The success of the NYSCEF system in the office of the Kings County Clerk is further demonstrated by the enthusiastic support for the expansion of mandatory e-filing for all Tort cases commenced as of March 21, 2016.

The NYSCEF system, bearing the Kings County Clerk's banner for filed documents in Kings County, promotes transparency, accountability and confidence in the court system as litigants, attorneys, parties, judges, court staff and the public, have equal, simultaneous and contemporaneous access to all filed documents, unless, of course, a court order or law restricts access to a court file or a particular document. The NYSCEF system also provides an efficient and quick mechanism for the transfer of actions between counties, a significant time-saver for parties.

The NYSCEF system is more than an electronic filing system, it is also a powerful and effective communication tool, which provides immediate notice to all parties of filed documents, as well as notice to a filing party of the need to remedy a procedural defect which precludes filing, e.g. improper venue. This effective communication aspect of the NYSCEF system permits the

expeditious correction of defective papers and the efficient filing of said corrected documents. The elimination of delay provided by the NYSCEF communication tool enhances efficiency and promotes confidence and trust in the court system.

Lastly, NYSCEF is a user friendly system with flexibility to meet changes required by statute or requested by County Clerks to implement procedural improvements. As Kings County Clerk, I maintain an e-file kiosk on premises to assist filing parties to e-file documents when necessary. My staff is available to assist attorneys and litigants with e-file inquiries and participate with me in lecturing at Continuing Legal Education programs at various bar associations in Kings County.

As I look to the future, as Kings County Clerk, I embrace the expansion of electronic filing in more civil case types.

Sincerely,

A handwritten signature in cursive script that reads "Nancy T. Sunshine".

Nancy T. Sunshine  
County Clerk, Kings County  
Commissioner of Jurors



**ONONDAGA COUNTY CLERK'S OFFICE**

Room 200 Court House, Syracuse, New York 13202-2171

315.435.2227 • Fax 315.435.3455

Lisa Dell

*County Clerk*

March 21, 2016

Mr. Jeffrey Carucci  
Statewide Coordinator for  
Electronic Filing  
NYS Unified Court System  
New York County Courthouse  
60 Centre Street, Room 119 M  
New York, New York 10007

RE: Supreme Court Criminal E-Filing Comments

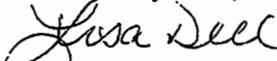
Mr. Carucci,

As a recently elected new County Clerk, I have participated in learning the e-filing system with one of my Deputies and also participated in training from NYSCEF from the attorneys' point of view as well as from the point of view of recording clerks. What I can say is I am quite impressed at what I perceive as a simple, not cumbersome system to use. I immediately recognized that the biggest advantage of e-filing is that it increases efficiency to our customers and transparency to the public. E-filing requires less people to do the work and reduces the storage of paper in our office. I have also witnessed an additional benefit of reducing staffing levels and reassigning employees to other duties.

I am strongly committed to expanding e-filing with other cases that are not mandatory at this point and I feel that criminal -filing would be the next natural step to take. I am confident that criminal e-filing would produce the same benefits that I mentioned above.

I am very pleased to say that my office has an excellent working relationship with our court system here in Onondaga County and I look forward to continuing to work with them and all parties involved with this process.

Very Truly Yours,

  
Lisa Dell

Teamwork  
Coming Together is a Beginning. Keeping Together Progress. Working Together is a Success

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# Appendix D

Comments from Bar Groups,  
Legal Services, Other Providers

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**NEW YORK  
CITY BAR**

**COMMITTEE ON STATE COURTS  
OF SUPERIOR JURISDICTION**

ADRIENNE B. KOCH  
CHAIR  
605 THIRD AVENUE  
NEW YORK, NY 10158  
PHONE: (212) 716-3225  
FAX: (212) 716-3349  
AKoch@KatskyKorins.com

JOSEPH WEINER  
SECRETARY  
605 THIRD AVENUE  
NEW YORK, NY 10158  
PHONE: (212) 716-3317  
FAX: (212) 716-3336  
JWeiner@KatskyKorins.com

March 24, 2016

**VIA EMAIL**

Mr. Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
NYS Unified Court System  
New York County Courthouse  
60 Centre Street, Room 119M  
New York, New York 10007  
jcarucci@nycourts.gov

Dear Mr. Carucci:

The New York City Bar Association (the "City Bar") is grateful for the opportunity to provide comments to the Supreme Court (Civil) Advisory Committee on Electronic Filing, in connection with that Committee's report to the Chief Administrative Judge on the state's experience with electronic filing for the commencement of actions and proceedings and the service and filing of papers. These comments reflect the input of the City Bar's Council on Judicial Administration (the "CJA") and its Committee on State Courts of Superior Jurisdiction (the "State Courts Committee").<sup>1</sup>

The use of electronic filing has been a tremendous boon to the court system, judges and attorneys in facilitating communication and the filing and service of papers. We applaud the personnel responsible for the system's implementation and its oversight; as a result of their hard work, patience and dedication, the experience of the bench and bar has been largely positive.

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<sup>1</sup> The State Courts Committee and the CJA include practitioners, academics and judges; the CJA also includes chairs of other court-related committees of the City Bar.

Mr. Jeffrey Carucci  
March 24, 2016  
Page 2

Unfortunately, however, there have been glitches along the way, particularly when electronic filing is first initiated in a new county or expanded into an area of law for which electronic filing was not previously available. Attorneys need to be trained in the use of the system. Some counties (notably Kings County Supreme Court) have deployed a dedicated clerk for electronic filing who is available, within the court system, to judges and other court personnel, as well as to attorneys and *pro se* litigants. We urge the creation of the position of E-Filing Clerk in every county in which e-filing is available, at least simultaneously with the implementation of e-filing, if not two to three months in advance, to assist judges, court staff and the public in learning how to use of the system.<sup>2</sup>

A second area related to electronic filing that we believe requires immediate attention is the creation of software capable of simultaneously inputting the county clerks' records, the court's records and other entries into the electronic filing system. The current procedures require duplication, often by hand, of the entries related to various filings, including motions and responses to motions and the calendaring of court appearances. As well, although the electronic filing system notifies parties of all filings, it does *not* notify them of court appearances – such notifications are given only through the separate “e-courts” system. All of this has resulted in delays and generated confusion among attorneys and court personnel, including judges, as to what has been timely filed, what papers are properly before the court and even what date the case is scheduled to be heard. The cost of the time expended by all parties and court staff in correcting misunderstandings and responding to inquiries from counsel is significant. We urge the immediate investment required to remedy this problem, which has been repeatedly raised and discussed in recent years.<sup>3</sup>

Although we realize that it is beyond the purview of this request for comments (which we understand is focused on the experience with existing procedures), we make one additional observation. While e-filing in most civil cases has been a positive innovation, the same cannot be said in criminal, matrimonial and family court cases, where issues of privacy may outweigh convenience. In these types of cases, highly sensitive personal information must be protected from the general public. Among other things, we are concerned that in the areas of matrimonial and family law, parties in the midst of personal family crises may try to use e-filing as a sword, threatening to embarrass the other side by e-filing private and personal information. Children's personal and private information may be made public as well. In criminal cases, where information about arrests and complaints is sealed when the cases end in dismissal or acquittal, damage from having such information made public pending resolution may be irreparable. If e-filing in criminal, family and matrimonial cases is contemplated, we urge the appointment of task forces of judges, criminal defense lawyers, family law practitioners and prosecutors to assess

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<sup>2</sup> Anecdotally, we understand that there have been instances where lawyers attempted improperly to file legal papers by sending them directly to the assigned judge using the judge's email address.

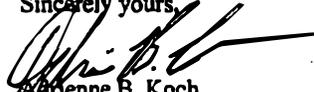
<sup>3</sup> The Chairs of the Advisory Council of the Commercial Division have been apprised of this issue and we understand that they may be undertaking to find or recommend a remedy, including private funding of the cost of hiring an outside vendor to assist in this regard.

Mr. Jeffrey Carucci  
March 24, 2016  
Page 3

whether e-filing should be implemented in such cases and if so, to establish appropriate protocols to safeguard the information and/or other issues.

We hope our observations prove to be helpful. We stand ready to provide further comments upon request or to assist in any other way we can.

Sincerely yours,



Catherine B. Koch  
Chair, Committee on State Courts  
of Superior Jurisdiction

THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK  
42 West 44<sup>th</sup> Street, New York, NY 10036-6689 [www.nycbar.org](http://www.nycbar.org)

**From:** Daniel Coffey <coffey@bcalbany.com>  
**Sent:** Thursday, March 24, 2016 12:16 PM  
**To:** Jeffrey Carucci  
**Subject:** Comments on implementation of electronic filing

Jeff-

Per your memorandum of March 7, 2016, please consider the following comments on behalf of the Albany County Bar Association on e-filing as you prepare your annual report.

Albany County has had consensual e-filing available since 2004. Despite the same, we have found a small percentage of matters are electronically filed here.

I have found, quite frankly, many practitioners did not know that e-filing was in existence.

I personally e-filed my first Albany County Summons and Complaint a few weeks ago and was amazed at how easy it was. It took 10 minutes and a few minutes later, I received an email with the Index Number.

Gone are the days of having to mail a summons and complaint to the clerk with a check for \$210 and a copy with a self-addressed stamped envelope.

I wrote about e-filing in our bar association's newsletter this month and am working to educate our members, and others who practice here, that e-filing is quick, easy to use and will save lawyers and their clients time and money.

We have met with the Administrative Judge, Thomas Breslin, to explore whether e-filing should be made mandatory.

I am advised that Albany Surrogate's Court has applied to get permission to have all their matters e-filed and hopes to have it implemented later this year.

I am exploring whether e-filing could be made mandatory for tax certiorari matters in Albany County.

If so, both Surrogate Court and tax cert matters could be our "guinea pigs" and could report back a few months after implementation as to how the programs are working.

If those programs are successful, perhaps consideration could be given to having all Albany County matters (except those exempted by statute) subject to mandatory e-filing.

I have invited you to participate in a one-hour CLE May 5 in Albany in the hopes we can educate and demonstrate how easy e-filing is (easier than federal Pacer filing) so hopefully more practitioners will avail themselves of e-filing.

Thank you for providing me the opportunity to comment.

Dan

**Daniel W. Coffey, Esq.**  
**President, Albany County Bar Association**  
**c/o Bowitch & Coffey, LLC**  
**17 Elk Street**  
**Albany, NY 12207**  
**[coffey@bcalbany.com](mailto:coffey@bcalbany.com)**  
**[www.bcalbany.com](http://www.bcalbany.com)**  
**(518) 813-9500 (tel)**  
**(518) 207-1916 (fax)**

**Federal Tax Disclosure and Confidentiality Notice:**

In accordance with IRS requirements, we inform you that any Federal tax advice contained in this communication is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction

**From:** Finkelstein, Barbara <bfinkelstein@lshv.org>  
**Sent:** Thursday, March 24, 2016 11:36 AM  
**To:** Jeffrey Carucci  
**Subject:** FW: E-filing recap

Hi Jeffrey:

Here are some comments from Legal Services of the Hudson Valley.

- 1) Some Supreme Court judges require courtesy copies of papers and until the case is calendared we don't know which judges require that extra trip to court. If Family Court is going to move to this process, we think it advisable to eliminate the need for courtesy copies.
- 2) The advantages of such a program could include having an organized system where every filing is easily accessed. In addition, sometimes when something is filed in court, it is lost or the date of filing is not correct. E-filing would ensure that items are properly recorded and date-stamped. It would help with situation where other attorneys fail to serve us papers – we could easily check the file and find out what has been filed in court.
- 3) E-filing could help reduce time spent filing papers where the attorney's office is a distance away from the courthouse and the document does not contain multiple exhibits which could be reduced to a single upload. In some cases e-filing is not necessarily a timesaver because of the considerable administrative burden involved in uploading the documents. Each exhibit needs to be uploaded separately which could be an administrative burden with a long, multi-exhibit document.
- 4) If an e-filing system were in place, we would need the Family Court to change its' practice of requiring original signatures on court filings.
- 5) Some courts charge an uploading fee to make documents available and we would not recommend a fee in family court.
- 6) We need to discuss issues of confidentiality. In Supreme Court filings the cases are searchable by the parties names. That is not the case in Family Court ecourts. In ecourts for Family Court matters one can search by the attorney's name, Court Calendar, Docket number or Family File number only but the parties' names are never revealed. We need to research if this is statutory or administrative policy and if it exists because of confidentiality concerns. Depending on the authority, the Family Court may need to issue pin numbers to litigants to access their documents or change their policies/practices around confidentiality. We should also take a look at how these issues are handled in divorce filings. Many divorce matters include sensitive factual allegations as well as forensic evaluations. Knowing how this is handled in Supreme would be helpful. Also, Article 81 matters can be filed in Supreme Court and they also contain highly sensitive information. We should try to find out how the Supreme Court handles e-filing for those matters.
- 7) As noted above because each exhibit to a motion etc. needs to be uploaded separately, the uploading is time-consuming and can be administratively burdensome. Non-profits and sole practitioners are the primary service providers in Family Court, at least in our practice areas. These organizations may not have the resources to

provide the administrative staff to take care of this level of uploading. One solution would be to allow an opt-out provision for non-profits and sole practitioners. Another possible solution would be to eliminate the need for each exhibit to be uploaded in Family Court proceedings and instead allow the entire document to be uploaded all at once, reducing the administrative time.

Thanks, Barbara  
**Barbara Finkelstein, Esq.**  
CEO  
Legal Services of the Hudson Valley  
90 Maple Avenue  
White Plains, New York 10601  
914-949-1305, ext. 136  
[bfinkelstein@lshv.org](mailto:bfinkelstein@lshv.org)

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# Legal Aid Society

NORTHEASTERN NEW YORK

55 Colvin Avenue, Albany, New York 12206  
(800) 462-2922 • (518) 462-6765 • Fax: (518) 427-8352

*This office serves Albany, Columbia, Greene, Rensselaer and Schenectady Counties.*

Ronald J. Kim  
President

Lillian M. Moy  
Executive Director

Peter D. Racette  
Deputy Director

Wendy Wahlberg  
Deputy Director

March 25, 2016

Jeffrey Carucci  
Statewide Coordinator for  
Electronic Filing  
NYS Unified Court System  
New York County Courthouse  
60 Centre Street, Room 119 M  
New York, New York 10007

VIA ELECTRONIC MAIL

Re: Requested Comments re Electronic Filing

Dear Mr. Carucci:

Thank you for requesting comments with respect to our experience with electronic filing.

The attorneys who supplied comments have not themselves used electronic filing. In one instance, this is because the attorney commenting practices in Clinton, Franklin, and Essex Counties. Electronic filing is not available in Clinton or Franklin County, and it is only available for limited purposes in Essex County. However, given that these are some of the most rural counties in the state, it is this attorney's opinion that electronic filing would be particularly helpful in that region.

Other attorneys raised concerns about the effects of electronic filing on pro se litigants. One foreclosure practitioner noted that clients who do not yet have an attorney and who have complaints e-filed against them generally opt out of electronic filing. It is her belief that the process is difficult if not actually dangerous for pro se litigants and that it might be a good idea to require paper filing when a defendant is unrepresented.

Another attorney raised similar concerns with respect to pro se clients. She pointed out that many pro se clients do not have access to computers or the Internet; additionally, they may have other barriers such as limited English proficiency. This attorney would also like to know what the timeline is for mandatory e-filing statewide and how (if at all) that will affect the city courts where many of our staff members practice.

We very much appreciate the opportunity to comment on this initiative and hope this is helpful to you. I may be reached at (518) 375-3468 if you have any questions.

Very sincerely yours,



Main Office: 55 Colvin Avenue, Albany, New York 12206  
(518) 462-6765 • (800) 462-2922 • Fax (518) 427-8352



Victoria M. Esposito  
Advocacy Coordinator

## MANAGING ATTORNEYS AND CLERKS ASSOCIATION, INC.

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Ira E. Wiener, *Vice President*  
Timothy K. Beeken, *Treasurer*  
John D. Bové, *Secretary*

Richard v. Conza  
Henry J. Kennedy  
Peter McGowan  
Dennis Murphy  
Poppy B. Quattlebaum  
Owen G. Wallace  
Robert T. Westrom

*Directors*

March 25, 2016

VIA EMAIL

Mr. Jeffrey Carucci  
Statewide Coordinator for E-Filing  
Office of Court Administration  
60 Centre Street  
New York, New York 10007

Re: NYSCEF Experiences And Comments

Dear Jeff:

In response to your March 14, 2016, e-mail seeking comment on user experiences with NYSCEF, the Board of the Managing Attorneys and Clerks Association submits the following, which aligns with previous comments MACA has submitted over the course of the past few years. We asked our members for feedback and comments with respect to their experiences with, and their thoughts on the further expansion of NYSCEF. Below is a brief synopsis of the responses we received.

The members of MACA tend to be heavy users of NYSCEF. The feedback we received overwhelmingly supports expansion of the e-filing system, not only to more counties statewide, but also to the Appellate Divisions, and the Court of Appeals. Also, our members would like to see an expansion of the categories of cases subject to e-filing. For example, Article 78 proceedings should be subject to NYSCEF, in addition to Surrogates Court filings, matrimonial filings, and Guardianship filings, subject of course to the Court's ability to limit access to the respective files to parties, counsel of record, and Court personnel.

Additionally, our members expressed a desire for NYSCEF to either show appearance dates or have a direct case link to the future court appearances web site so that anyone seeking case information can essentially have one point of access. Also, some attorneys, for varying reasons, monitor cases on which the attorney has not actually appeared or consented to represent a party. Currently, the only way to monitor a case is to pay a third-party vendor or manually log

into NYSCEF on a regular basis. It would be a welcome change if attorneys were able to set up such monitors on the NYSCEF system through their respective login and password.

With respect to filing documents, filers would like the ability to combine motion sequence numbers when filing responsive papers to more than one motion. Currently, a filer must file the same papers twice when responding to more than one motion with the same papers. Also, sometimes a filer must submit a document that does not fit squarely into any available category. A miscellaneous notice or other category would be useful for filing such documents. The current list of document types is rather expansive, so this option should be used sparingly. But there are times when it would be useful. The new RJI creation system has been well received. Some members have asked, however, if the automatic question of whether an RJI will be filed with a given document can be linked to specific filing types, such as a motion or Request for a Preliminary Conference.

As I mentioned above, the members of MACA are staunch supporters of NYSCEF in general, and are eager to see its expansion throughout the State. Please let me, or any member of the Board of Directors of MACA, know if we can be of further assistance with respect to your committee's report and presentation to the State Legislature.

Respectfully,

s/Owen G. Wallace

Owen G. Wallace  
Member of MACA  
Board of Directors

cc: Board of Directors of the Managing Attorneys and Clerks Association

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# Appendix E

Comments from Unaffiliated Attorneys,  
NYSCEF Users and the Public

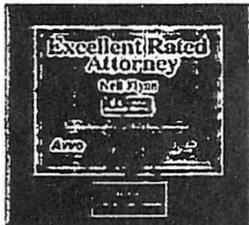
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**From:** Neil Flynn <neil@ajlounyinjurylaw.com>  
**Sent:** Thursday, February 11, 2016 5:24 PM  
**To:** eFiling Comments  
**Subject:** expansion of eFiling

Expand, expand, expand, expand! Great system. Keep it up. Spread it around.

Regards,  
Neil Flynn  
Ajlouny Injury Law  
1-800-535-5029

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**From:** Bryce Jones <bryce@sagacitylaw.com>  
**Sent:** Friday, February 12, 2016 2:47 PM  
**To:** eFiling Comments  
**Subject:** EFiling Support

I am a newly admitted attorney in New York and am shocked to find that in 2016 some courts in New York actually require paper filing. I would encourage every decision maker involved to help expand ECF to all state courts as soon as possible.

Regards,

T. Bryce Jones

Atty Reg # 5364013

**From:** Michael B. Oliver <oliver1465@gmail.com>  
**Sent:** Wednesday, February 24, 2016 12:48 PM  
**To:** eFiling Comments  
**Subject:** Clinton County

I currently have five cases (pro se) and over a dozen respondents. The paperwork and process serving is overwhelming. How to I request eFiling for my cases in Clinton county.

ATTORNEYS AT LAW

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March 9, 2016

Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
60 Centre Street, Room 119M  
New York, NY 10007

RE: NYS E-Filing Program Comments

Dear Mr. Carucci:

I hope you are well, and perhaps you might remember me from past dealings.

As you may or may not know, I am the managing partner of Smith Carroad Levy & Wan. I am also the President of the Commercial Lawyers Conference of New York, NYS Creditor's Bar Association, since January 2011, and the immediate Past Chair of the Eastern Region of the Commercial Law League of America, a Past Chair of the CLLA Young Member's Section, and currently serves on the Board of Governors, as well as the Chair of the National Education Committee.

It is the overwhelming opinion of myself, my firm, and those that practice in this field, that New York's E-Filing system is efficient, timely, user-friendly, and excellent. We believe wholeheartedly that it should be implemented for all courts, statewide.

The only flaw is that once a matter reaches individually assigned Justices, the rules change. Different Justices require different things. Some want a "working copy" filed with the motion support office. Others want them walked in on the return date. The rules are often difficult to anticipate, and the lack of uniformity is difficult to navigate. Moreover, we find it puzzling that the failure to provide the "working copy" in hard copy format, somehow then derails the matter.

If this could be addressed, the system could be near flawless.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

Smith Carroad Levy & Wan, P.C.

TIMOTHY WAN, ESQ.

5036 JERICHO TURNPIKE, SUITE 201, COMMACK, NEW YORK 11725  
[www.smithcarroad.com](http://www.smithcarroad.com)

**From:** Adam Paul <buymyapartment@yahoo.com>  
**Sent:** Thursday, March 10, 2016 1:35 AM  
**To:** eFiling Comments  
**Subject:** NYSCEF comment

The E-filing system is extraordinarily convenient in many, many ways. But it is extraordinarily inconvenient, and, indeed, downright prejudicial, to non-attorneys.

Under the E-Courts / E-Track / E-Civil Supreme system, anyone (attorney or 'civilian') can create an account and automatically 'track' developments in cases. The system then emails the user anytime something new has transpired in the case. For non-attorneys who are parties to multiple lawsuits, this feature is an enormously convenient way to keep track of all of one's cases, without having to rely on updates from one's attorney.

Unfortunately, no such option exists for non-attorneys on NYSCEF. Unlike E-courts, which allows anyone to open a \*single\* account and receive updates on as many cases as one chooses, NYSCEF requires a non-attorney to open a separate account for each case. There is thus no easy way to log into the system and see all of the cases that one is involved in. The registration process is cumbersome and time-consuming, requiring the user to fill out of separate form for each account, which then has to be faxed or mailed into court. I've given up on trying to figure out a way to get automatic updates on cases emailed to me from NYSCEF, the way I get from E-Courts.

There is no justification for the disparity in the way attorneys and non-attorneys are treated. A non-attorney should be able to open a single NYSCEF account, gather all of the cases he wants to be updated on in one place, and receive such updates in his inbox -- exactly as attorneys can, and exactly as anyone can do on E-Courts. Because E-courts does not send out updates on E-filed cases, and because every court is shifting to e-filing now, non-lawyers' inability to get updates on their cases is unfair and prejudicial.

Please fix the system.

--Adam

**From:** eFiling Comments  
**Sent:** Friday, March 11, 2016 7:30 AM  
**To:** eFilingComments-DG  
**Subject:** FW: E-FILING COMMENT

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**From:** Desi Parasol  
**Sent:** Friday, March 11, 2016 7:29:37 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** E-FILING COMMENT

Dear Hon. Justice McConnell:

There is that cliché behind every good man is a good woman. In this instance, a slight modification – behind every good attorney there is a fabulous beyond measure secretary.

As such, I make the suggestion below on behalf of those secretaries\* who end up doing most of the e-filing. Please, please, stop that stupid pop-up EVERY TIME an exhibit is attached indicating it must be described.

Alternative:

Reject the filing without naming it. The latter would make the e-filer as well reload the document, sufficient punishment, or incentive, depending on how you look at it, to make an e-filer not forget to name their exhibit, and accomplishing the goal of having it named with the maddening pop-up.

When there are a lot of exhibits its very, very irritating.

Thanks for your consideration of my suggestion!

\*I do understand that sole-practitioners often do their own e-filing. I am sure they hate the pop-up as well.

-Desi Parasol

Asst. to the Managing Partner,

Jonathan Wilkofsky

WILKOFSKY, FRIEDMAN, KAREL & CUMMINS

299 Broadway, Suite 1700

New York, NY 10007

Phone: 212-285-0510

Fax: 212-285-0531

**From:** eFiling Comments  
**Sent:** Friday, March 11, 2016 3:02 PM  
**To:** eFilingComments-DG  
**Subject:** FW: Efiling Suggestions for Improvement

**From:** Avram Frisch  
**Sent:** Friday, March 11, 2016 3:02:10 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** Efiling Suggestions for Improvement

I have two minor complaints about the eFiling system which should be rectified. One, the system should allow you to save a filing and continue working at a later time. Second, the case management database for appearances should be integrated so that you get all the notices from the eFiling system.

Avram Frisch



Avram E. Frisch, Esq.  
[Frischa@avifrischlaw.com](mailto:Frischa@avifrischlaw.com)

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Mailing Address: P.O. Box 435 Teaneck, NJ 07666  
201-289-5352  
Fax: 866-883-9690

**From:** eFiling Comments  
**Sent:** Friday, March 11, 2016 7:43 PM  
**To:** eFilingComments-DG  
**Subject:** FW: eFiling public comment

**From:** Richard Boatti  
**Sent:** Friday, March 11, 2016 7:43:16 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** eFiling public comment

Dear Mr. McConnell,

I think e-filing could be improved if it were possible to download multiple documents as one PDF- if NYSCEF could make it possible to select multiple documents and then download them as one PDF, it would make things like printing courtesy copies much easier and less time-consuming.

Thanks,

Rich

Richard Stephen Boatti, Esq.  
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**From:** Justin F. Pane <jpane@younglawgroup.org>  
**Sent:** Saturday, March 12, 2016 2:26 AM  
**To:** eFiling Comments  
**Subject:** Commentary on the Unified Court System's e-filing system  
**Categories:** Green category

Dear Honorable Chief Judge Janet DiFiore:

First, allow me to congratulate you on your recent confirmation by the New York State Senate. I pray that your hard work and brilliant legal mind work in concert towards the betterment of the New York State Judiciary. If I may, one area in which the New York State Judiciary has absolutely excelled in is the technological arena—more particularly, the advent, implementation, and utilization of the New York State Courts Electronic Filing System (“NYSCEF”).

By way of background, my employer is Young Law Group, PLLC, a boutique law firm providing foreclosure defense representation to approximately 500 clients spanning throughout nearly all 62 counties of the State of New York. In my opinion, NYSCEF is “hands down” the best thing to happen to the prosecution and defense of foreclosure actions. Rather than specifically go into all those reasons why NYSCEF is preferred and how the system has simplified the nuances of New York’s Civil Practice Law & Rules (“CPLR”); I will limit my commentary to one specific statement--**\*PLEASE MAKE ELECTRONIC FILING MANDATORY FOR EVERY FORECLOSURE ACTION (RESIDENTIAL & COMMERCIAL) COMMENCED IN NASSAU COUNTY.\***

More than astonishing, it is terribly troublesome that Nassau County is the ONLY county in the southern and eastern areas of New York which does NOT mandate electronic filing in foreclosure actions (*i.e.*, Suffolk, Kings, Queens, Bronx, New York, Richmond, and Westchester county ALL mandate electronic filing in foreclosure actions). I thank you in advance for any consideration you may give to my commentary.

**Justin F. Pane**  
Chief Paralegal



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**From:** kemmaesq63@aol.com  
**Sent:** Monday, March 14, 2016 2:57 PM  
**To:** Jeffrey Carucci  
**Subject:** E Filing

Dear Mr. Carucci,

The E-Filing System offers many conveniences, such as having all documents filed in the case in one location. It also makes it easy to decipher which motion is before the Court on a particular day.

I have one suggestion. When filing the Note of Issue, is it possible to be able to file the Note of Issue and Jury Demand at one time with the \$95.00 fee? I had a problem filing a Note of Issue in Suffolk County because I didn't realize you needed to file the document twice and pay the \$65 and \$30 fee separately. I think one filing would be simpler.

Thank you.

Karen M. Emma, Esq.

**From:** Robert Sternbach <ras@sternbach.com>  
**Sent:** Monday, March 14, 2016 3:43 PM  
**To:** eFiling Comments  
**Subject:** NYSCEF - request for public comment

**Categories:** Green category

I think this is an excellent system – very well designed.

Robert A. Sternbach  
*Sternbach, Lawlor & Rella LLP*  
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[ras@sternbach.com](mailto:ras@sternbach.com)  
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**From:** sceffler@optonline.net  
**Sent:** Monday, March 14, 2016 5:30 PM  
**To:** Jeffrey Carucci  
**Subject:** E-file

**Categories:** Green category

Dear Mr. Carucci,

I think that the e-file system is tremendously convenient. I have filed pleadings at all times of day and on weekends.

When I have had an issue, the people at the help number were fast and helpful.

It is actually easier to re-read a pleading in a bulky file on the e-file system than in the paper file.

Eliminating the need for a separate service is also very good.

Stephen Corry Effler  
Rye Brook, NY

**From:** Gregory Antollino <gantollino@nyc.rr.com>  
**Sent:** Tuesday, March 15, 2016 8:59 AM  
**To:** eFiling Comments  
**Subject:** E-filing should be mandatory and judges should not ask for "working" copies

**Categories:** Green category

E-filing is a dream for a solo practitioner. The process of putting together motion papers is now simple and direct, and I don't have to deal with clerks who exert authority that they don't have (sometimes).

Additionally, I believe judges should not expect "working copies," but read them online and print (themselves) what they deem necessary. Many litigants attach repetitive nonsense to their briefs, and working copies defeat the goal of saving paper.

Gregory Antollino, Esq.  
275 Seventh Avenue, Suite 705  
New York, NY 10001  
(212) 334-7397  
[www.antollino.com](http://www.antollino.com)

**From:** Brett Kimmel <bk@brettkimmel.com>  
**Sent:** Tuesday, March 15, 2016 10:49 AM  
**To:** eFiling Comments

**Categories:** Green category

Love, love, love eFiling. It would be great if divorce filing was expanded to all counties. One problem, however, is the almost uniform policy of individual judges requiring additional filing of hard copies. Sort of defeats the purpose and creates a lot of otherwise unnecessary busy work for law offices.

Brett Kimmel, Esq.  
Brett Kimmel, P.C.  
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**From:** Michael A. Markowitz <attorney@mampc.net>  
**Sent:** Tuesday, March 15, 2016 5:03 PM  
**To:** eFiling Comments  
**Subject:** Comments concerning use of NYSCEF

**Categories:** Green category

Mr. McConnell,

For years I have been using the eFiling system. Generally, the system performs well and gives attorneys and litigants transparency and greater access to the courts.

I have a problem concerning meaningful dialogue between the attorney and clerk. In particular, the system does not allow email communication when there is a question concerning a filed document. The system "hides" the identity of the clerk as "Court User".

For example, I filed an undertaking pursuant to CPLR 2501. The law allows the surety to be a natural person (CPLR 2502). The clerk rejected my undertaking (even though I used the McKinney's form), claiming that an undertaking may only be filed by an insurance company. I was unable to explain compliance with the law. The identity of the clerk was hidden by the system. The clerk then deleted my filing. I have since re-filed. The clerk has taken no position and the document has been marked "pending" for the past 2 weeks. For your review, Nassau County Supreme Court index number 605437/2015, Document number 44 (deleted) and document number 45. See, [https://iapps.courts.state.ny.us/nyscef/DocumentList?docketId=iored3LqIPLFF\\_PLUS\\_G6j6ckg=&display=all](https://iapps.courts.state.ny.us/nyscef/DocumentList?docketId=iored3LqIPLFF_PLUS_G6j6ckg=&display=all)

I do not think a clerk should have the right to delete any document. Instead, the document should be marked "rejected" with the identity and contact information of the clerk who rejected the filing. This will allow me to explain to the clerk why the document was properly filed, or obtain additional information to correct a misfiled document, or to appeal the clerk's decision to a supervisor.

Michael A. Markowitz, Esq.  
Michael A. Markowitz, P.C.  
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**From:** Robert J. Miletsky <RJMiletsky@RJMiletskyLaw.com>  
**Sent:** Wednesday, March 16, 2016 11:53 AM  
**To:** eFiling Comments  
**Subject:** Comments on E-filing

Good Morning:

The system has gotten much better. The categories and types of documents are much clearer. It's better than the Federal system. There seems to be better coordination on the system between the Courts and the County Clerk. Two suggestions:

1. Prior to filing a document, I would like to see exactly what I am filing, to ensure the correct document is being filed. As the system now stands, in order to check the document being filed, I have to upload the document, click what I uploaded, download it as a pdf and then open it. That is cumbersome and time consuming, especially if there are numerous documents, as with a motion for summary judgment. I would like to be able to see what I uploaded without the need to click it from the e-system site, download it, click again and see the actual pdf.
2. Our Judges need to stop asking for hard-copies. It's "challenging" setting the filing up to file on the e-system, only to have to make a hardcopy from scratch. I thought the whole idea was to make this system more fluid and save on paper. If we have to make a hardcopy, it only makes the process longer and more involved (annoying?)

Thank you

Robert J. Miletsky, Esq.  
Fmr Editor and Writer:  
Contractors Business Management Report

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**From:** Toby M Cohen <tcohen@lotmc.com>  
**Sent:** Wednesday, March 16, 2016 12:38 PM  
**To:** eFiling Comments  
**Subject:** Efiling Comments

**Categories:** Orange category

NYSECF is excellent. One of my few suggestions is that a text search for party names at the top of the "my cases" screen would be incredibly helpful and save a lot of time. The ability to locate the case I'm looking for in a few seconds, rather than having to scroll through the multiple screens where they're listed, would save a lot of time.

Alternatively, a choice of how many cases to list per page (25, 50, 100, etc) would be useful.

---

Toby M Cohen  
*Principal, Law Offices of Toby M Cohen*  
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**From:** eFiling Comments  
**Sent:** Wednesday, March 16, 2016 3:35 PM  
**To:** eFilingComments-DG  
**Subject:** FW: Comments on eFiling

**From:** Marianne N  
**Sent:** Wednesday, March 16, 2016 3:35:02 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** Comments on eFiling

I am finding eFiling a total waste of energy and time. It is far more work than before. It has not alleviated any work at all. You must still send hard copies of everything out in the mail and in addition take the time to efile most documents. Summary judgment motions are a total disaster. Due to the redaction rules that now apply it is more difficult than ever to efile stuff at times. You have to be a computer genius at times when it comes to this stuff regarding sizing, redacting, etc.

What is the benefit of eFiling??

**From:** jack@mevorach.com  
**Sent:** Wednesday, March 16, 2016 3:38 PM  
**To:** eFiling Comments  
**Subject:** comments - NYSCEF - Jack Mevorach, Esq.

Dear Sir/Madam:

The system is great. Extremely well organized. A pleasure!

Two comments:

(1) A very useful feature enables the filer to further describe the document being uploaded. Keep this feature. I'm a Defendant in a case with multiple Defendants. I uploaded an Answer. There will be many Answers uploaded. Using the feature for additional description of the document, I added: "Answer of Jack Mevorach." If the other Defendants follow suit (pardon the pun), all the Answers will be easily identified in the list.

Similarly, many affidavits of service are being uploaded. If that filer would have used the feature and added "Affidavit of Service of Summons and Complaint upon ?" (perhaps abbreviated for space limitation), each particular affidavit is more easily identified in the list.

(2) The NYSUCS needs to be able to function in the event a cyberattack takes the system down. We should ALWAYS have in place - and be ready to use - a filing system that requires NO ELECTRICITY and NO ELECTRONICS. If and when necessary, we should be able to function using paper alone.

Jack Mevorach, Esq.

**From:** Nealon, Elizabeth A. <ENealon@woodsoviatt.com>  
**Sent:** Thursday, March 17, 2016 10:15 AM  
**To:** eFiling Comments  
**Subject:** In regards to RJi filing

**Categories:** Orange category

Good Morning,

It has been my experience the new RJi filing system has been fraught with problems. There is no longer an option to upload our own RJIs until after tediously entering the information that we have already entered on our own RJi. The RJi template on the NYSCEF website is not as accurate as using our own form and takes up valuable time every time we need to upload.

It would be beneficial to add an option to skip entering all the information if we are uploading our own RJi.

Thank you.

Elizabeth A. Nealon

Clerk

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**From:** Jerald Stein <jmsteinlaw@gmail.com>  
**Sent:** Thursday, March 17, 2016 5:29 PM  
**To:** Jeffrey Carucci  
**Cc:** Larisa Obolensky  
**Subject:** comments on efilng

Dear Mr. Carucci,

I understand you are soliciting comments about the NYS efilng system. I have used Efilng since its inception in federal courts around the country as well as in Supreme Court in NYC. I am now practicing upstate in Delaware County, NY and eagerly await the day when the courts here adopt Efilng, for at least the following reasons:

1. Delaware County is roughly the size of the state of Rhode Island -- personally, I am 30-40 minutes away from Delhi, the County seat; other towns are an hour or more away. Being able to file electronically is a HUGE convenience;
2. In complex, multi-party cases, the ability to simply upload one PDF in lieu of printing, collating, stapling, addressing and mailing numerous copies is more accurate, more convenient, and more reliable. Similarly, proof of service is a certainty -- no more "I never received it" type of excuses permissible.
3. The calendaring system that goes along with efilng (e-courts, etrack, etc.) provide an additional backup calendaring system -- especially helpful for small firms and solo practitioners like me. It virtually eliminates any excuses for missing court appearances.
4. Also acts as insurance against lost files -- and allows secure access to key documents when one is out of the office.

In short, I cannot overstate how vastly superior life is with E-filing.

I hope these comments are useful for you.

Regards,

Jerald M. Stein, Esq.

^^  
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Fax: 844-380-9475  
[JMSteinLaw@gmail.com](mailto:JMSteinLaw@gmail.com)

**From:** jberg@jaffeandasher.com  
**Sent:** Friday, March 18, 2016 10:41 AM  
**To:** eFiling Comments  
**Subject:** Comments on NYSCEF

My suggestion to improve NYSCEF is to have eTrack features merged into NYSCEF. When a case is filed on NYSCEF, attorneys and participants should be able to receive eTrack notices of hearings, without having to separately add the case to eTrack.

Jonathan D. Berg, Esq.  
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**From:** KENNEDE1@nationwide.com  
**Sent:** Friday, March 18, 2016 11:38 AM  
**To:** eFiling Comments  
**Subject:** Request for Public Comment

**Categories:** Orange category

I have the task of filing Petitions to Stay UM/SUM Arbitrations (article 75) and usually get the assignment the last minute...the ability to efile the Petition (even sometimes in the 11th hour) has taken a great deal of stress and anxiety out of my job. Now please get Supreme Court, Suffolk County on board. Why do they not accept efiled Petitions on Article 75 matters? Yikes..

I have yet to convince attorneys that once all parties have consented to efile in a matter that paper copies need not served on adverse parties... old dogs sometimes do not want to learn new tricks :)

But in my humble opinion as non-attorney user, I fully support e-filing... Who knows how many trees will be saved in the future?

---

Eileen Kennedy-Jebrane, Paralegal Specialist  
Nationwide Trial Division  
The Law Office of Gialleonardo, Frankini & Harms  
330 Old Country Road, Suite 200  
Mineola, New York 11501  
(Work) 516-493-4496  
(Fax) 866-909-6658  
kennede1@Nationwide.com

**From:** Molly O'Brien <mobrien@wongfleming.com>  
**Sent:** Friday, March 18, 2016 11:52 AM  
**To:** eFiling Comments  
**Subject:** public comment  
  
**Categories:** Orange category

Personally, I think this is the best e-filing system in the country considering state and district courts! We work in many courts across the nation.

NYSCEF is by far the most user-friendly. I love the preview feature, the "My Cases" section, and the re-file feature.



Molly O'Brien | Paralegal | Wong Fleming

---

821 Alexander Rd Suite 200 | Princeton, NJ 08540  
Phone: 609.951.9520 | Fax: 609.951.0270

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[www.wongfleming.com](http://www.wongfleming.com)

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**From:** Harper Law Office <jrharperlaw@verizon.net>  
**Sent:** Friday, March 18, 2016 3:44 PM  
**To:** Jeffrey Carucci  
**Subject:** Re: E Filing Comments

Hello Mr. Carucci,  
Actually, I sent the email (I hope that wasn't inappropriate). Jeff could certainly elaborate more eloquently than I did.  
Thank you for responding.

Sandy

HARPER LAW OFFICE  
Jeffrey R. Harper, Esq.  
Sandy Harper, secretary  
12066 E. Main Street  
P.O. Box 7  
Wolcott, NY 14590  
T: 315-594-9488  
F: 1468

**From:** [Jeffrey Carucci](#)  
**Sent:** Friday, March 18, 2016 12:22 PM  
**To:** [jrharperlaw@verizon.net](mailto:jrharperlaw@verizon.net)  
**Subject:** E Filing Comments

Mr. Harper,  
Thank you for taking the time to comment on the NYSCEF System.  
We would appreciate any further information you could provide us about your comment so that we can properly address any concerns you have.

Jeffrey Carucci  
Statewide Coordinator for E-Filing  
Office of Court Administration  
60 Centre Street  
NY NY 10007  
[JCarucci@NYCourts.gov](mailto:JCarucci@NYCourts.gov)  
(212) 256-7778

We are most definitely not fond of electronic filing!

HARPER LAW OFFICE  
Jeffrey R. Harper, Esq.

**From:** Maggie Leary <mleary@joneshacker.com>  
**Sent:** Friday, March 18, 2016 2:56 PM  
**To:** eFiling Comments  
**Subject:** E filing comments

**Categories:** Orange category

Hi. Love NYS ECF. My only complaint, however, is that each individual exhibit must be filed separately. This becomes a problem when you have, say, 15 one page exhibits and you have 15 separate entries rather than Exhibits 1-15 as one document.

Would also like to see more counties using it.

Thank you.

Maggie Leary  
Paralegal  
**E. Stewart Jones Hacker Murphy, LLP**  
28 Second Street  
Troy, NY 12180  
Direct Dial: (518) 213-0123  
Fax: (518) 274-5875  
[www.joneshacker.com](http://www.joneshacker.com)

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**From:** Molly O'Brien <mobrien@wongfleming.com>  
**Sent:** Friday, March 18, 2016 4:45 PM  
**To:** eFiling Comments  
**Subject:** What could be even more intuitive

As I stated in my previous email, I think your system is the best. One suggestion I thought of was to link the specific Judge's rules (and any other local rules) to the specific case detail. I think that would make the NYSCEF online system even more intuitive.

But again, I think your site is the best in the nation (speaking from 2 years of paralegal experience...)



Molly O'Brien | Paralegal | Wong Fleming

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[www.wongfleming.com](http://www.wongfleming.com)

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**From:** Victor M. Serby <serbyv@optimum.net>  
**Sent:** Friday, March 18, 2016 11:51 PM  
**To:** eFiling Comments  
**Subject:** Comments on NYSCEF  
  
**Categories:** Green category

Dear Mr. McConnell:

OCA has done a crack-up job with its e-filing system. In my opinion, it is better than the federal ECF system.

E-filing should be expanded to all courts in New York. It saves gas, time, and no one can claim that they didn't get the papers due to loss in the mail.

A nice feature that isn't present would be to have the ability to download the whole case file at once. This would be useful for appellate printers (and the appellate courts) to get the whole record, instead of subpoenaing the record from the individual court/county clerks. The federal courts have a similar feature on their ECF system whereby the district court can upload the whole docket to the circuit court.

Victor M. Serby, Esq. .  
Patent Attorney  
Licensed Professional Engineer  
255 Hewlett Neck Road  
Woodmere, NY 11598  
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Fax: 516-557-0088

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JULIA C. MOMBREA  
KRISTEN L. SCHAUB

\*Also Member of the New Hampshire Bar  
\*\*Also Member of the Florida Bar

March 15, 2016

John W. McConnell, Esq.  
- Counsel; Office of Court Administration  
25 Beaver Street, 11<sup>th</sup> Floor  
New York, New York 10004

Re: Comment on NYSCEF

Dear Mr. O'Connell:

Overall, I am very pleased with the operation of NYSCEF. The process of e-filing is easy. The support staff, available by telephone, has been great. I especially appreciate the fact that persons are available until 6:00 p.m.

On occasion, large pdf documents do not load or take a long time to do so. However, other than that I am very favorably impressed with the system.

Yours truly,  
NESPER, FERBER, DIGIACOMO,  
JOHNSON & GRIMM, LLP

By: Gabriel J. Ferber

**From:** Jeff Shepro <jshepro@sheprolaw.com>  
**Sent:** Monday, March 21, 2016 10:12 AM  
**To:** eFiling Comments  
**Subject:** Comments

Hello,

Thanks for all the hard work that you put into the NYSCEF!

A few comments/suggestions:

- 1) Future and past Court dates / appearances should be visible on the system. They should be visible when viewing a case and also by attorney and/or law firm. Attorneys should have the option to receive an email notification one or more days in advance of a hearing. This is critical and will help reduce missed court appearances.
- 2) Users should be able to click a button to file documents to that case when viewing a case. Currently users who are viewing documents have to click out of the file, back on to "My Cases" and then click "File Document" next to the case.
- 3) There really should be an ability to mark off a case electronically rather than having to appear in Court to request an adjournment (especially when the Court or Judge specifically allows one or two adjournments). This is also useful if parties engage in settlement discussions after the motion is filed.
- 4) Motion filers should also have the option to have the motion heard "On the papers" to avoid unnecessary court appearances.

Points 1, 3 and 4 above would eliminate a tremendous amount of wasted time for attorneys, Courts and judges. (Points 3 and 4 (and I think 1 and 2 as well) above are available in Connecticut -- very efficient. See Connecticut eServices for more information.)

Thanks again!

Jeffrey Shepro

--  
Jeffrey Shepro, P.C.  
817 Broadway 10th Fl. Ste 1028  
New York N.Y 10003

Tel: 212-575-2683  
Fax: 212-575-2684

March 22, 2016

[jcarucci@nycourts.gov](mailto:jcarucci@nycourts.gov)

Mr. Jeffrey Carucci  
Statewide Coordinator for Electronic Filing  
NYS Unified Court System  
New York County Courthouse  
60 Centre Street, Room 119M  
New York, New York 10007

Re: March 7, 2016 Request for Comments About Implementation of E-Filing Program

Dear Mr. Carucci:

Thank you for the opportunity to comment about the implementation of e-filing by the New York State Courts. I respectfully submit these comments, in response to your March 7, 2017 Request for Comments, on behalf of the undersigned New York City providers of free civil legal services to low and moderate-income New Yorkers working with defendants in foreclosure cases.

We appreciate the ongoing dialogue we have had with your office concerning the impact of e-filing on homeowners attempting to navigate the judicial foreclosure process, especially the large number of unrepresented homeowners, many of whom are elderly or of limited English proficiency ("LEP"). We are pleased that with the enactment of amendments to Section 212 of the Judiciary Law as of August 31, 2015, e-filing is an "opt-in" process for unrepresented parties, and that residential foreclosure and consumer credit actions are to be excluded from new mandatory e-filing pilot projects. We submit these comments concerning our observations about implementation of the new law, with the caveat that the most significant impact of e-filing is felt not by our advocates, who utilize the e-filing system in cases where we appear as counsel of record, but by the many thousands of unrepresented litigants across the state for whom e-filing can present significant access-to-justice barriers.

1. While the law is now clear that e-filing is an opt-in system for unrepresented parties, we have observed that some county clerks' offices have expressed hostility to those not opting in to e-filing, and have suggested that legal services providers who assist homeowner

defendants with the preparation of *pro se* answers should be responsible for persuading such unrepresented parties to opt in to e-filing. Indeed, shortly after the amendments to Section 212 of the Judiciary Law, advocates observed personnel at the Bronx county clerk's office refuse to accept non-e-filed answers from *pro se* foreclosure defendants who received assistance with the preparation of their *pro se* answers from the foreclosure clinic staffed by legal services providers in the courthouse, refuse to provide file-stamped copies of such *pro se* answers, and/or substantially delay the filing of such answers, leaving homeowner defendants without proof of timely filing of their answers. While we understand that this problem has abated recently, for the very reasons that mandatory e-filing is problematic for elderly and low and moderate income parties without access to broadband, computers, or scanning equipment at home, or with limited English proficiency, many foreclosure defendants will not and should not opt in to e-filing. The clerk's offices should therefore not be pressuring advocates to encourage unrepresented parties to opt in to e-filing when it may not be in the litigant's best interest.

2. Advocates working with clients who represented themselves in the Bronx and in New York counties have reported that clerk's office personnel have advised unrepresented parties that they could not opt out of e-filing, even though current law contemplates e-filing only for unrepresented parties who opt in, and even though even before the recent amendments to the law, it was always permissible for litigants to opt out of e-filing.
3. Some advocates in Queens have observed that plaintiffs have continued to e-file documents, without serving hard copies on unrepresented parties who have opted out of e-filing in the mandatory e-filing pilot project for residential foreclosure cases implemented in Queens County prior to the enactment of the law excluding residential foreclosure cases from mandatory e-filing. While the amendment to the law did provide a two-year grace period for such pilot projects to wind down, we respectfully suggest that it is appropriate to terminate such pilot projects sooner rather than later, given the problems experienced with e-filing by foreclosure defendants, and the legislature's expressed desire to exclude residential foreclosure cases from mandatory e-filing.

4. Advocates practicing in Kings County have observed that some plaintiffs are not filing documents in pdf-A (searchable) format as required by Rule 202.5-b(d)(1)(i), and are instead filing grainy, sometimes nearly illegible scans of pleadings. The pleadings and RPAPL 1303 notices (Help for Homeowners in Foreclosure notices, which are required to accompany foreclosure complaints) are often reduced in the scanning process to the point that they do not comply with the law's very explicit size and typeface requirements. Compliance with these requirements is especially important for seniors; we respectfully suggest that plaintiffs should not be permitted to file scans of pleadings in which the pleadings have been reduced to illegibility or in which required accompanying notices, which are statutory conditions precedent, have been reduced to fonts smaller than the 14 point type required by the statute.
5. Advocates have observed that hard copy documents filed for *pro se* litigants sometimes do not appear on the e-file docket, and when they do, it sometimes takes several weeks.
6. Some courts are actually discouraging use of the e-filing system by *pro se* litigants who might otherwise opt in by making it impossible to pay motion filing fees in cash; cash is permitted in Kings County, for example, only for *pro se* litigants who have not opted in to e-filing. Many *pro se* litigants without credit cards effectively are barred from utilizing the e-filing system because there is no mechanism for payment of filing fees with cash. This can be highly problematic for *pro se* litigants who did opt in to e-filing with the filing of an answer, who may later discover they are unable to file motion papers because there is no mechanism for payment of the required filing fee without use of a credit card.
7. The Notice of Commencement of Action Subject to Mandatory Electronic Filing (EFM-1) is confusing to litigants in foreclosure actions and to *pro se* litigants, because it creates the misleading impression that foreclosure actions are subject to mandatory electronic filing, requiring the reader to read through 6 paragraphs of text before reaching the paragraph explaining that unrepresented litigants are exempt from e-filing. Additionally, we have observed plaintiffs use outdated versions of this notice, incorrectly advising defendants that they are required to opt out of e-filing. Given that foreclosure actions (among others) are statutorily excluded from mandatory e-filing, except for commencement of the action by e-

filing, we suggest that a separate form be devised for excluded categories of cases which do *not* refer to mandatory e-filing and which more prominently make clear that *pro se* parties are automatically excluded from e-filing unless they choose to opt in.

8. As you are aware, civil legal services foreclosure prevention advocates routinely represent homeowners in foreclosure settlement conferences pursuant to limited retainers, and file notices of limited appearance for purposes of the settlement conference phase of foreclosure actions, which representation terminates when foreclosure actions are released from settlement conference parts. A mechanism is needed to reflect the termination of the representation and the associated consent to e-filing in such circumstances, so that legal services providers in such circumstances are no longer treated as counsel of record and so that the newly-*pro se* parties revert to non-e-filing status, unless they opt in. As we have discussed, a form proposed for this purpose by Queens County was unacceptable, as it would have required recitations about attorney-client communications and would have imposed obligations on attorneys to provide information about e-filing options to former clients. We have proposed a form which, we believe, would be effective to terminate the e-filing status and the notice of limited appearance simultaneously. We have submitted the enclosed form for consideration to Queens County, but have not had any reply; we request that you consider adopting such a form for use for this purpose statewide in foreclosure actions in which legal representation terminates upon release of cases from settlement conference parts.
  
9. A recent issue came to our attention in a case pending in Bronx Supreme Court concerning the e-filing of motion papers which improperly disclosed a defendant's social security number instead of redacting such information, as required by section 202.5(e) of the Uniform Civil Rules of the Supreme and County Courts. Instead of rejecting the improperly-filed motion papers, the clerk accepted them and deemed the papers "sealed," removing it from the public record and making it impossible for an advocate taking over the case to retrieve the papers from the public record. Efforts to correct this problem with the clerk's office and with the E-File Resource Center have not been successful. If this issue has presented itself in a case in which an advocate is now working with the homeowner defendant, we can only imagine that other unrepresented homeowners can be harmed by

improper filing of motions with un-redacted personal identifying information, and the ensuing sealing of such papers.

10. Many of the problems encountered, both by advocates and unrepresented parties, result from the e-filing system's complex drop-down menu, requiring a series of choices that can lead to human error, especially when such filings are made in volume by foreclosure plaintiffs' firms making multiple filings simultaneously. One example that came to our attention involved an 86-year old homeowner defendant being marked as represented by the plaintiff's law firm, which caused the clerk's office to treat him as represented and therefore barred from filing a hard copy answer to the complaint. We would suggest that a user-friendly system be implemented at each courthouse to trouble-shoot these kinds of issues. As of now, there is a lack of clarity around how these problems are resolved—whether such issues are the responsibility of the e-file center, the County Clerk's office or the Supreme Court Clerk's office. Unrepresented parties who are lucky enough to find their way to a legal services agency may be able to ultimately get these types of problems resolved, but many *pro se* parties likely will not obtain such assistance and, instead, may have a default taken against them.

Thank you for presenting this opportunity to comment on our experiences with e-filing since the 2015 amendments went into effect. We look forward to continue working with you and your colleagues to address the ongoing issues around e-filing and its impact on the unrepresented and homeowner defendants navigating the judicial foreclosure process. For more information about these comments, please contact Jacob Inwald, Director of Foreclosure Prevention, Legal Services NYC, at [jinwald@ls-nyc.org](mailto:jinwald@ls-nyc.org) or 646-442-3634.

Respectfully submitted,

Legal Services NYC  
Brooklyn Legal Services  
Queens Legal Services  
Legal Services NYC-Bronx

Staten Island Legal Services  
JASA/Legal Services for the Elderly in Queens  
City Bar Justice Center  
Queens Volunteer Lawyers Project  
New York Legal Assistance Group  
MFY Legal Services, Inc.  
The Legal Aid Society

Enclosure (Notice of Termination of Notice of Limited  
Appearance and Termination of Electronic Filing)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF

-----X

Index No. \_\_\_\_\_

Plaintiff,

v.

Defendant(s).

**NOTICE OF TERMINATION OF  
NOTICE OF LIMITED  
APPEARANCE AND  
TERMINATION OF  
ELECTRONIC FILING**

-----X

The undersigned \_\_\_\_\_, Esq., of

\_\_\_\_\_ (firm/organization) having entered a limited appearance as  
counsel for Defendant(s) \_\_\_\_\_ in the above-  
referenced action for purposes of the Foreclosure Settlement Conference Part only;

And this case having been released from the Foreclosure Settlement Conference Part,  
thereby terminating the undersigned's representation of the Defendant(s) herein;

The undersigned now, does hereby withdraw as counsel for Defendant(s) as a result of  
the termination of the limited representation of Defendant(s) herein.

Upon the filing of this Notice with the Court, all legal representation of the Defendant(s)  
in this action by \_\_\_\_\_ (firm/organization) is terminated  
by operation of the terms by which the undersigned was retained;

And Defendant(s) are now proceeding *pro se* and shall not be deemed to have opted in to

electronic filing unless and until Defendant(s) affirmatively file a request to participate in electronic filing.

All counsel of record are now required to serve any and all pleadings filed in this matter upon Defendant(s) *Pro Se* at their last known mailing address,

Dated:  
Staten Island, New York

By: \_\_\_\_\_, Esq.  
[NAME, ADDRESS AND PHONE  
NUMBER OF LEGAL SERVICES  
AGENCY]

TO: (All Counsel of Record)

**From:** x <nylaw@live.com>  
**Sent:** Wednesday, March 23, 2016 9:46 AM  
**To:** Jeffrey Carucci  
**Subject:** comment on electronic filing

Dear Mr. Carucci;

I am an attorney practicing in New York and I am writing to you, at the invitation of the appellate division, with my comments.

I am greatly in favor of electronic filing. While the law currently allows service on other attorneys by e-mail, we must first seek out that attorney's permission, which is usually difficult. You want to serve process and not have to wait for an attorney to get around to checking e-mails. Therefore, I'm hoping that the state law will change to allow for service by e-mail to an e-mail address registered annually with the local court, without the additional burden of having to seek opposing counsel's permission each time papers are mailed.

I have no idea whether your topic includes the e-filing of vouchers in the attorney for the child program, but that is NOT working. The electronic voucher template was created, but now that we have tried to use it, it needs to be reassessed - it takes four times as long to fill out the voucher as it should. It usually takes me two hours to fill out a voucher - time for which I cannot bill. To access the template, you go to the 3rd dept webpage, and you actually have to choose e-voucher FOUR TIMES in four successive windows that open before you are taken to the e-voucher page. Now why is that? Why not just select e-voucher and have it appear in the window? Then, when we enter an activity, such as a court appearance, we have to make four separate and time-consuming entries: travel to court, mileage to court, court appearance, travel back from court. Why on earth isn't there the ability to type in the date, the court appearance, the travel time and mileage all in one window?

Thank you for your time.

Sincerely;

Lisa Miller, Esq.

**From:** Bernie Kleinman <attrnylwyr@yahoo.com>  
**Sent:** Wednesday, March 23, 2016 9:59 AM  
**To:** eFiling Comments  
**Subject:** Comment on Efiling in NY Courts

**Categories:** Green category

This is an excellent innovation. However, one comment:

1. Not enough courts are participating (e.g., S. Ct., Ulster Co., S. Ct. Orange Co.).

TY

B. Kleinman

**Bernard V. Kleinman**  
**Attorney-at-Law**  
**Law Office of Bernard V. Kleinman, PLLC**  
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LinkedIn: <https://www.linkedin.com/in/bvkattorney>

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**From:** Joseph Cavallo <joe@zooksearch.com>  
**Sent:** Wednesday, March 23, 2016 10:33 AM  
**To:** eFiling Comments  
**Subject:** CPLR § 8019(c) and NYSCEF

**Categories:** Green category

Good morning,

I am contacting you regarding CPLR § 8019(c) when used to amend or change a case caption. We have been informed by the County Clerk and the e-file office that when a case caption is amended the parties are removed from the NYSCEF index. As per CPLR § 8019(c), a docket entry is to be made. Removing the parties from the record makes finding this case impossible when conducting a name search. This is crucial when conducting a Due Diligence search of the NY County Supreme Court records to return results showing any and all cases, active or terminated or dismissed against an individual or party.

On 06/24/15 this notice to the count clerk was filed in case# 651734/2014, and an entry on the docket was to be made. Several defendants were dismissed from this case thus amending the case caption. At the same time, the County Clerk's office deleted the dismissed parties from the NYSCEF record, subsequently causing those parties to not be associated with this case on the NYSCEF index.

I respectfully request that the NYSCEF index be corrected to show all the removed parties from this case# 651734/2014 and that this procedure of changing the NYSCEF record be stopped.

Please contact me to further discuss this matter. Thank you very much for you time and consideration.

Joseph Cavallo  
Zook Search, Inc.  
Partner  
718-369-3879  
[www.zooksearch.com](http://www.zooksearch.com)  
New York - San Francisco - Los Angeles  
Established 2001



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**From:** eFiling Comments  
**Sent:** Wednesday, March 23, 2016 10:59 AM  
**To:** eFilingComments-DG  
**Subject:** FW: Comments on E-Filing Experience

---

**From:** David Arpino  
**Sent:** Wednesday, March 23, 2016 10:58:30 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** Comments on E-Filing Experience

Good morning,

I am submitting the below in response to the prompt on the homepage of NYSCEF "Request for Public Comment" that is due on or before March 25, 2016.

I am speaking on behalf of the law firm of Arnold A. Arpino & Associates, P.C. and the three paralegals who utilize the NYSCEF system daily. We are high volume filers in Westchester and Kings Counties, but we also file in Nassau, Suffolk, and Bronx counties as well. We are a general practice firm that mainly handles civil and commercial litigation.

Our experience with NYSCEF has been overwhelmingly positive, and we welcome further expansion as the Counties allow.

A few recommendations to make the experience better: Add the functionality of being able to upload in bulk for more case types.

Currently, only consumer credit actions and certain real property actions have the ability to bulk e-file. Efficiency would be greatly improved if more case types were supported this way. Specifically contract-non commercial, residential & commercial foreclosure, and tort claims.

I know that I may not be aware of certain limitations, nor am I aware if it is already on the horizon or even feasible, but the NYSCEF has been such a great success in our opinion that expansion to the New York City Civil Courts, 9th and 10th judicial dist. district courts, and local city courts seems like a logical next step. In an age where many law firms are turning to a paperless environment, these courts not having e-filing capabilities causes inefficiencies and creates difficulties in work flow processing.

Thank you for considering our comments.

-----  
Best regards,  
David Arpino, Paralegal

Arnold A. Arpino & Associates, P.C.  
155 East Main Street Suite 190  
Smithtown, New York 11787

**From:** eFiling Comments  
**Sent:** Wednesday, March 23, 2016 11:19 AM  
**To:** eFilingComments-DG  
**Subject:** FW: NY E-File Comments

**From:** Tarpey, Colleen  
**Sent:** Wednesday, March 23, 2016 11:19:15 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** NY E-File Comments

Dear Mr. McConnell,

As a practicing commercial litigator, I am generally pleased with the NYCEF system as a whole. It is very easy to use, very intuitive, and I've never had an issue where it didn't work as intended.

Here's the problem: the Courts don't seem to use it. Ever. I have filed various documents on the e-File system that require judicial review/action. When the document goes ignored for lengthy periods, I have called the Court only to be told "we don't look at that, you have to send it to" some unknown, unpublished fax number or in some other hard copy form. While I applaud the Courts for trying to move in the right direction, it seems strange to me that the system is mandatory for attorneys and litigants, but that the Courts completely ignore its existence.

This is not an issue isolated to just one Justice, or even just one County - this is my experience (and I suspect that of many other attorneys) nearly across the board. In fact, I can't think of a single instance where I have e-filed something and the Court took action on it without further prompting or follow up. I can understand requesting courtesy, hard copies - to the extent that Justices have individual practices that require the provision of courtesy copies to chambers, and those practices are published somewhere that they can be found (another problem, but not the focus of your inquiry, so I won't go there), it's no problem to provide them.

The genuine issue is that when the individual Justice has no such requirement published anywhere, their clerks or Court staff are not monitoring the electronic dockets and various requests are simply ignored. Of course, we've adapted, and now we call right after filing to understand what will prompt the Court to take action, but that renders e-filing a waste of time.

Just my two cents - if its trying to be the Federal ECF system, it is not, but not because of any technical flaw. Rather, its downfall is in the manner in which it is (not) used by Court staff.

Regards,

Colleen M. Tarpey  
Garfunkel Wild, P.C.  
111 Great Neck Rd., Suite 600  
Great Neck, New York 11021  
Main: (516) 393-2200  
Direct: (516) 393-2536

**From:** Rogers, Susan (Law) <srogers@law.nyc.gov>  
**Sent:** Wednesday, March 23, 2016 3:38 PM  
**To:** eFiling Comments  
**Subject:** NYSCEF

In the beginning, it was confusing to utilize the system. Now with some adjustments, the system has become more user friendly. It's now a pleasure to use.

**From:** eFiling Comments  
**Sent:** Wednesday, March 23, 2016 6:10 PM  
**To:** eFilingComments-DG  
**Subject:** FW: Efiling pdf documents

**From:** JDolan@fureylaw.com  
**Sent:** Wednesday, March 23, 2016 6:09:29 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** Efiling pdf documents

Does not always work

John Dolan  
Furey  
600 Front Street  
Hempstead NY 11550  
516 7690813

**From:** ROBERT J. ZYSK <bobzysk@gmail.com>  
**Sent:** Wednesday, March 23, 2016 11:54 AM  
**To:** eFiling Comments  
**Subject:** COMMENTS ON E FILING SCREEN DEFICIENCIES  
  
**Categories:** Orange category

Dear Mr. McConnell:

Having filed my first e filing case, I have the following suggestions to you:

1. The on screen instructions for payment are improper and confusing.  
a: The main payment screen gives you 2 options. Pay by credit card, or enter a "receipt number if Index# already obtained" (presumably by the County Clerk, as Clerk of the Supreme Court).

b:, relying upon the above, I traveled to the Clerk at the Central Islip Courthouse on Long Island, only to be told by the Window Clerk of the County Clerk's office that: " no, that can't be done". I asked her to please go on to her computer and read the payment screen options.

In true civil service fashion, she was: " too busy to do that" and acted indignant that I even suggested she should issue an index number to me.

c: Being considerably miffed I called the deputy County Clerk in Suffolk County, Mr. Grier -- he was out of the office, so the phone call was handled by a Ms. Booker, who was very courteous. I explained the problem and she told me 2 things:

[1] The window clerks are "not trained" properly and basically cannot be relied upon. ( no kidding, Dick Tracy!)

[2] That the option to obtain in Index number at the Clerk's office and enter the receipt on the payment screen: " does not happen in all counties. Every county is different. We don't do that!"

While very courteous, I, frankly, found this response to be ingenuous and incredible.

d. I thereafter went back to the e filing screen, the payment screen, and clicked on "help". In the help window it **specifically sets forth an option that you can obtain an index number at the COURT, and then enter the filing receipt.**

2. I therefore ask you, Mr. McConnell, what the heck is going on in the State of New York that the Office of Court Administration can't get this program right? If there is no option to get an index number from the Court and put the receipt number in the screen, **WHY DOES THE PROGRAM MAKE THAT AN OPTION???**

3. My further suggestion to you is that you should make a "check payment by phone" option on your payment screen and set that up. Why should an attorney have to use a credit card to pay for an index number? Didn't anybody think this out?

4. Another observation, on the document filing screen, the initial option menu for type of comments does not list a simple **complaint**. **It only list Summons and Summons and Complaint. But if you enter summons and complaint, you can only enter one of those documents..**

If you just select and file SUMMONS, then the document 2 screen **will** then present a solitary **COMPLAINT** option. In short the absence of a solitary **COMPLAINT** option on the first screen is a deficiency in this program which should be corrected. The option "summons and complaint", should be deleted as it does not present the ability to enter two separate documents---unless, of course, you present the summons, together with the Complaint as **ONE FILE** copied to PDF. I would submit that the average law office considers the Summons to be a separate document from the Complaint.

5. When my filing was completed, the receipt issued does not list the Index # ---I had to call to determine that it would be sent by

e mail to me later. You should enter that information on the Screen so first time users will know.

6. Your list of Type of Documents should allow the user to enter a document which you have NOT listed. I don't believe your list of documents is fully complete.

7. A big deficiency is that your program does not allow a partially completed filing application to be SAVED TO A FILE WHICH CAN THEN BE RETRIEVED LATER FOR COMPLETION.  
This is a failing which could be easily corrected.

In fact, a competent computer certified engineer should be able to fix all of the above perceived deficiencies.

I feel that your program designer did not give adequate thought to this program. I find the Federal E Filing program much more usable.

Hopefully you can and will improve it. You should also insure that County Clerk window Clerks are properly trained and they ditch the often surly tactic of getting belligerent when the are presented with information from an attorney and a request for an index number. We practicing attorneys are tired of being confronted with such attitudes at filing windows.

Respectfully,  
ROBERT J. ZYSK, ESQ. [bobzysk@gmail.com](mailto:bobzysk@gmail.com)

**From:** Schlesinger, Alan (Law) <aschlesi@law.nyc.gov>  
**Sent:** Wednesday, March 23, 2016 3:51 PM  
**To:** eFiling Comments  
**Subject:** NYSCEF Request for Public Comment

**Categories:** Green category

The State should be proud of its ECF system  
It should be extended to more cases and counties  
Perhaps permitting larger size downloads would allow extension to more special proceedings  
Congratulations

**ALAN M. SCHLESINGER**  
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**From:** eFiling Comments  
**Sent:** Wednesday, March 23, 2016 4:12 PM  
**To:** eFilingComments-DG  
**Subject:** FW: Comments on E-Filing

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**From:** Cheryl Riley  
**Sent:** Wednesday, March 23, 2016 4:11:30 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** Comments on E-Filing

Dear Mr. McConnell:

With all due respect, and working in a law firm in Long Island, NY, I am quite disgusted with this E-filing business. My workload has **doubled** since we have to print and save each and every E-file document that comes into this office (as well as documents that we have to E-file). Not only that, we continue to serve every legal document by mail (USPS or FedEx). And, most of the judges require a "working copy" to be sent to the Court.

Last week, I had a summary judgment motion to e-file in Kings County. The medical records had to be redacted and were quite voluminous. Redacting is difficult in and of itself because dates of birth can be written several different ways. Needless to say, I had a most difficult time filing the medical record exhibits. The exhibits could not be e-filed due to the fact that they apparently were not compatible with the E-File system. I called for assistance to the helpline but was told that it had to be in a **pdf.a** format, whatever that is. Not only that, I was bumped off E-filing **several times** and had to go back in each time and **start over**. I was here late, after hours, and **stressed** to the max. **E-filing makes me want to quit this job**. This aggravation is not worth it and also, I don't get paid for working late to E-file. I am **not** an attorney but a legal secretary. I have been working in the legal field for a long time, and I have never encountered such a difficult program.

My vote is to get rid of it. Like I said, everyone in this firm's workload has doubled, down to the file department. It is an albatross around my neck, and not productive in the least bit.

You wanted my comments, I am being truthful with you. **What is the point of E-Filing?**

Sincerely,

Cheryl Riley

**From:** eFiling Comments  
**Sent:** Thursday, March 24, 2016 10:20 AM  
**To:** eFilingComments-DG  
**Subject:** FW: Comments re eFiling

**From:** Christine Nadelman  
**Sent:** Thursday, March 24, 2016 10:16:41 AM (UTC-05:00) Eastern Time (US & Canada)  
**To:** eFiling Comments  
**Subject:** Comments re eFiling

Way back when E-filing started I wondered how in the heck law firm types of businesses could ever go paperless! I've been a legal secretary/assistant since 1979.... the days of the typewriter, carbon paper and no computers. E-filing is a complete waste of time, law firms can never go "paperless", if that was the idea it's totally ridiculous. Everything gets served in the mail anyway, filing exhibits is a complete joke, (each separately), the e-filing people don't care when we call for their help, and it seems when we call the Judges or their law clerks, that they really don't pay any mind to e-filing documents either, as they still require "working copies", which in reality is the original document that we always filed with the Court anyway! When I hear the word "e-file", I cringe...Per new HIPAA laws, personal information has to redacted, exhibits which contain this information, i.e. medical records, etc., have to be converted in another PDF version due to the size of the document after redaction, sometimes for no reason at all exhibits file in duplicate, and others cannot be filed at all, and best of all you get bumped off the system. Each law firm does e-filing differently. We have to come up with our own plan of how to get around all the quirks in order to file documents, we are not computer technologists. Obviously, whoever thought of this did not anticipate any of the problems nor research it completely to make sure this would apply to this field of work, as it doesn't coordinate with what is required by the Court rules, Judge's requirements, HIPAA laws, and many other detailed required filing/serving aspects of a law firm business. Forget about productivity, we need to hire e-filing people to keep up with the emails, reviewing and printing of documents. All of this seems to fall upon the lowly legal secretary! Attorneys direct us to just "go e-file" like it's a snap of a finger! Please make it go away, like speed cameras in front of schools...BAD IDEA!

**From:** Jeff Bodoff <jbodoff@dsalaw.net>  
**Sent:** Friday, March 25, 2016 6:00 AM  
**To:** eFiling Comments  
**Subject:** My experience/comments

**Categories:** Orange category

Good morning. My name is Jeff Bodoff. My experience with NYSCEF until recently has been minimal but uneventful and problem-free. However, the last case I e-filed under index number is 651106/16 has been the exact opposite. When I first read your request for comments of the e-filing system, I considered emailing my comments. Now, on the deadline for responses, I feel I MUST respond.

On March 3, 2016, I filed a summons, notice of motion for summary judgment in lieu of a complaint and RJJ with its supporting papers. I selected a return date of May 16 to allow ample time for processing and for service of process.

When I filed the papers, I scanned each of the documents in the same manner. Notwithstanding same, I received 3 separate notifications that 2 of the documents I filed (the RJJ and the notice of motion) were filed in a lopsided manner and after each notification I re-scanned and re-filed the documents. The third notice was on March 9.

After the third notice, I sent an email to the NYSCEF resource center explaining that I was at a loss as to what to do since when I clicked the links on my computer, the documents appeared perfectly straight. Ms. Medina suggested that I re-scan the document and re-create my PDF. and then follow the re-file link to file the documents.

Since I was going out of town that night, I updated my associate Adam Goodman on the matter and I asked him to follow up. On March 10, he rescanned and refiled the documents again and he confirmed to me that the documents looked straight on his computer screen.

So I waited and followed up online with the progress. As of March 16, when online the two re-filed documents still were listed as "pending" and I had not yet heard anything, I asked Mr. Goodman to call the Court and ask for a status update. He was told that the documents were fine and that the status would be changed shortly.

On March 20, the two re-filed documents still were listed as "pending" and I still had not been notified by email of an update. On March 21, Mr. Goodman called and spoke to the same clerk as he did 5 days earlier. She said that the papers were marked "approved and completed" and should be changed in the system. She said that if there were something wrong with the papers, they would have been sent back to me to be corrected. She was not sure how long it would take to be processed so she transferred Mr. Goodman to a different department. The person he spoke to in that department said that it can take a week or two.

It is now March 25 and the documents are still "pending". Quite frankly, I find it hard to believe that this delay is acceptable. I now have to be concerned about whether the papers will be able to be served timely without my client incurring unnecessary expense, after I purposely selected a return date more than 2 months in advance when I filed the papers.

I hope that these comments are useful. Just as importantly, I hope you are able to assist me in processing my papers expediently. Thank you in advance for your time and consideration.

**From:** DiSanti, JoAnn <jdisanti@whitecase.com>  
**Sent:** Friday, March 25, 2016 10:32 AM  
**To:** eFiling Comments  
**Subject:** National Docketing Association Submission Regarding User Experience With NYSCEF

**Categories:** Green category

John W. McConnell, Esq.  
Counsel  
Office of Court Administration  
25 Beaver Street, 11th Fl.  
New York, New York 10004

Dear Mr. McConnell:

Thank you for the opportunity to comment on the users experience with NYSCEF. I write on behalf of the National Docketing Association ("NDA"). The NDA is an organization that not only has e-filing users from large and medium New York law firms, but includes e-filing users from outside New York that uses NYSCEF to file and retrieve papers for their New York offices. Aside from being the President of the NDA, I am also the Managing Clerk for White & Case LLP.

A number of NDA e-filing users from New York have been filing on 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. Our members file documents electronically throughout the country in both federal and state courts. Each year at the annual NDA conference the topic of e-filing is raised and the challenges we face with filing in various courts that have different procedures and rules. A number of courts are discussed as to the difficulty having to file in those courts, but one of the courts that never seems to be discussed as to its difficulty is NYSCEF. After receiving the invitation to offer user comments I asked our members what seems to make filing on NYSCEF less difficult compared to others. I have listed below a few topics that seems to make NYSCEF stand out from other courts.

#### **Reliability**

NYSCEF is rarely unavailable.

#### **User Feedback**

NYSCEF instructions found on the New York County Supreme Court web site are just an example of how the NYSCEF Resource Center reaches out to the e-filing community for their feedback so that other filing users can benefit from this information in order to reduce the number of calls to the court.

#### **NYSCEF Resource Center**

The NYSCEF Resource Center has done everything that it can to train law firm employees along with making sure no phone call to their office goes unanswered.

#### **Document Size**

Just about every court in the country will have a PDF size restriction, but NYSCEF continues to remain one of the few courts that allows a larger size requirement, which makes large filings take a lot less time.

**No Fees**

The ability to serve, file and retrieve without being sent a monthly invoice each month is one the unique qualities that makes using NYSCEF more manageable than to others who will send you an invoice from the vendor they hire to manage their e-filing system.

**Training System**

Most courts throughout the country offer training classes, but few offer a training system that allows law firms to make sure their staff are prepared to do a real filing.

If there is one request we could make is that additional staffing be provided to the NYSCEF Resource Center. This group of dedicated clerks goes beyond the call of duty. Adding more courts to NYSCEF each year places more of a demand on this staff. Thank you again for the opportunity to not only hear from users from New York, but from a community of e-filing users from across the country.

JoAnn Disanti  
President  
National Docketing Association  
<http://www.nationaldocketing.org/>

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