

**ADMINISTRATIVE ORDER OF THE
CHIEF ADMINISTRATIVE JUDGE OF THE COURTS**

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby amend, effective December 15, 2017, section 202.5-b of the Uniform Civil Rules for the Supreme and County Courts, relating to the electronic filing of actions in the Supreme Court, consensual program, as follows (new matter **bolded and underlined**; deleted matter [~~bracketed and stricken~~):

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202.5-b. Electronic Filing in Supreme Court; Consensual Program.

(a) Application.

(1) On consent, documents may be filed and served by electronic means in Supreme Court in such civil actions and in such counties as shall be authorized by order of the Chief Administrator of the Courts and only to the extent and in the manner provided in this section.

(2) Definitions. For purposes of this section:

(i) "electronic means" shall mean any method of transmission of information between computers or other machines, other than facsimile machines, designed for the purpose of sending and receiving such transmissions, and which allows the recipient to reproduce the information transmitted in a tangible medium of expression;

(ii) "NYSCEF" shall mean the New York State Courts Electronic Filing System and the "NYSCEF site" shall mean the New York State Courts Electronic Filing System website located at www.nycourts.gov/efile;

(iii) "e-filing", "electronic filing" and "electronically filing" shall mean the filing and service of documents in a civil action by electronic means through the NYSCEF site;

(iv) an "authorized e-filing user" shall mean a person who has registered to use e-filing pursuant to subdivision (c) of this section;

(v) an "action" shall include a special proceeding and an "e-filed action" shall mean an action in which documents are electronically filed and served in accordance with this section;

(vi) "hard copy" shall mean information set forth in paper form;

(vii) "working copy" shall mean a hard copy that is an exact copy of a document that has been electronically filed in accordance with this section;

(viii) "party" or "parties" shall mean the party or parties to an action or counsel thereto;

(ix) "unrepresented litigant" shall mean a party to an action who is not represented by counsel;

(x) "expedited processing" shall mean the expedited registration of a person as an authorized e-filing user; and

(xi) "Resource Center" shall mean the NYSCEF Resource Center, the e-filing help center available at 646-386-3033 or efile@nycourts.gov and through the NYSCEF site.

(b) E-filing in Actions in Supreme Court. Except as otherwise provided in section 202.5-bb of these rules, the following shall apply to all actions in Supreme Court:

(1) Commencing an action by electronic means. A party may commence any action in the Supreme Court in any county (provided that e-filing has been authorized in that county and in the class of actions to which that action belongs pursuant to paragraph (1) of subdivision (a) of this section) by electronically filing the initiating documents with the County Clerk through the NYSCEF site. When so authorized, a petition to commence a proceeding for review of a small claims assessment pursuant to Real Property Tax Law § 730 may be e-filed, including as follows: the petition, in the form prescribed by the Chief Administrator in accordance with such section, shall be completed and signed in hard copy as provided in that section and shall be e-filed by transmission to the NYSCEF site, in conformity with procedures established by the site, of a text file containing all of the information set forth in the completed and executed hard copy petition (exclusive of the signature(s)). Upon receipt of such transmission, the site shall generate and record the completed petition in proper form in portable document format.

(2) E-filing in an action after commencement.

(i) Consent of the parties required. After commencement of an action wherein e-filing is authorized, documents may be electronically filed and served, but only by, and electronic service shall be made only upon, a party or parties who have consented thereto. A party's failure to consent to participation in electronic filing and service shall not bar any other party to the action from filing documents electronically with the County Clerk and the court or serving documents upon any other party who has consented to participation. A party who has not consented to participation shall file documents with the court and the County Clerk, and serve and be served with documents, in hard copy. When an e-filing party serves a document in hard copy on a non-participating party, the document served shall bear full signatures of all signatories and proof of such service shall be filed electronically.

(ii) Consent to e-filing; how obtained. Notwithstanding the following, no party shall be compelled, directly or indirectly, to participate in e-filing pursuant to this section. A consent to e-filing in an action shall state that the party providing it agrees to the use of e-filing in the action and to be bound by the filing and service provisions in this section. A party who has commenced an action electronically shall serve upon the other parties together with the initiating documents a notice ~~[regarding availability]~~ of e-filing in a form approved by the Chief Administrator. Such notice shall provide sufficient information in plain language concerning e-filing. ~~[A party who seeks to use e-filing in a pending action shall serve said notice upon all other parties. Whenever such a notice is served, proof of service thereof shall be transmitted to the court. Service of such a notice shall constitute consent to e-filing in the action by the party causing such service to be~~

~~made.]~~ Except for an unrepresented litigant, a party served with such a notice shall promptly **record his or her consent electronically in the manner provided at the NYSCEF site or file** with the court and serve on all parties of record ~~[either a consent or]~~ a declination of consent. ~~[An authorized e-filing user may file a consent electronically in the manner provided at the NYSCEF site. Consent may also be obtained by stipulation.]~~ An unrepresented litigant is exempt from having to file and serve documents electronically in accordance with this section and need not respond to the notice described herein; except that he or she may file a consent to participate in e-filing provided the clerk shall first have explained his or her options for e-filing in plain language, including the option for expedited processing, and inquired whether he or she wishes to participate. Where an unrepresented litigant opts to file a consent hereunder, it shall be documented in the case file in a manner prescribed by the Chief Administrator. Provided, however, that where an unrepresented litigant chooses to participate in e-filing in accordance with these rules, he or she may at any time opt out of such participation by presenting the clerk of the court with a form so declaring. The filing of a consent to e-filing hereunder shall not constitute an appearance in the action **under CPLR 320.**

(iii) Documents previously filed with the court; termination or modification of e-filing procedures. When an action becomes subject to e-filing, the court may direct that documents previously filed in the action in hard copy be filed electronically by the parties. The court may at any time order discontinuation of e-filing in such action or modification of e-filing procedures therein in order to prevent prejudice and promote substantial justice.

(iv) Conversion of pending actions. Where procedurally permitted, upon court direction, an application by a party to the court, or a stipulation among the parties, a pending action may be converted to electronic form. Such direction, application, or stipulation must be served on all parties to the action and filed with proof of service. The County Clerk may require the parties to furnish previously filed hard copy documents in electronic form.

(c) Authorized E-filing Users, Passwords and Registration.

(1) Registration required. Documents may be filed or served electronically only by a person who has registered as an authorized e-filing user or as otherwise provided in this subdivision.

(2) Registering as an authorized e-filing user.

(i) Who may register. An attorney admitted to practice in the State of New York, or a person seeking to serve as an authorized e-filing agent on behalf of attorneys of record in an e-filed action or actions (hereinafter "filing agent") may register as an authorized e-filing user of the NYSCEF site. An attorney admitted pro hac vice in an action, an unrepresented litigant, or a person who has been authorized in writing by an owner or owners of real property to submit a petition as provided in section 730 of the Real Property Tax Law and who has been licensed to engage in such business as required by the jurisdiction in which the business is operated

(hereinafter "small claims assessment review filing agent") may also register as an authorized e-filing user, but solely for purposes of such action or, in the case of a small claims assessment review filing agent, solely for those proceedings under section 730 of the Real Property Tax Law in which he or she has been authorized to submit a petition.

(ii) How to register. Registration shall be on a form prescribed by the Chief Administrator. If so provided by the Chief Administrator, registration shall not be complete until the registering person has been approved as an e-filing user. An authorized e-filing user shall notify the Resource Center immediately of any change in the information provided on his or her registration form.

(3) Identification and password. Upon registration, an authorized e-filing user shall be issued a confidential User Identification Designation ("User ID") and a password by the Unified Court System ("UCS"). An authorized e-filing user shall maintain his or her User ID and password as confidential, except as provided in paragraph (4) of this subdivision. Upon learning of the compromise of the confidentiality of either the User ID or the password, an authorized e-filing user shall immediately notify the Resource Center. At its initiative or upon request, the UCS may at any time issue a new User ID or password to any authorized e-filing user.

(4) User ID and password; use by authorized person. An authorized e-filing user may authorize another person to file a document electronically on his or her behalf in a particular action using the User ID and password of the user, but, in such event, the authorized e-filing user shall retain full responsibility for any document filed.

(d) Electronic Filing of Documents.

(1) Electronic Filing of Documents.

(i) Electronic filing required; format of e-filed documents; statement of authorization. In any action subject to e-filing, all documents required to be filed with the court by ~~[a]~~ **an e-filing** party ~~[that has consented to such e-filing]~~ shall be filed and served electronically, except as provided in this section. **All e-filed [D]** documents shall ~~[be e-filed in text-searchable portable-document format (PDF-A) and shall otherwise]~~ comply with the technical requirements set forth at the NYSCEF site.

(ii) Filing agent; statement of authorization. A filing agent (other than one employed by a governmental entity) shall e-file a statement of authorization from counsel of record in an action, in a form approved by the Chief Administrator, prior to or together with the first e-filing in that action by the agent on behalf of that counsel.

(iii) [(ii)] Emergency exception; other hard copy filings. Documents that are required to be filed and served electronically in accordance with this section or paragraph (1) of subdivision (c) of section 202.5-bb of these rules may nevertheless be filed and served in hard copy where required by statute or court order, where the document is an application that may by statute be presented without notice, or provided the document is accompanied by the affirmation or affidavit of the filing attorney or ~~[party]~~ **unrepresented litigant** stating that: **(1) [(i)]** a deadline

for filing and service fixed by statute, rule or order of the court will expire on the day the document is being filed and served or on the following business day; and (2) ~~[(ii)]~~ the attorney, ~~[party or]~~ filing agent therefor, **or unrepresented litigant** is unable to file and serve such document electronically because of technical problems with his or her computer equipment or Internet connection. In the event a filer shall file and serve documents in hard copy pursuant to this subparagraph, each such document shall include the notice required by ~~[this]~~ **the immediately following subparagraph**, and the filer shall file those documents with the NYSCEF site within three business days thereafter.

~~(iv) [(iii)]~~ Form of notice required on hard copy filing. Where an action is subject to e-filing and a party **(other than an unrepresented litigant who is not participating in e-filing)** or attorney seeks to file a document therein in hard copy, such document shall include, on a separate page firmly affixed thereto, a notice of hard copy submission, in a form approved by the Chief Administrator, **that states the reason why the document is being filed in hard copy form.** ~~[that the party or attorney: (A) is authorized to and does withhold consent to e-filing, (B) is exempt from having to e-file, or (C) is authorized or required to file such document in hard-copy pursuant to an exception provided in these Rules or other provision of law.]~~

(2) Payment of Fees. Whenever documents are filed electronically that require the payment of a filing fee, the person who files the documents shall provide therewith, in payment of the fee: (i) such credit card information as shall be required at the NYSCEF site to permit a card to be charged by the County Clerk; or (ii) the form or information required by the County Clerk to permit him or her to debit an account maintained with the County Clerk by an attorney or law firm appearing for a party to the action; or (iii) such information as shall be required at the NYSCEF site to permit an automated clearing house debit to be made; or (iv) any other form of payment authorized by the Chief Administrator. Notwithstanding the foregoing, where permitted by the County Clerk, an authorized e-filing user who electronically files documents that require the payment of a filing fee may cause such fee to be paid thereafter at the office of the County Clerk.

(3) Filing and receipt of documents; notification.

(i) When documents are filed. Documents may be transmitted at any time of the day or night to the NYSCEF site. A document **other than an order or judgment** is filed when its electronic transmission or, in the case of a petition that is e-filed by submission of a text file as provided in subdivision (b)(1) of this section, the electronic transmission of the text file is recorded at that site, provided, however, that where payment of a fee is required upon the filing of a document, the document is not filed until transmission of the document and the information or form or information as required in (i), (ii) or (iii) of paragraph (2) of this subdivision has been recorded at the NYSCEF site; or, if no transmission of that information or form or information is recorded, where permitted by the County Clerk, until payment is presented to the County Clerk.

(ii) Notification. No later than the close of business on the business day following the electronic filing of a document, a notification, in a form prescribed by the Chief Administrator, shall be transmitted electronically by the NYSCEF site to the person filing such document and **the e-mail service addresses of all other participating parties in such action.** ~~[all other parties]~~

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