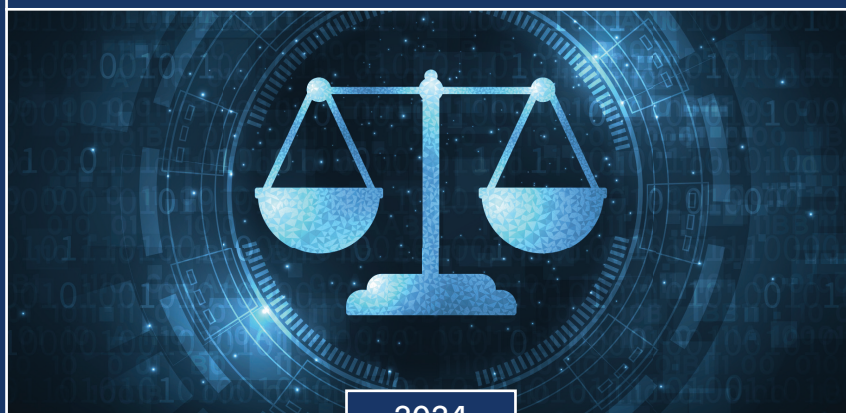




**Electronic Filing  
in the New York State Courts**



2024

Report of the Chief Administrative Judge  
to the Legislature, the Governor, and the  
Chief Judge of the State of New York

# Preface



March 2024

I submit this Report pursuant to section 212(2)(u)(i)(A) of the Judiciary Law<sup>1</sup> on the status of New York State's electronic filing ("e-filing") program. I want to thank the bar, the County Clerks, and the E-filing Advisory Committees for their input and their contributions to improving the e-filing program over these past 25 years. I also want to thank the Legislature and the Governor for their support of e-filing initiatives in the past and for their consideration of the Judiciary's legislative proposal to allow for the further expansion of e-filing. As we have in years past, we continue to ask for legislative authorization to expand e-filing throughout the State, which would create significant time and cost savings for lawyers, litigants, judges, clerks, and other court users.

A handwritten signature in gold ink, consisting of stylized, flowing letters that appear to be 'JAZ'.

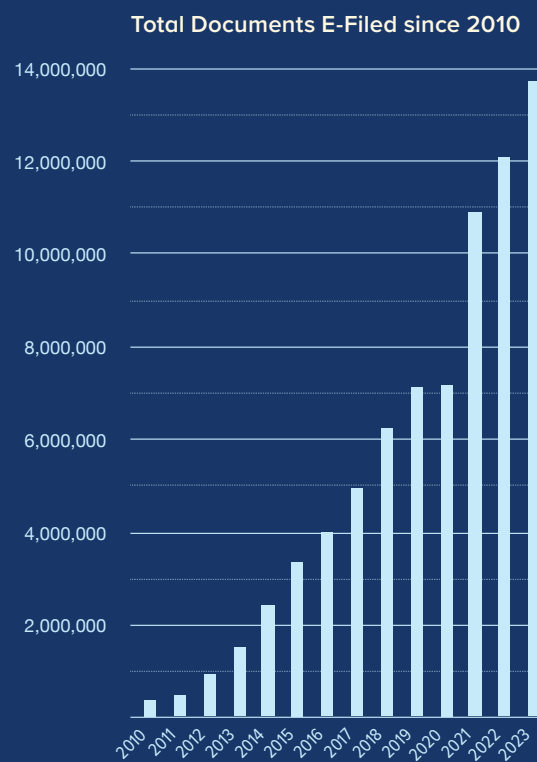
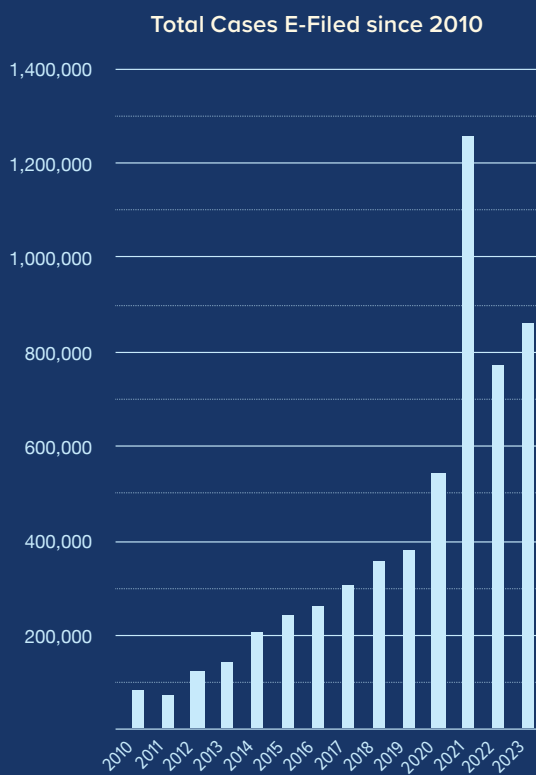
**Hon. Joseph A. Zayas**

Chief Administrative Judge of the State of New York

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**E-Filing is transforming the legal practice in the courts of our State. Over 6 million cases and 17 million documents have been electronically filed and uploaded via NYSCEF since inception.**



**Over 3.4 million cases and 43 million documents have been electronically filed in the last four years alone, highlighting the widespread embrace of e-filing throughout the state.**

# Introduction

## New York State Courts E-Filing (NYSCEF) Program

For the past 25 years, e-filing in the New York State Courts has been implemented with caution and on a piecemeal basis, pursuant to legislation. Over time, e-filing has revolutionized the legal practice in the state and is now an essential program for nearly all UCS court users. Its benefits are extensive: simplifying filing and service of documents and reducing filing costs for counsel, enhancing efficiency for courts and County Clerk’s Offices, improving document security, reducing the environmental impact of court filings, and providing all users, including the unrepresented, with immediate access to court records and the ability to file documents remotely at any time.

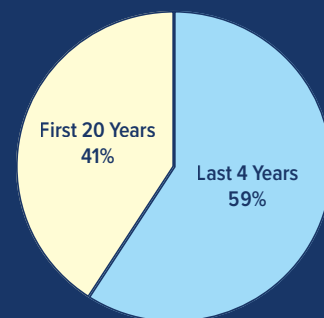
As the Commission to Reimagine the Future of New York’s Courts pointed out, while it may have been reasonable to expand e-filing in phases that required legislative approval more than 20 years ago, today this process is “outdated and inefficient.”<sup>2</sup> Despite its success, and the tremendously positive feedback received from stakeholders summarized here, the UCS continues to lack legislative approval to authorize e-filing in trial courts across the state. Currently, no form of e-filing – consensual or mandatory – may be instituted in the local criminal courts and in the local civil courts outside of New York City. For example, though e-filing is available in landlord and tenant matters in New York City, UCS lacks the legislative authorization to expand e-filing to landlord and tenant matters in City Courts outside of New York City. These restrictions unfairly hinder practitioners and unrepresented litigants in certain geographic areas of the state. The lack of e-filing in the lower criminal and civil courts has an outside impact on the poorest and most under-resourced court users. It also prevents those living in rural areas from benefiting from the time and cost savings that e-filing provides.

Despite the statutory restrictions in place, the UCS e-filing team has continued to make excellent progress by expanding e-filing in the areas where we have authorization, including in Family Court, and making enhancements to NYSCEF in Supreme Court, Surrogate’s Court, the Appellate Division, and New York City Civil Court. We are also steadily working towards expansion to new courts and case types, such as criminal cases in Supreme and County Court and consumer credit cases in New York City Civil Court.

This report documents the progress that has been made this year as well as the ever-increasing popularity of NYSCEF among lawyers and unrepresented litigants. As of December 2023, over six million cases have been electronically filed through NYSCEF since its inception in 1999. There have been more cases e-filed in the last four years (3.4 million) than in the prior 20+ years (2.6 million). Additionally, over half of the nearly 77 million documents that have been uploaded via NYSCEF have been filed in the last four years (over 42 million documents). This surge convincingly shows the widespread embrace of e-filing throughout the state and demonstrates that after 25 years, e-filing should no longer be on probation.

**While it may have been reasonable to expand e-filing in phases that required legislative approval more than 20 years ago, today this process is “outdated and inefficient.”**

Total Cases E-Filed (2000-2023)





**The UCS's  
proposed  
legislation seeks  
to authorize  
the Chief  
Administrative  
Judge to  
implement  
e-filing on a  
consensual or  
mandatory basis  
in all courts and  
case types.**

The UCS's proposed legislation, ([Appendix A](#)) seeks to authorize the Chief Administrative Judge (CAJ) to implement e-filing on a consensual or mandatory basis in all courts and case types,<sup>3</sup> subject to obligations to consult interested parties prior to introducing e-filing in a court (including the relevant bar and legal service agencies) and to obtain the consent of the local county clerks.<sup>4</sup> Our proposed legislation also maintains the exemptions and opt outs to mandatory e-filing that are currently in place. Unrepresented litigants are automatically exempt from mandatory e-filing. Attorneys who certify that they lack the skills or equipment may also affirmatively opt out of e-filing. It is the prerogative of UCS to gain the support of and elicit feedback from all relevant stakeholders before expanding e-filing to a new jurisdiction. (See *also*, [Appendix B](#): Memorandum in Support of Legislative Proposal to Expand E-Filing.)

The pandemic demonstrated the important role of technology in keeping the courts operational when public health and safety measures restricted access to court facilities. Our experience during the pandemic also showed that e-filing can be expanded quickly without issue, when appropriate safeguards are in place. Other states and federal courts have proceeded with e-filing expansion at a much faster pace. For example, e-filing has been mandatory for all civil cases in Texas since 2016.<sup>5</sup> In Florida, e-filing by attorneys has been mandatory in civil cases since 2013 and in criminal and juvenile dependency cases since 2014.<sup>6</sup> By this measure, New York is almost a decade behind other states in expanding e-filing to new courts and case types.

The UCS is proud of the work we accomplished in the past year to make e-filing more user-friendly and to expand access to e-filing to more courts. Our desire is to bring the many benefits of digital technology to all litigants and courts, and we see great potential in how the expansion of e-filing and other technologies can transform our courts. We again respectfully request that the Chief Administrative Judge be given the authority to expand e-filing to all courts. Any expansion of e-filing will continue to be guided by the CAJ's unique knowledge of the procedures and conditions of all of New York's many courts and be mindful of the concerns and feedback from legal service organizations, County Clerks, bar associations, and other stakeholders. We continue to work toward modernizing court processes and procedures to meet the evolving needs of attorneys, unrepresented litigants, and all court users.<sup>7</sup>

# Status of E-Filing in New York State

The size and scope of e-filing in New York State continues to increase each year. Nearly 14 million documents were filed via NYSCEF in 2023 alone, close to double the number of documents filed in 2020. There have been 132,515 active registered attorney users of the NYSCEF system since its inception, as well as over 66,000 unrepresented active users. E-filing is available in the Supreme Court, Civil Term, in 61 of New York’s 62 counties,<sup>8</sup> and in the Surrogate’s Court in 62 counties. E-filing is also in use in all Departments of the Appellate Division; in all Districts of the Court of Claims for all matters; and in New York City Civil Court for no-fault claims; in Housing Court in all boroughs of New York City and in the Harlem Community Justice Center and the Red Hook Justice Center; and in limited case types, in a total of 10 Family Courts.

## Supreme Court (Civil Cases)

In 2023, 446,347 cases were e-filed in Supreme Court around New York State. This amounts to nearly 53,000 more cases than in 2022, and an increase of almost 500% in e-filed cases in the Supreme Court since 2010.

As an example, in Putnam County, County Clerk Michael C. Bartolotti reported that 93% of all civil actions in 2023 were electronically filed. County Clerk Bartolotti stated, “The NYSCEF system is a comprehensive, fully functional and a secure means to electronically file documents.”<sup>9</sup>

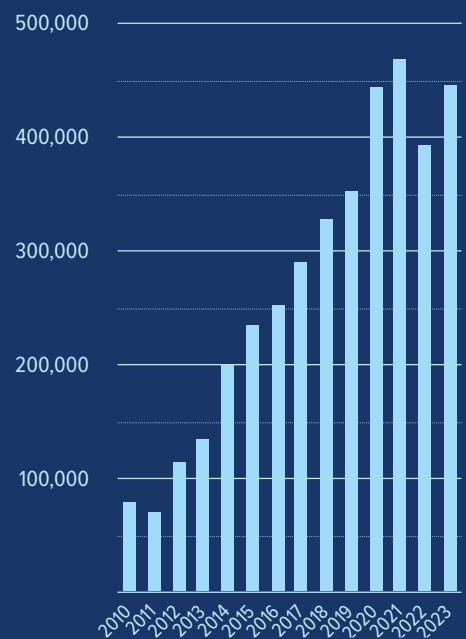
As mentioned, there are several case types that cannot be mandated in Supreme Civil Court, including matrimonial actions (which generally constitute the largest proportion of paper cases in Supreme-Civil courts). UCS’ proposed legislation would lift this ban. County Clerks, matrimonial attorneys, and bar groups have all offered their support for mandatory e-filing in matrimonial actions in their comments and letters to UCS, revealing their strong preference for e-filing. Hon. Jeffrey Sunshine, Statewide Coordinating Judge for Matrimonial Cases, has also strongly endorsed legislative action to enable mandatory e-filing in matrimonial actions, emphasizing the significant advantages it offers.<sup>10</sup> Leading bar groups in the matrimonial field, such as the Family Law section of the Women’s Bar Association and the New York Chapter of the American Academy of Matrimonial Lawyers, have also expressed their support for mandatory e-filing in the past.

To further illustrate the demand for e-filing, in 2023 nearly 65% of all matrimonial cases were e-filed in Kings County, although it is not mandated. Permitting mandatory e-filing for matrimonial actions will create efficiencies and time savings for courts, County Clerks, practitioners, as well as enhance preparedness for emergencies that may affect access to paper documents.

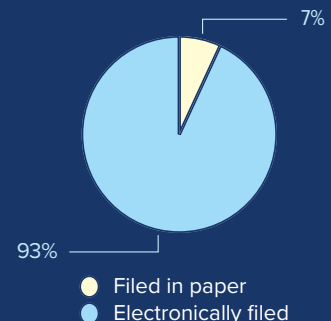
In the past, there may have been a reluctance to permit mandatory e-filing in matrimonial cases due to confidentiality concerns. Importantly, matrimonial files are confidential by law (DRL § 235) and are restricted from public viewing. Yet confidentiality is entirely compatible with the NYSCEF program; NYSCEF has vigorous security measures in place to ensure the protection of confidential documents. Upon commencing a matrimonial matter for filing, the automated NYSCEF application places the case into a restricted network

**The NYSCEF system has over 198,000 active attorneys and unrepresented users.**

E-Filed Cases in Supreme Court, Civil Term (2010-2023)



Civil Actions Commenced in Putnam County (2023)



**Nearly 40,000  
matrimonial  
cases have been  
e-filed in 2023  
with no reported  
issues regarding  
confidentiality  
breaches.**

that prevents anyone from having access to the documents filed in that matter, except for authorized individuals (e.g., counsel on the case, participating unrepresented parties, parties, County Clerk/court staff who have permission to work on such cases, and others allowed by court order). It is impossible for the public to access matrimonial case files on NYSCEF.

There is also the ability to audit and track the viewing of confidential documents. The NYSCEF team has extensive experience with maintaining confidentiality in the many consensually e-filed matrimonial cases. Nearly 40,000 matrimonial cases have been e-filed in 2023 with no reported issues regarding confidentiality breaches. UCS submits that it would be a great boon to attorneys, litigants, the County Clerks, and the courts in terms of efficiency, cost savings, and reduction of paper waste if the CAJ were permitted by the Legislature to mandate e-filing in matrimonial cases.

### Surrogate’s Court, New York City Civil and Housing Court, Court of Claims

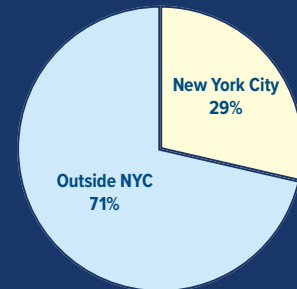
#### 78,384 Surrogate’s Court Cases E-Filed (2023)

Albany	1,150	Niagara	1,329
Allegany	352	Oneida	1,078
Bronx	2,216	Onondaga	2,098
Broome	1198	Ontario	624
Cattaraugus	546	Orange	1,566
Cayuga	440	Orleans	321
Chautauqua	770	Oswego	5,06
Chemung	569	Otsego	388
Chenango	344	Putnam	478
Clinton	336	Queens	7,405
Columbia	441	Rensselaer	756
Cortland	284	Richmond	2,060
Delaware	399	Rockland	1,348
Dutchess	1,450	Saratoga	971
Erie	5,781	Schenectady	812
Essex	243	Schoharie	221
Franklin	293	Schuyler	163
Fulton	338	Seneca	210
Genesee	391	St. Lawrence	508
Greene	307	Steuben	498
Hamilton	122	Suffolk	6,143
Herkimer	382	Sullivan	530
Jefferson	464	Tioga	361
Kings	6,147	Tompkins	391
Lewis	182	Ulster	957
Livingston	323	Warren	351
Madison	430	Washington	369
Monroe	3,425	Wayne	468
Montgomery	270	Westchester	4,198
Nassau	6,641	Wyoming	257
New York	5,096	Yates	195

#### Surrogate’s Court

In Surrogate’s Courts across the state, there has been a notable increase in e-filing cases, with nearly 80,000 cases e-filed in 2023 alone. While e-filing is mandatory for most case types in Surrogate’s Court in the 57 counties outside of New York City, it remains on a consensual basis in all five counties within New York City.<sup>11</sup> The growth in e-filed cases from 2010 to the present displays the increasing acceptance and utilization of electronic filing in Surrogate’s Court. The accompanying table shows the widespread use of e-filing in Surrogate’s Court throughout the state, from Albany to Yates County.

Surrogate’s Court Cases E-Filed (2023)



To enhance the court user’s experience and to improve efficiency, the NYSCEF team, together with the Division of Technology, introduced new screens with improved functionality in Surrogate’s Court cases. These changes created a more user-friendly and efficient environment for the processing of filings. Additionally, refined integration between NYSCEF and the Universal Case Management System (UCMS) was implemented, ensuring smoother operations and better coordination between systems.

The NYSCEF Resource Center’s professional staff played a crucial role in assisting courts with the introduction and implementation of these changes. To further enhance functionality and improve the user experience for parties e-filing matters in Surrogate’s Court, updated NYSCEF screens have been introduced in Monroe and Nassau Counties Surrogate’s Courts. The plan is to roll out the new and improved screens to the remaining courts statewide on April 1, 2024. In anticipation of the introduction of these new screens, NYSCEF staff have scheduled additional one-hour training sessions for the bar, interested parties, and unrepresented litigants. These enhancements improve the functionality and user experience of e-filing in Surrogate’s Court.





### New York City Civil Court and Housing Court

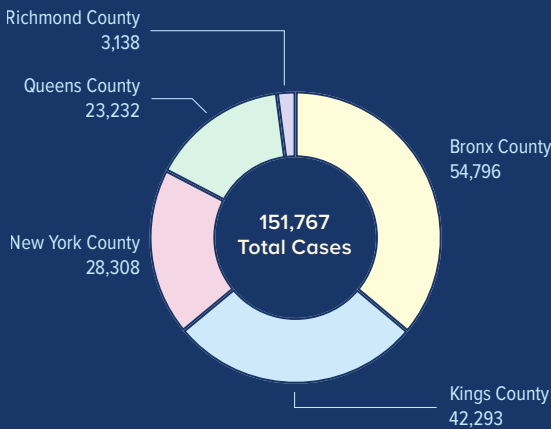
In New York City Civil Court, there has been a significant increase in e-filed cases since the implementation of mandatory e-filing for no-fault health services cases in 2021. These cases involve actions brought by healthcare service providers against insurers for failure to comply with regulations under Insurance Law § 5108(b) and CPLR 2111(b)(2)(C). The transition from paper to electronic filing for these cases has led to substantial cost reductions for courts, lawyers, and litigants. Similarly, e-filing was introduced in Housing Court in the summer of 2020, operating on a consensual basis across all five boroughs of New York City, as well as in the Harlem Justice Center and the Red Hook Justice Center. In 2023, nearly 152,000 Housing Court cases were e-filed in New York City, and a total of 399,685 cases were e-filed since 2020, further demonstrating the growing acceptance and utilization of electronic filing across various court systems. One commenter who practices in the landlord-tenant field in New York City said that they are eager to see expansion of e-filing to Nassau and Suffolk Counties as well.<sup>12</sup>

In 2024, the NYSCEF team is focused on expanding e-filing capabilities for more case types within Civil Court, particularly in consumer credit cases. In a coordinated effort with local administration and at the request of interested stakeholders, including legal services organizations such as the Legal Aid Society, extensive discussions have taken place to bring consensual e-filing to consumer credit cases in Civil Court. The NYSCEF team is committed to continue engaging with users throughout any development phase for new case types, to ensure that the e-filing experience is user-friendly, especially for unrepresented litigants. The NYSCEF team plans on soliciting feedback from users throughout the development process.

### Court of Claims

The Court of Claims currently offers e-filing on a consensual basis throughout the state. However, there is a strong interest from the Presiding Justice of the Court of Claims, Judge Richard Sise, to implement mandatory e-filing in this court, with the standard exemptions for unrepresented litigants. Unfortunately, existing legislation does not permit mandatory e-filing in the Court of Claims. Despite this limitation, the Court of Claims will pioneer the use of the Virtual Evidence Courtroom 2 (VEC2) program, a stand-alone platform supported by the NYSCEF team. This platform allows for the electronic submission of evidence in various mediums, including audio and video files, expanding the capabilities of electronic filing beyond traditional document submissions.

New York City Housing Court E-Filed Cases (2023)



**The NYSCEF team is focused on expanding e-filing capabilities for more case types within Civil Court, particularly in consumer credit cases.**

**NYSCEF provides much better functionality because it serves documents on opposing parties, creates an online case record, and notifies parties of developments in the case.**

**Internal programs have been developed for Town and Village Court staff to create their own case files in NYSCEF.**

## Family Court

UCS began establishing e-filing capability in Family Court through the NYSCEF system in 2022, and the continued expansion of NYSCEF in Family Court remains a key priority today. From 2020 to 2021, amid the challenges posed by the COVID-19 pandemic, litigants and attorneys in Family Court made use of the Electronic Document Delivery System (EDDS) to submit documents to the courts. However, these documents were not integrated into an online case record that could be accessed remotely, unlike in NYSCEF. Practitioners have noted that NYSCEF provides much better functionality because it serves documents on opposing parties, creates an online case record, and notifies parties of developments in the case.<sup>13</sup>

Through collaborative efforts involving UCS' Division of Technology (DoT), Family Court administration, and the NYSCEF team, e-filing arrived in Family Court during the summer and fall of 2022 as a pilot program in five counties: New York, Richmond, Fulton, Saratoga, and Suffolk. E-filing in Family Court operates strictly on a consensual basis and is currently limited to specific case types, including custody/visitation, guardianship, paternity, parentage – assisted reproduction, parentage – surrogacy, and support.

Many unrepresented litigants, particularly in New York County, have already begun utilizing the e-filing system. Additionally, five more Family Courts—in Chemung, Genesee, Niagara, Queens, and Wyoming Counties—have adopted the same program. For counties outside of New York City where e-filing is available for the above-mentioned case types, filers no longer have the option to submit documents via the EDDS application but can still submit documents directly to the court. Within New York City, the EDDS application will remain available for these case types until all five boroughs have access to NYSCEF to maintain consistency within the New York City Family Courts. The NYSCEF team plans to implement e-filing in Kings and Bronx Counties in the first half of 2024.

Looking ahead, the NYSCEF team is actively working on expanding consensual e-filing to additional case types and counties.<sup>14</sup> Furthermore, in collaboration with the UCMS team, we are developing a process for automated data transfer from NYSCEF to the UCMS case management system, promising significant efficiency gains. UCS is making it a priority to protect the confidentiality of families by limiting document access to participating parties and attorneys involved in individual proceedings, given that all Family Court case records are confidential by statute.<sup>15</sup>

## Town and Village Courts

Electronic filing and service of documents by litigants in Town and Village Courts is not permitted by statute. The e-filing team has developed an internal program with functionality for Town and Village Court staff to create their own case files in NYSCEF. This pilot program uses EDDS for the delivery of documents and then utilizes NYSCEF to maintain the official court record. Though attorneys are not able to file documents using NYSCEF, they do have access to the electronic case file created in NYSCEF. The launch of this program, however, is currently limited to a certain number of courts, and most Town and Village Courts.

## Supreme and County Courts - Criminal Cases<sup>16</sup>

The UCS has been actively working on implementing e-filing in criminal cases in the Supreme and County Court. Developments and plans are outlined below:

### Pilot Program for E-filing of Accusatory Instruments in the Superior Court

The NYSCEF team, the Supreme and County Court (Criminal) Advisory Committee on E-Filing, and the Division of Technology have been working on developing e-filing functionality for the e-filing of accusatory instruments and subsequent documents for Superior Criminal cases. This includes creating flow charts, document lists, and draft screens reflecting document flow and functionality for the processing of documents in criminal cases. A pilot program for criminal e-filing is planned to begin for three counties in the latter half of 2024, with further expansion throughout the year.

### Development of Rules for Criminal Cases

The Criminal Advisory Committee's Rules Working Group continues to meet to develop appropriate rules for the processing of criminal matters via NYSCEF. Draft rules are expected to be submitted to UCS' Counsel's Office for review, which will be followed by further vetting and a public comment period.

### Integration with Case Management Systems

The NYSCEF team is collaborating with the UCMS team to establish connections that will allow automatic data transfer between NYSCEF and UCMS. UCMS is the case management system currently utilized within most of the Superior Criminal courts. This integration will streamline processes and reduce costs for the courts and will likely be introduced at a later phase of the pilot program.

Overall, these initiatives demonstrate UCS' commitment to modernizing the criminal justice system through the implementation of e-filing, which will enhance efficiency and improve access to justice.

## Appellate Division and Appellate Term

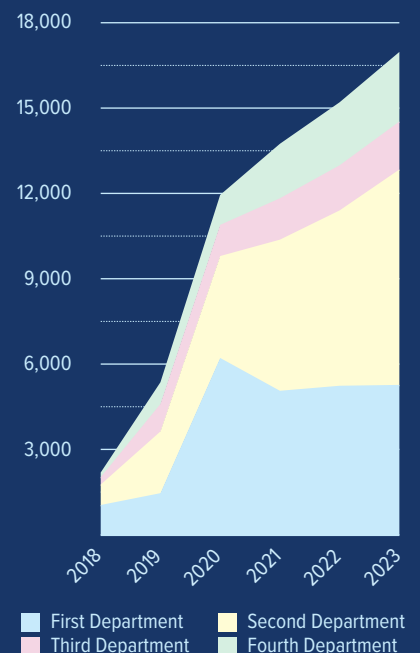
NYSCEF provides a uniform system of e-filing on appeal at the intermediate level statewide, under a single set of statewide rules. Five years ago, there were slightly over 2200 cases e-filed in the Appellate Division. As of December 2023, that number has risen to just under 17,000.

In 2023, new functionality was implemented to accommodate for the filing of original proceedings in the Third and Fourth Departments. A pilot project is also underway in the Third and Fourth Departments to allow court reporters to e-file transcripts in criminal cases to the Appellate Division via NYSCEF. The court reporters may upload the transcripts directly to the appeal in NYSCEF. The project was implemented to reduce paper waste, to provide all consented attorneys access to the transcripts, and to ultimately generate significant time and cost savings for all involved.<sup>17</sup>

In 2024, the e-filing team will continue to examine and analyze implementation of e-filing in the Appellate Term, the appellate court for appeals from civil and criminal cases originating in the Civil and Criminal Courts of the City of New York. In the Second Department, the Appellate Terms also have jurisdiction over appeals from civil and criminal cases originating in District, City, Town and Village Courts, as well as non-felony appeals from County Court.

**These initiatives demonstrate commitment to modernizing the criminal justice system through the implementation of e-filing, which will enhance efficiency and improve access to justice.**

Appellate Division  
E-Filed Cases (2018-2023)  
570% increase over the  
last five years



# Electronic Document Delivery System (EDDS) and Virtual Evidence Courtroom (VEC)

**EDDS is used in over 300 courts statewide where e-filing is not yet authorized.**

## **NYSCEF vs EDDS Comparison**

### NYSCEF

- Documents are deemed filed upon electronic transmission and are available online for review within minutes. Review by the clerk is not necessary for filing.
- NYSCEF maintains a comprehensive electronic case record. NYSCEF includes all the documents in a case file from commencement to disposition. It records the date and time documents are filed, and the case record is available remotely to all participating parties online.
- NYSCEF enables simultaneous service of interlocutory and case documents to all participating parties.
- It allows interactions with filers to address document insufficiencies and permits the submission of corrected versions. Court staff can also use NYSCEF to upload and send court notices to all parties, enhancing communication and efficiency.

### EDDS

- Documents transmitted through EDDS are not considered “filed” until reviewed and accepted by the clerk.
- EDDS does not create an online record that is accessible. Submissions via EDDS are simply transmissions of the document to the court.
- EDDS does not effectuate service. Parties who transmit documents via EDDS must also provide proof of service to the court by an alternative method.
- Court staff cannot communicate with filers, attorneys, and parties via EDDS.

## **EDDS**

In May 2020 during the height of the pandemic, EDDS was made available to attorneys and court users to fill the gap created by the absence of e-filing through NYSCEF in many courts and counties. It allowed practitioners and litigants to transmit documents in electronic form outside the NYSCEF system, in courts or case types without NYSCEF. Although EDDS was intended to be a temporary measure to assist litigants and the bar during the pandemic, it continues to be widely used in over 300 courts statewide where e-filing is not yet authorized, including City Courts (civil and criminal), New York City Civil Court, County Court, New York City Criminal Court, District Court (civil and criminal), Family Court, and Supreme Court – Criminal Term. However, EDDS has much less functionality compared to NYSCEF, as highlighted left.

Despite its limitations, EDDS has been a key tool for UCS and continues to be broadly used. In 2023, 3,109,379 documents were transmitted to courts using EDDS. The high utilization rate of EDDS among practitioners and unrepresented litigants shows the great demand for the NYSCEF system in the courts and locations where e-filing is not authorized. While EDDS continues to serve as a stopgap measure, our focus remains on expanding the more robust NYSCEF system in more courts and jurisdictions.

## **VEC (I & II)**

In 2023, there was a significant increase in the utilization of the Virtual Evidence Courtroom (VEC) platform, which allows participants in a conference, hearing, or a trial (in an e-filed matter) to have the ability to send evidence to the court remotely via NYSCEF. The evidence that is uploaded is stored in a virtual VEC room, with separate VEC rooms for each hearing. The VEC platform allows the court to admit or return documents that have been submitted for hearings and trials. The functionality has been embraced by the Supreme Civil Court, with approximately 250 Supreme Court Judges using the application in their court parts. There have been over 5,600 Virtual Evidence Courtrooms created. In late 2023, VEC was newly implemented within the NYC Civil Court for housing and no-fault insurance matters. The VEC functionality is limited with respect to what can be uploaded, as it only allows for PDF/a documents to be filed at this time.

Similarly, the VEC2 program was developed as a stand-alone program for courts that are not authorized to e-file via NYSCEF. This newer program allows filers to also submit evidence in video or audio format. All media files uploaded through VEC2 are scanned for malware and viruses, which provides an extra layer of security. The Court of Claims has elected to pilot this exciting new project, which is expected to launch in early 2024. NYSCEF staff also intends to explore the ability to accept audio and video files in Virtual Evidence Courtrooms (VEC I) via NYSCEF.

# E-Filing Among Unrepresented Litigants

Unrepresented litigants are statutorily exempt from e-filing.<sup>18</sup> They do not need to take any action whatsoever to maintain this exemption.

- **Notice of Electronic Filing:** When a new e-filed case is initiated, unrepresented litigants receive hard-copy service of documents accompanied by a “Notice of Electronic Filing” form, which clearly states that they are not required to e-file and directs them to resources on the court system’s website.
- **Voluntary Participation:** Despite being automatically exempt from mandatory e-filing, many unrepresented litigants have voluntarily chosen to make use of e-filing. They are also able to change their mind about their participation at any time.<sup>19</sup>

E-filing provides great benefits to unrepresented litigants if they do choose to e-file.<sup>20</sup> They have immediate access to court records and the ability to file legal papers remotely at any time, reducing the need for travel to courthouses. Additionally, the NYSCEF Resource Center is readily available and responds to email inquiries or requests for assistance from unrepresented litigants promptly and helpfully. The NYSCEF team also plans to redesign the NYSCEF website pages for the unrepresented to simplify legal terminology and to make the site available in both English and Spanish. Our goal is that unrepresented litigants understand their rights and options regarding e-filing and receive the necessary support and assistance if they choose to participate.

The NYSCEF team plans to work with the DIY team/programmers to seamlessly integrate document assembly programs with the NYSCEF system. The goal is that unrepresented litigants will be able to create a document via the DIY platform (e.g., an uncontested divorce packet, a Family Court petition, a guardianship petition, an affirmation in a landlord-tenant matter), and an option to automatically e-file the document will be just a click away on NYSCEF.

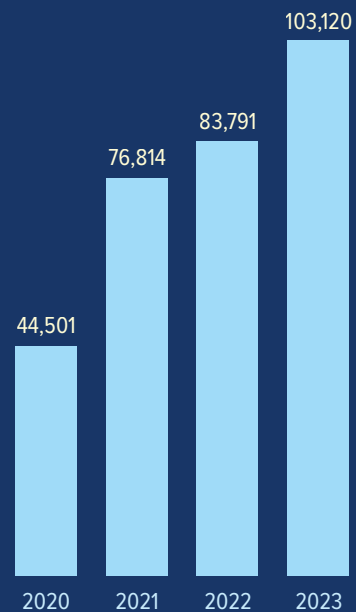
In 2019, there were 16,146 unrepresented persons who had registered for active NYSCEF accounts from the inception of the program. By 2023, there have been a cumulative total of 66,000 unrepresented users who have used NYSCEF. As of 2019, there were 112,402 cumulative documents filed by unrepresented users. By 2023, the number of cumulative documents e-filed by unrepresented users has risen to 470,334.

Additionally, in both 2021 and 2022, approximately 9% of the documents filed by unrepresented users were returned by the clerks for further corrections, showing that unrepresented users were able to file successfully 91% of the time. The NYSCEF Resource Center Staff also continues to make training and assistance easily available to the unrepresented and attorneys through on-line self-help tools, e-mail, telephone, and through live and virtual training sessions.

**“In both 2022 and 2023, 52,000 cases were commenced in NYSCEF each year and unrepresented litigants have embraced NYSCEF in impressive numbers...”**

**Hon. Nancy Sunshine**  
County Clerk, Kings County

**Documents E-Filed by Unrepresented Users (2020-2023)**



# Comments Received Regarding E-Filing

The UCS reached out to over 500 bar groups, legal service providers, and other interested groups and persons and solicited their comments and suggestions regarding NYSCEF for the annual report. Although the UCS directed a broad outreach to a large audience of practitioners, interested groups, and others across New York State, only 48 responses were received, representing a very modest number of comments.<sup>21</sup> This low response rate can be attributed to the widespread satisfaction with e-filing among various stakeholders, including the bar, legal services groups, and the public. The benefits of e-filing are evident from the experiences shared by stakeholders and the paucity of objections received. (We only received one comment in opposition.)

## Support for NYSCEF Expansion

Most of the feedback received this year regarding NYSCEF, once again, expresses strong support and satisfaction with the NYSCEF program, including support for UCS' proposed legislation. Out of the 48 responses, 26 comments express praise for NYSCEF and offer opinions in favor of expanding electronic filing, including support for the proposed legislation. Nineteen comments either endorse e-filing and the NYSCEF system and are accompanied by suggestions for improvement, or solely suggest an enhancement to NYSCEF. (One comment is in opposition to e-filing and the digital world generally, and two were of miscellaneous character).

### Examples of feedback from individuals praising and advocating for the expansion of e-filing:

*"The NYSCEF electronic system is very well-designed, and usually works flawlessly. The people who designed the system should be congratulated. I am very grateful for their work and the work of the people who administer the program on a day-to-day basis. In general, the e-Filing clerks are very polite and helpful."*

-Kenneth Allen Brown, Esq.<sup>22</sup>

*"Like most attorneys, I find electronic filing to be a godsend."*

-Robert M. Lefland, Esq.<sup>23</sup>

*"[W]e are in year 2024 and my lower court practice is still in paper filing and EDDS filing, no-fault and landlord-tenant notwithstanding in [NYC] Civil Courts.... As a practitioner, I am very hesitant to file certain case types in the lower courts because the inability to e-file adds additional cost, expense, and uncertainty to my practice.... I would urge OCA to get this done by the end of the year. The bar would greatly appreciate this modernization."*

-Jason Tenenbaum, Esq.<sup>24</sup>

*"Too many attorneys for far too long have killed too many trees circumventing justice, clogging the courts with issues related to questions of postage, timely service, and failures to timely respond, all based on the manual delivery of paperwork."*

-Greg Zenon, Esq.<sup>25</sup>

*"Because of the NYSCEF system, I recently accepted an assignment in a rural county. The filing system allows a larger city attorney to better work for a client in a distant court ... an attorney is able to assist a client in need in a location of the state which the client would not typically have access to the attorney. I hope the many benefits which come from this arrangement can be imagined as they are too numerous to state in this [correspondence]. The NYSCEF system is an absolute benefit to our profession, and I look forward to its expansion throughout New York."*

-Clifton Carden, III, Esq.<sup>26</sup>

*"The program should be uniform among all courts."*

-Ryan R. Matt, Esq., Coughlin & Gerhart.<sup>27</sup>

*"[I]t is confusing and burdensome on litigants to have to navigate detailed rules for EACH court about which matters are mandatory or consensual e-filing matters or remain hard copy cases. A clear black-letter rule mandating e-filing for all courts in all counties would remedy this issue."*

-Steven Beard, Esq.<sup>28</sup>

## Advisory Committees' Support

The Advisory Committees stressed in their reports and letters to the Chief Administrative Judge that there is substantial demand for e-filing expansion in their respective courts, and they look forward to the further growth of e-filing. Specifically, the Surrogate's Court Advisory Committee on E-filing reported, "[T]he robust foundation of the NYSCEF system, which ensured access throughout the pandemic, supports the continued expansion of electronic filing programs across all courts." The membership of the Advisory Committees is listed in [Appendix C](#),<sup>29</sup> and the reports/letters they submitted in compliance with the Judiciary Law are contained in [Appendix D](#).<sup>30</sup>

## Support from Bar Groups

Many bar groups have previously provided their support for the NYSCEF program and proposed legislation for the expansion of e-filing. The New York State Bar Association – Commercial and Federal Litigation Section provided the following comment in last year's report: "Expanded e-filing is consistent with industry norms and social norms, where digital communication is increasingly the normative standard. E-filing creates efficiencies in the litigation process by speeding up notifications and access to documents filed with the court, and creates an immediate record of filings that is easily accessible to litigants.... Although we are sensitive to concerns about access to high-speed internet, especially in rural areas and for pro se litigants, we nonetheless believe those concerns are adequately addressed by the exemptions available to *pro se* litigants and to those who demonstrate technological deficiencies or other good cause."<sup>31</sup>

## Comments from Legal Service Organizations

Throughout the years, there has been overwhelming support for the continued expansion of e-filing from numerous legal service groups. In 2022, Prisoners' Legal Services of New York and The Legal Aid Society both endorsed UCS' proposed legislation to broaden e-filing. The Legal Aid Society further recommended introducing a consensual e-filing pilot for consumer credit cases in New York City Civil Court. The Legal Project also reported in 2020 that the staff of the foreclosure defense program "all stated that once they had learned the e-filing system[,] they found it extremely useful. As such we do not have concerns with the proposal to lift [the] restraints" in foreclosure and consumer credit cases.<sup>32</sup> Various other legal service organizations emphasize the importance of existing safeguards that automatically exempt unrepresented litigants from e-filing and enhance access to technology for such litigants.

## County Clerks' Support

Comments from the New York State County Clerks Association and two additional County Clerks clearly state their solid support for e-filing and its expansion. (See [Appendix E](#).) Most County Clerks have previously submitted comments emphasizing the importance of e-filing and their continued support for e-filing expansion throughout the years.

## Judges' Support:

Members of the judiciary also submitted comments to support e-filing. Judge Andrea Masley of the Supreme Court, New York County (Commercial Division) wrote, "E-filing is a game changer. I'm not sure how we lived without it. When documents are properly identified in NYSCEF, writing decisions become much easier. Decisions are better because there are clear citations to the record...."<sup>33</sup> Another judge commented that NYSCEF should add functionality to allow transmission of a video to the court.

## Past Endorsements:

Additionally, notable past endorsements expressing strong support of NYSCEF and its expansion include:<sup>34</sup>

- The Corporation Counsel of the City of New York, which credits NYSCEF as an "efficient 'one-stop shopping' system that allows litigants to simultaneously file and serve court documents from the convenience of their home or office."
- The Queens County Bar Association recommends adopting the legislative proposal to expand e-filing.
- New York County Lawyers Association "supports OCA's efforts to expand e-filing."
- The Pandemic Practices Committee, charged by the Commission to Reimagine the Future of NY Courts to examine pandemic-related practices, found after holding a series of public hearings around the state, that the "public is more than ready for this expansion and welcomes the efficiencies and convenience of e-filing."<sup>35</sup>
- The Managing Attorneys and Clerks Association, Inc. ("MACA") firmly believes that "NYSCEF should replace hard copy court files throughout the State's trial courts in all types of cases....The CAJ is capable of, and experienced in, managing the further expansion of e-filing in a manner that avoids delay that results from being required to await legislative action in each instance."<sup>36</sup>

## Suggestions for Improvement and Constructive Criticism

### Various individual comments made suggestions for improvement.

The suggestions for enhancing the NYSCEF system are mostly of a technical nature. The NYSCEF team takes seriously technical issues and suggested modifications to the NYSCEF application raised by commenters. NYSCEF administrators, together with the Division of Technology, continuously work on enhancements based on improved technical capabilities and user feedback. Every suggestion for enhancing, simplifying, and extending NYSCEF features is carefully considered and explored, with prioritization based on various factors.<sup>37</sup> Comments from bar associations, legal services organizations, unrepresented individuals, attorneys, and others are compiled in [Appendix F](#).

### Public defense organizations submitted a Joint Defender Letter outlining various concerns.<sup>38</sup>

The Brooklyn Defenders, Bronx Defenders, Legal Aid Society, Neighborhood Defender Service of Harlem, New York County Defender Services, and Queens Defenders sent a Joint Defender letter stating that they hoped NYSCEF would expand to the criminal courts and also expressing the following concerns with NYSCEF.

- **Security of documents:** The Defender organizations would like NYSCEF to be rolled out in the superior criminal courts. However, they voice concern about the ability to maintain confidentiality in NYSCEF. As discussed previously, our confidence in NYSCEF's security is grounded in our decades of experience. For years, NYSCEF has enabled the County Clerk to seal files when necessary and as directed by the court. NYSCEF permits sealing in accordance with statutory requirements. For example, all filings in matrimonial cases are restricted from public view in NYSCEF to comply with Domestic Relations Law § 235. NYSCEF also enables secure *ex parte* submissions. NYSCEF would continue to assure confidential treatment of the criminal cases filed, and e-filed documents will be subject to the same sealing and confidentiality protections as paper documents. E-filing will not change or affect any existing laws governing the sealing and confidentiality of court records or access to court records by the parties to a criminal proceeding. Importantly, no document that is filed by electronic means in a criminal proceeding shall be available for public inspection online. Only the participating parties will have remote access.
- **Development of rules:** The Defender organizations stated that they did not want to expand NYSCEF into new areas until NYSCEF rules are developed. UCS agrees with this point. The pilot program in criminal matters will not be launched until e-filing rules for this program are in place. The subcommittee will resume meetings in March 2024 to pick up their previous review sessions to review and edit proposed rules in criminal matters. These proposed rules will undergo evaluation by the full Criminal Court E-filing Advisory Committee prior to submission to OCA's Counsel's Office and the Administrative Board for approval. There will also be a public comment period that will give all stakeholders an opportunity to provide feedback on the proposed rules.
- **"Rolling-out" of the pilot program and extensive outreach and consultation prior to expansion:** The Defender organizations stated that they wanted proper testing in a limited jurisdiction before e-filing in criminal matters is rolled out on a statewide basis. The Chief Administrative Judge always seeks input from bar associations, attorneys, and affected members of the public each time electronic filing expansion in New York is considered.<sup>39</sup> This process will continue to precede any expansions of the e-filing program, and UCS' legislative proposal would not alter requirements to consult with stakeholders in advance of e-filing expansion. This reflects a commitment to stakeholder engagement and UCS' responsiveness to user feedback. Electronic filing is only successful where the bar is supportive of the process and fully committed to its effectiveness in furthering their clients' interests and access to justice.

### One Opposition Comment

One commenter broadly opposes the proposed expansion of mandatory e-filing and the "whole concept of a FORCED digital environment." This submission is from an unrepresented litigant, who states that they lack familiarity with computer technology and digital filing. UCS reiterates that current law exempts unrepresented litigants from e-filing, the exemption is automatic, and the proposed legislation would not change this exemption. Hon. Timothy C. Idoni, Westchester County Clerk, in his letter of support of the proposed legislation, has emphasized the following, "Of extreme importance, unrepresented persons would continue to be exempt from e-filing unless they affirmatively choose to participate."<sup>40</sup>





## Legislative Proposal to Expand E-Filing

As indicated throughout our annual report, the UCS proposes that the Legislature adopt a measure that will eliminate restrictions on the authority of the Chief Administrative Judge to implement e-filing in the courts. The proposed legislation would empower the Chief Administrative Judge to authorize e-filing - on either a voluntary or mandatory basis - in any or all of the State's trial courts and in any class of cases.

### Highlights of Proposed Bill<sup>41</sup>

Over the multiple decades now, the most salient recommendation we have received about e-filing is that we need more of it. The highlights of the bill include:

- **Bill section 2.** Amends CPLR 2111(a) to extend the authority to institute e-filing in all of the State's trial courts of civil jurisdiction. Advance approval of the local county clerk outside New York City is still required as to e-filing in Supreme and County Courts.
- **Bill section 3.** Repeals paragraphs 1, 2, and 2-a of CPLR 2111(b) [provisions that now mandate that e-filing in courts of civil jurisdiction, where instituted, be voluntary unless the Chief Administrative Judge imposes mandatory e-filing - which he can only do in Supreme Court subject to prohibition upon its use in some major classes of cases, and in the New York City Civil Court in but one class of cases (*i.e.*, cases brought by health care providers against certain insurers)] - and replaces them with new paragraphs 1 and 2, permitting the Chief Administrative Judge to institute voluntary/mandatory e-filing in his discretion, without limitation as to court or class of cases. New paragraphs 1 and 2 continue the present exemptions from mandatory e-filing for unrepresented persons and for certain lawyers without technical skills or equipment. They also continue the requirement for consultation with various bar associations and attorneys.
- **Bill section 6.** Amends section 11-b (1) of the Court of Claims Act to eliminate its restriction that filing by FAX and e-filing in the Court of Claims be voluntary.
- **Bill section 7.** Adds a new section 42 to the New York City Criminal Court Act to clarify that e-filing may be instituted in the Criminal Court.
- **Bill section 8.** Adds a new section 2103-a to the Uniform District Court Act to clarify that e-filing may be instituted in both civil and criminal cases in the District Courts.
- **Bill section 9.** Adds a new section 2103-a to the Uniform City Court Act to clarify that e-filing may be instituted in both civil and criminal cases in the City Courts.
- **Bill section 10.** Adds a new section 2103-a to the Uniform Justice Court Act to clarify that e-filing may be instituted in both civil and criminal cases in the Town and Village Justice Courts.
- **Bill section 11.** Amends section 10.40(2)(a) of the Criminal Procedure Law to extend the authority to institute e-filing in all of the State's courts of criminal jurisdiction.
- **Bill section 12.** Repeals section 10.40(2)(b) of the Criminal Procedure Law and replaces it with a new paragraph (b), permitting the Chief Administrative Judge to institute voluntary/mandatory e-filing in all criminal cases in all courts at his discretion.

- **Bill section 13.** Adds a new paragraph (c) to section 10.40(2) of the Criminal Procedure Law (and re letters existing paragraphs (c) and (d) to be (d) and (e)) prescribing rules governing both voluntary and mandatory e-filing in the criminal courts. Regarding the latter, new paragraph (c) continues the present exemptions from mandatory e-filing for unrepresented persons and for certain lawyers without technical skills or equipment. It also continues the requirement for consultation with various bar associations and attorneys practicing criminal law in the courts to be affected by e-filing; and, likewise, continues the present requirement that the Chief Administrative Judge secure approval of the local District Attorney and criminal defense bar before instituting mandatory e-filing in criminal cases in courts in a county.
- **Bill section 15.** Amends section 10.40(2)(e)(ii) of the Criminal Procedure Law to clarify that e-filing may be instituted in any criminal court, not just in Supreme and County Courts.
- **Bill section 16.** Repeals section 214(b) of the Family Court Act and replaces it with a new subdivision (b), permitting the Chief Administrative Judge to institute voluntary/mandatory e-filing in all Family Court proceedings.
- **Bill section 17.** Adds a new paragraph (c) to section 214 of the Family Court Act (and reletters existing paragraphs (c) through (h) to be (d) through (i)) prescribing rules governing both voluntary and mandatory e-filing in Family Court. Regarding the latter, new paragraph (c) continues the present exemptions from mandatory e-filing for unrepresented persons and for certain lawyers without technical skills or equipment. It also continues the requirement that the Chief Administrative Judge secure approval of authorized local presentment and child protective agencies, along with the Family Court bars representing parents and children, respectively, before instituting mandatory e-filing in Family Court in a county.

**We conclude by once again renewing our request for authorization to expand e-filing initiatives to additional courts, which will allow us to make continued progress towards fully modernizing the New York State Court system.**

## Conclusion

This annual report demonstrates the growth of e-filing this year, as well as the broad adoption and benefits of e-filing to the judicial system. The comments we received show the great demand for wider availability of e-filing and the need for the judiciary to evolve in an increasingly digital world. In comparison to other peer states that have authorized statewide e-filing in trial courts, New York lags behind in the adoption of available technology that assists attorneys, unrepresented litigants, and other court users alike. We contend that there is no reason to be hesitant about removing legislative restrictions upon the e-filing program. By enacting these changes, the UCS can continue to improve efficiency, accessibility, and transparency within the system. Even with legislative authorization, the NYSCEF team will always proceed cautiously with e-filing expansion by conducting proper testing, collecting stakeholder feedback, and exempting all unrepresented litigants from e-filing. We conclude by once again renewing our request for authorization to expand e-filing initiatives to additional courts, which will allow us to make continued progress towards fully modernizing the New York State Court system.

# Endnotes

1. Judiciary Law 212(2)(u)(i)(A) states that UCS must submit a “report evaluating 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 as authorized by law and containing such recommendations for further legislation as he or she shall deem appropriate.”
2. Commission to Reimagine the Future of New York’s Courts, *The Expansion of Electronic Filing: A Report and Recommendations of the Structural Innovations Working Group*, January 2021. Available at: <https://www.nycourts.gov/LegacyPDFS/publications/pdfs/CommitteeReport-eFiling.pdf>
3. The CAJ has limited statutory authority to mandate e-filing for certain case types, such as matrimonial cases, Article 70 and 78 matters, election law and mental hygiene cases in Supreme Court, Civil Term. Additionally, the CAJ may authorize mandatory e-filing in no more than six counties each in the Superior criminal courts and Family Courts (Art. 3 & 10 proceedings only).
4. The proposed legislation continues the present requirement that that the Chief Administrative Judge secure approval of the local District Attorney, criminal defense bar, as well as the local County Clerk before instituting mandatory e-filing in criminal actions. See, Section VI – Legislative Proposal to Expand E-Filing, and [Appendix A](#), Judiciary’s Legislative Proposal, Section 13.
5. Resolution of the Texas Judicial Council on Adequate Funding of the Court E-filing System, available at: <https://www.txcourts.gov/media/709986/AdequateFundingCourtE-FilingSystem.pdf>.
6. Brevard County Clerk, *Brevard County E-filing FAQs, Helpful Hints, & Contacts*, <https://www.brevardclerk.us/cache/files/a/f/af5df3ef-84ec-4a79-94a0-50a5be7aa27e/3C4BC3FC6EC05EB558D0B3445F557859.18.5.7-e-filing-guide-faqs.pdf>.
7. On January 25, 2024, during the New York State Joint Legislative Hearing on the 2024 Executive Budget Proposal, Chief Administrative Judge Zayas was asked by Assemblymember Bores (D-Manhattan) about the UCS’ plans for continued digitization of its operational processes. Assemblymember Bores asked, “Some courts have digitized, and some still run on paper. Last time I was in arraignments in Manhattan, there were beautiful computers there, but everything was done by paper. What are you targeting in terms of digitizing?” CAJ Zayas responded that current legislation does not permit the Chief Administrative Judge to implement e-filing in lower criminal courts, and he advised the hearing members of UCS’ repeated proposed legislation to give the CAJ the authority to institute e-filing in all state courts and all case types. This exchange demonstrates the legislative interest in digitizing court processes. Joint Legislative Public Hearing on 2024 Executive Budget Proposal: Topic Public Protection | NYSenate.gov (1:06).
8. There is no e-filing in Allegany County, although conversations continue with the County Clerk of Allegany County. The County Clerk’s consent to implement e-filing is required by statute. Herkimer County permits consensual e-filing only. The other 60 counties have mandatory e-filing in Supreme Court in all the case types authorized by statute.
9. Letter in support from Hon. Michael Bartolotti, Putnam County Clerk, (January 16, 2023), [Appendix E](#).
10. Letter in support from Hon. Jeffrey Sunshine, [2020\\_E-File\\_Report.pdf \(nycourts.gov\)](#), [Appendix C](#).
11. The Surrogate’s Court Advisory Committee on E-filing reported in its annual letter to the Chief Administrative Judge as follows: “*It is believed by the majority of this Committee, that having all Surrogate’s Courts matters uniform as to e-filing, will add transparency and efficiency to the Court’s process/procedures.*” [Appendix D](#).
12. Comment, Robert J. Miller, Esq., December 11, 2023. Additional comment submitted by Kevin Duffy-Greaves, Supervising Attorney for the Mobilization for Justice, Inc., stated, “As a practicing attorney in the landlord-tenant space in New York City, I am mostly pleased with my experience with NYSCEF and am grateful for the option to e-file documents,” December 19, 2023. [Appendix F](#).
13. “The pandemic has demonstrated the need for the New York State Court System to expand electronic filing in all the courts. Our staff have filed motions and other documents through the EDDS system and found that electronic transmission of court papers and reports to be an efficient way of disseminating documents. However, EDDS has limited functionality and is not considered a filing system.” Letter submitted by Nancy Thomson, Administration for Children’s Services, Nov. 30, 2022, available at: <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EFileReport.pdf>.
14. Comment, Ana Peniche, Paralegal, Law Office of Mary Katherine Brown, December 12, 2023, “Our suggestion is to be able to use NYSCEF for all Family Court matters as well.” [Appendix F](#).
15. Family Court Act § 166; Family Court Act § 375.1.
16. The 2015 e-filing legislation amended CPL § 10.40. The statute provides that the CAJ, with the approval of the Administrative Board, can authorize the use of e-filing in the Supreme and County Courts for “(i) the filing with a court of an accusatory instrument for the purpose of commencement of a criminal action or proceeding in a superior court ... and (ii) the filing and service of papers” in pending proceedings. CPL § 10.40 (2)(a).
17. Robert Mascari, Chief Assistant District Attorney of Madison County District Attorney’s Office, writes, “I believe the e-filing system is great with one caveat: Do away with a requirement to follow up the e-filing with paper copies,” December 19, 2023. [Appendix F](#).

18. If an unrepresented party changes their mind about participating in e-filing, they can file and serve a Notice of Intent to Cease E-filing.
19. “No party shall be compelled, directly or indirectly, to participate in e-filing.” CPLR 2111(b)(1)
20. Adriene Holder, Attorney-in-Chief, The Legal Aid Society, December 12, 2022, stated in their submission, “Access to e-filing can be a great boon to low-income and other disadvantaged communities . . . e-filing and other technology is an essential tool to expand access to justice.” Annual Report of 2023: <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EFileReport.pdf>, Appendix E.
21. Copy of letter sent to bar organizations, legal service providers, attorneys, and other interested persons/ organizations, December 6, 2023. These solicitations were sent in compliance with Judiciary Law 212(2)(u)(i)(A). A comprehensive list of organizations that were asked to comment can be found on the NYSCEF website in the 2022 Annual Report: <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EFileReport.pdf>, Appendix K, p. 99-106.
22. Comment, December 11, 2023, Appendix F.
23. Comment, January 4, 2024, Appendix F.
24. Comment, January 12, 2024, Appendix F.
25. Comment, December 15, 2023, Appendix F.
26. Comment, December 15, 2023, Appendix F.
27. Comment, December 14, 2023, Appendix F.
28. Comment, January 10, 2024, Appendix F.
29. Judiciary Law 212(2)(u)(ii) through (vi).
30. Judiciary Law 212(2)(u)(i)(A).
31. New York State Bar Association, December 15, 2022, Annual Report of 2023: <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EFileReport.pdf>, Appendix E.
32. Comment, The Legal Project, 2020 Annual Report, [2020\\_E-File\\_Report.pdf \(nycourts.gov\)](https://www.nycourts.gov/2020_E-File_Report.pdf).
33. Comment, January 11, 2024, Appendix F.
34. Comments received and included in previous Annual Reports, 2020-2023, [publications page](#) (Annual Reports from 2016-2020).
35. Pandemic Practices – footnote.
36. 2023 E-filing Annual Report, <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EFileReport.pdf>.
37. Several attorneys (5) submitted recommendations that courts should work exclusively with the electronic version of all documents and that judges should not require the submission of hard copies (“working copies”). One attorney writes, “Further, the rule adopted by the Chief Administrative Judge during the pandemic that provides that Courts and Judges may not request working copies of electronically filed papers should be permanent.” Steven Beard, Esq., Coran Ober, PC, January 10, 2024, Appendix F, (referring to AO 267/2020 which was rescinded by AO 200/2023 due to the termination of the federal health emergency concerning the COVID-19 pandemic). The Chief Administrative Judge has requested that the authority to once again request hard copies of e-filed papers be exercised sparingly.
38. Joint letter submitted by public defender organizations, Appendix F. The Supreme and County Court (Criminal) Advisory Committee letter also addresses concerns raised in their letter. (Appendix D.)
39. Before a program can be authorized in a county outside NYC, the CAJ must consult with the County Clerk, allow for comment, and obtain the consent of the County Clerk. Although the pilot program is to be voluntary, the CAJ may establish mandatory e filing in the Supreme and County Courts in not more than six counties. This authorization (mandatory program) requires the consent of the County Clerk, the district attorney, and the criminal defense bar. CPL Sec. 10.40(2)(b)(ii).
40. 2023 E-filing Annual Report, <https://iappscontent.courts.state.ny.us/NYSCEF/live/help/EFileReport.pdf>.
41. Appendix A, is the printed proposed Bill for last year’s legislative session, and is identical to this year’s proposed Bill for the current legislative session (2024-2025). See *also*, Appendix B: Memorandum in Support of Legislative Proposal to Expand E-Filing.

# Appendix A

## Judiciary's Legislative Proposal

STATE OF NEW YORK

7524

2023-2024 Regular Sessions

IN SENATE

June 2, 2023

Introduced by Sen. HOYLMAN-SIGAL -- (at request of the Office of Court Administration) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the judiciary law, the civil practice law and rules, the court of claims act, the New York city criminal court act, the uniform district court act, the uniform city court act, the uniform justice court act, the criminal procedure law and the family court act, in relation to filing by electronic means; to amend chapter 237 of the laws of 2015 amending the judiciary law, the civil practice law and rules and other laws relating to the use of electronic means for the commencement and filing of papers in certain actions and proceedings, in relation to the effectiveness thereof; and to repeal certain provisions of the civil practice law and rules, the criminal procedure law and the family court act, relating to court filings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Clause (A) of subparagraph (i) and subparagraphs (iv), (v) and (vi) of paragraph (u) of subdivision 2 of section 212 of the judiciary law, clause (A) of subparagraph (i) as amended by chapter 99 of the laws of 2017, subparagraphs (iv), (v) and (vi) as added by chapter 237 of the laws of 2015 and such paragraph as relettered by section 1 of part BB of chapter 55 of the laws of 2017, are amended to read as follows:

(A) Not later than February first in each calendar year, the chief administrator of the courts shall submit to the legislature, the governor and the chief judge of the state a report evaluating 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 as authorized by law and containing such recommendations for further legislation as he or she shall deem appropriate. In the preparation of such report, the chief administrator shall consult with each county clerk in whose county a program has been implemented in [~~civil cases in~~] the supreme [~~court~~] and/or county court, each district attorney in whose county a program has been implemented in criminal cases in the courts of such county, the advisory committees established pursuant to subparagraphs (ii) through (vi) of this paragraph, the organized bar including but not limited to city, state, county and women's bar associations; the office of indigent legal services; institutional legal service providers; not-for-profit legal service providers; public defenders; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by any programs that have been implemented or who may be

## Judiciary's Legislative Proposal

affected by the proposed recommendations for further legislation; representatives of victims' rights organizations; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator, and afford them an opportunity to submit comments with respect to such implementation for inclusion in the report and address any such comments.

Public comments shall also be sought via a prominent posting on the website of the office of court administration. All comments received from any source shall be posted for public review on the same website.

(iv) The chief administrator shall maintain an advisory committee to consult with him or her in the implementation of laws affecting the program in the use of electronic means for the commencement of civil actions and proceedings and the service and filing of papers therein in the civil court of the city of New York, the district courts, the city courts outside New York city, and the town and village justice courts. This committee shall consist of such number of members as the chief administrator shall designate, among which there shall be the chief clerk of the civil court of the city of New York; one or more chief clerks of the district courts, the city courts outside New York city, and the town and village justice courts; the president of the state magistrates' association or his or her designee; representatives of the organized bar including but not limited to city, state, county and women's bar associations; ~~[attorneys who regularly appear in actions specified in subparagraph (C) of paragraph two of subdivision (b) of section twenty-one hundred eleven of the civil practice law and rules;]~~ and unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by any recommendations for further legislation concerning the use of electronic means for the commencement of actions and proceedings and the service and filing of papers therein in ~~[the civil court of the city of New York]~~ any of the courts specified in this subparagraph; and any other persons as deemed appropriate by the chief administrator. Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who are or would be affected by such electronic filing program, including unrepresented parties, city, state, county and women's bar associations; institutional legal service providers; not-for-profit legal service providers; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by any recommendations for further legislation concerning the use of the electronic filing program in any of the [civil court of the city of New York] courts specified in this subparagraph; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by the chief administrator.

(v) The chief administrator shall maintain an advisory committee to consult with him or her in the implementation of laws affecting the program in the use of electronic means for the commencement of criminal actions and the filing and service of papers in pending criminal actions and proceedings~~[, as first authorized by paragraph one of subdivision (c) of section six of chapter four hundred sixteen of the laws of two thousand nine, as amended by chapter one hundred eighty-four of the laws of two thousand twelve, is continued]~~. The committee shall consist of such number of members as will enable the chief administrator to obtain input from those who are or would be affected by such electronic filing program, and such members shall include county clerks; chief clerks of supreme, county and

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other courts; district attorneys; representatives of the office of indigent legal services; not-for-profit legal service providers; public defenders; statewide and local specialty bar associations whose membership devotes a significant portion of their practice to assigned criminal cases pursuant to subparagraph (i) of paragraph (a) of subdivision three of section seven hundred twenty-two of the county law; institutional providers of criminal defense services and other members of the criminal defense bar; representatives of victims' rights organizations; unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program and other interested members of the criminal justice community. Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who are or would be affected by such electronic filing program, including unrepresented parties, district attorneys, not-for-profit legal service providers, public defenders, statewide and local specialty bar associations whose membership devotes a significant portion of their practice to assigned criminal cases pursuant to subparagraph (i) of paragraph (a) of subdivision three of section seven hundred twenty-two of the county law; institutional providers of criminal defense services and other members of the criminal defense bar, representatives of victims' rights organizations, unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program and other interested members of the criminal justice community.

(vi) The chief administrator shall maintain an advisory committee to consult with him or her in the implementation of laws affecting the program in the use of electronic means for the origination of [~~juvenile delinquency~~] proceedings [~~under article three of the family court act and abuse or neglect proceedings pursuant to article ten of the family court act~~] in family court and the filing and service of papers in such pending proceedings[~~, as first authorized by paragraph one of subdivision (d) of section six of chapter four hundred sixteen of the laws of two thousand nine, as amended by chapter one hundred eighty-four of the laws of two thousand twelve, is continued~~]. The committee shall consist of such number of members as will enable the chief administrator to obtain input from those who are or would be affected by such electronic filing program, and such members shall include chief clerks of family courts; representatives of authorized presentment and child protective agencies; other appropriate county and city government officials; institutional providers of legal services for children and/or parents; not-for-profit legal service providers; public defenders; representatives of the office of indigent legal services; attorneys assigned pursuant to article eighteen-B of the county law; and other members of the family court bar; representatives of victims' rights organizations; unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program; and other interested members of the family practice community. Such committee shall help the chief administrator to evaluate the impact of such electronic filing program on litigants including unrepresented parties, practitioners and the courts and to obtain input from those who are or would be affected by such electronic filing program, including unrepresented parties, representatives of authorized presentment and child protective agencies, other appropriate county and city government officials, institutional providers of legal services for children and/or parents, not-for-profit legal service providers, public defenders, attorneys assigned pursuant to article eighteen-B of the county law and other members of the family court bar, representatives of victims' rights organizations, unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program, and other interested members



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of the criminal justice community.

§ 2. Subdivision (a) of section 2111 of the civil practice law and rules, as added by chapter 237 of the laws of 2015, is amended to read as follows:

(a) Notwithstanding any other provision of law, the chief administrator of the courts, with the approval of the administrative board of the courts, may promulgate rules authorizing a program in the use of facsimile transmission only in the court of claims and electronic means in the ~~[supreme court, the civil court of the city of New York, surrogate's courts and the court of claims]~~ courts of New York having civil jurisdiction for: (i) the commencement of civil actions and proceedings, and (ii) the filing and service of papers in pending actions and proceedings. Provided, however, the chief administrator shall consult with the county clerk of a county outside the city of New York before the use of electronic means is to be authorized hereunder in the supreme court or the county court of such county, afford him or her the opportunity to submit comments with respect thereto, consider any such comments and obtain the agreement thereto of such county clerk.

§ 3. Paragraphs 1, 2 and 2-a of subdivision (b) of section 2111 of the civil practice law and rules are REPEALED and two new paragraphs 1 and 2 are added to read as follows:

1. Participation in this program may be required or may be voluntary as provided by the chief administrator, except that it shall be strictly voluntary as to any party to an action or proceeding who is not represented by counsel.

2. (A) Where participation in this program is to be voluntary:

(i) commencement of an action or proceeding by facsimile transmission or electronic means shall not require the consent of any other party; nor shall a party's failure to consent to participation in an action or proceeding bar any other party to the action or proceeding from filing and serving papers by facsimile transmission or electronic means upon the court or any other party to such action or proceeding who has consented to participation;

(ii) all parties shall be notified clearly, in plain language, about their options to participate in filing by electronic means;

(iii) no party to an action or proceeding shall be compelled, directly or indirectly, to participate;

(iv) where a party is not represented by counsel, the court shall explain such party's options for electronic filing in plain language, including the option for expedited processing, and shall inquire whether he or she wishes to participate, provided however the unrepresented litigant may participate in the program only upon his or her request, which shall be documented in the case file, after said party has been presented with sufficient information in plain language concerning the program.

(B) Where participation in this program is to be required:

(i) such requirement shall not be effective in a court in a county unless, in addition to consulting with the county clerk of such county and obtaining his or her agreement thereto if the court is a supreme court or county court, the chief administrator shall:

(1) first consult with members of the organized bar including but not limited to city, state, county, and women's bar associations and, where they they practice in such court in such county, with (a) institutional service providers, (b) not-for-profit legal service providers, (c) attorneys assigned pursuant to article eighteen-B of the county law, (d) unaffiliated attorneys who regularly appear in proceedings that are or have been affected by a program of electronic filing in such county, and (e) any other persons as deemed to be appropriate by the chief administrator;

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(2) afford all those with whom he or she consults pursuant to item one of this clause the opportunity to submit comments with respect to the program, which comments, including but not limited to comments related to unrepresented litigants, he or she shall consider and shall post for public review on the office of court administration's website; and

(ii) as provided in paragraph three of this subdivision, no party who is not represented by counsel nor any counsel in an affected case who opts out of participation in the program shall be required to participate therein.

§ 4. The opening paragraph of paragraph 3 of subdivision (b) of section 2111 of the civil practice law and rules, as added by chapter 237 of the laws of 2015, is amended to read as follows:

Where the chief administrator [~~eliminates the requirement of consent~~] requires participation in electronic filing as provided in paragraph [~~two~~] one of this subdivision, he or she shall afford counsel the opportunity to opt out of the program, via presentation of a prescribed form to be filed with the clerk of the court where the action is pending. [~~Said~~] Such form shall permit an attorney to opt out of participation in the program under any of the following circumstances, in which event, he or she will not be compelled to participate:

§ 5. Section 2112 of the civil practice law and rules, as amended by chapter 99 of the laws of 2017, is amended to read as follows:

§ 2112. Filing of papers in the appellate division by electronic means. Notwithstanding any other provision of law, and except as otherwise provided in subdivision (c) of section twenty-one hundred eleven of this article, the appellate division in each judicial department may promulgate rules authorizing a program in the use of electronic means for: (i) appeals to such court from the judgment or order of a court of original instance or from that of another appellate court, (ii) making a motion for permission to appeal to such court, (iii) commencement of any other proceeding that may be brought in such court, and (iv) the filing and service of papers in pending actions and proceedings. Provided however, such rules shall not require an unrepresented party or any attorney who furnishes a certificate specified in subparagraph (A) or (B) of paragraph three of subdivision (b) of section twenty-one hundred eleven of this article to take or perfect an appeal by electronic means. Provided further, however, before promulgating any such rules, the appellate division in each judicial department shall consult with the chief administrator of the courts and shall provide an opportunity for review and comment by all those who are or would be affected including city, state, county and women's bar associations; institutional legal service providers; not-for-profit legal service providers; attorneys assigned pursuant to article eighteen-B of the county law; unaffiliated attorneys who regularly appear in proceedings that are or have been affected by the programs that have been implemented or who may be affected by promulgation of rules concerning the use of the electronic filing program in the appellate division of any judicial department; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by any appellate division. To the extent practicable, rules promulgated by the appellate division in each judicial department pursuant to this section shall be uniform and may apply to any appellate term established by an appellate division.

§ 6. Subdivision 1 of section 11-b of the court of claims act, as added by chapter 237 of the laws of 2015, is amended to read as follows:

1. Notwithstanding any other provision of law, the chief administrator of the courts [~~, with the approval of the administrative board of the courts,~~] may authorize a program in the [~~voluntary~~] use of facsimile transmission and electronic means in the court as provided in article

twenty-one-A of the civil practice law and rules.

§ 7. The New York city criminal court act is amended by adding a new section 42 to read as follows:

§ 42. Use of electronic filing authorized. (1) Notwithstanding any other provision of law, the chief administrator of the courts may authorize a program in the use of electronic means in cases in the criminal court of the city of New York as provided in section 10.40 of the criminal procedure law.

(2) For purposes of this section, "electronic means" shall have the same meaning as defined by subdivision (f) of rule twenty-one hundred three of the civil practice law and rules.

§ 8. The uniform district court act is amended by adding a new section 2103-a to read as follows:

§ 2103-a. Use of electronic filing authorized.

(a) Notwithstanding any other provision of law, the chief administrator of the courts may authorize a program in the use of electronic means in civil cases in a district court as provided in article twenty-one-A of the civil practice law and rules, and in criminal cases as provided in section 10.40 of the criminal procedure law.

(b) For purposes of this section, "electronic means" shall have the same meaning as defined by subdivision (f) of rule twenty-one hundred three of the civil practice law and rules.

§ 9. The uniform city court act is amended by adding a new section 2103-a to read as follows:

§ 2103-a. Use of electronic filing authorized.

(a) Notwithstanding any other provision of law, the chief administrator of the courts may authorize a program in the use of electronic means in civil cases in a city court as provided in article twenty-one-A of the civil practice law and rules, and in criminal cases as provided in section 10.40 of the criminal procedure law.

(b) For purposes of this section, "electronic means" shall have the same meaning as defined by subdivision (f) of rule twenty-one hundred three of the civil practice law and rules.

§ 10. The uniform justice court act is amended by adding a new section 2103-a to read as follows:

§ 2103-a. Use of electronic filing authorized.

(a) Notwithstanding any other provision of law, the chief administrator of the courts may authorize a program in the use of electronic means in civil cases in a justice court as provided in article twenty-one-A of the civil practice law and rules, and in criminal cases as provided in section 10.40 of the criminal procedure law.

(b) For purposes of this section, "electronic means" shall have the same meaning as defined by subdivision (f) of rule twenty-one hundred three of the civil practice law and rules.

§ 11. Paragraph (a) of subdivision 2 of section 10.40 of the criminal procedure law, as added by chapter 237 of the laws of 2015, is amended to read as follows:

(a) Notwithstanding any other provision of law, the chief administrator, with the approval of the administrative board of the courts, may promulgate rules authorizing a program in the use of electronic means ("e-filing") in the ~~[supreme court and in the county court]~~ courts of New York having criminal jurisdiction for: (i) the filing with a court of an accusatory instrument for the purpose of commencement of a criminal action or proceeding [~~in a superior court, as provided by articles one hundred ninety-five and two hundred of this chapter~~], and (ii) the filing and service of papers in pending [~~criminal~~] actions and proceedings. Provided, however, the chief administrator shall consult

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with the county clerk of a county outside the city of New York before the use of electronic means is to be authorized hereunder in the supreme court or county court of such county, afford him or her the opportunity to submit comments with respect thereto, consider any such comments and obtain the agreement thereto of such county clerk.

§ 12. Paragraph (b) of subdivision 2 of section 10.40 of the criminal procedure law is REPEALED and a new paragraph (b) is added to read as follows:

(b) Participation in this program may be required or may be voluntary as provided by the chief administrator, except that it shall be strictly voluntary as to any party to an action or proceeding who is not represented by counsel unless such party, upon his or her request, chooses to participate.

§ 13. Paragraphs (c) and (d) of subdivision 2 of section 10.40 of the criminal procedure law, as added by chapter 237 of the laws of 2015, are relettered paragraphs (d) and (e) and a new paragraph (c) is added to read as follows:

(c) (i) Where participation in this program is to be voluntary: (A) filing an accusatory instrument by electronic means with the court for the purpose of commencement of an action or proceeding shall not require the consent of any other party; nor shall a party's failure to consent to participation in an action or proceeding bar any other party to such action or proceeding from filing and serving papers by facsimile transmission or electronic means upon the court or any other party to such action or proceeding who has consented to participation;

(B) all parties shall be notified clearly, in plain language, about their options to participate in filing by electronic means;

(C) no party to an action or proceeding shall be compelled, directly or indirectly, to participate;

(D) where a party is not represented by counsel, the court shall explain such party's options for electronic filing in plain language, including the option for expedited processing, and shall inquire whether he or she wishes to participate, provided however the unrepresented litigant may participate in the program only upon his or her request, which shall be documented in the case file, after said party has been presented with sufficient information in plain language concerning the program.

(ii) Where participation in this program is to be required:

(A) such requirement shall not be effective in a court in a county unless, in addition to consulting with the county clerk of such county and obtaining his or her agreement thereto if the court is a supreme court or county court, the chief administrator shall:

(1) first consult with and obtain the agreement of the district attorney and the criminal defense bar of such county, provide all persons and organizations, or their representative or representatives, who regularly appear in criminal actions or proceedings in the criminal courts of such county with reasonable notice and opportunity to submit comments with respect thereto and give due consideration to all such comments, and consult with the members of the advisory committee specified in subparagraph (v) of paragraph (u) of subdivision two of section two hundred twelve of the judiciary law; and

(2) afford all those with whom he or she consults pursuant to item one of this clause the opportunity to submit comments with respect to the program, which comments, including but not limited to comments related to unrepresented litigants, he or she shall consider and shall post for public review on the office of court administration's website; and

(B) as provided in paragraph (d) of this subdivision, no party who is

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not represented by counsel nor any counsel in an affected case who opts out of participation in the program shall be required to participate therein.

§ 14. The opening paragraph of paragraph (d) of subdivision 2 of section 10.40 of the criminal procedure law, as added by chapter 237 of the laws of 2015 and such paragraph as relettered by section thirteen of this act, is amended to read as follows:

Where the chief administrator [~~eliminates the requirement of consent~~] requires participation in electronic filing as provided in [~~subparagraph (ii) of~~] paragraph (b) of this subdivision, he or she shall afford counsel the opportunity to opt out of the program, via presentation of a prescribed form to be filed with the court where the criminal action is pending. Said form shall permit an attorney to opt out of participation in the program under any of the following circumstances, in which event, he or she will not be compelled to participate:

§ 15. Subparagraph (ii) of paragraph (e) of subdivision 2 of section 10.40 of the criminal procedure law, as added by chapter 237 of the laws of 2015 and such paragraph as relettered by section thirteen of this act, is amended to read as follows:

(ii) Notwithstanding any other provision of this section, no paper or document that is filed by electronic means in a criminal proceeding [~~in supreme court or county court~~] shall be available for public inspection on-line. Subject to the provisions of existing laws governing the sealing and confidentiality of court records, nothing herein shall prevent the unified court system from sharing statistical information that does not include any papers or documents filed with the action; and, provided further, that this paragraph shall not prohibit the chief administrator, in the exercise of his or her discretion, from posting papers or documents that have not been sealed pursuant to law on a public website maintained by the unified court system where: (A) the website is not the website established by the rules promulgated pursuant to paragraph (a) of this subdivision, and (B) to do so would be in the public interest. For purposes of this subparagraph, the chief administrator, in determining whether posting papers or documents on a public website is in the public interest, shall, at a minimum, take into account for each posting the following factors: (A) the type of case involved; (B) whether such posting would cause harm to any person, including especially a minor or crime victim; (C) whether such posting would include lewd or scandalous matters; and (D) the possibility that such papers or documents may ultimately be sealed.

§ 16. Subdivision (b) of section 214 of the family court act is REPEALED and a new subdivision (b) is added to read as follows:

(b) (i) Notwithstanding any other provision of law, the chief administrator, with the approval of the administrative board of the courts, may promulgate rules authorizing a program in the use of electronic means ("e-filing") in the family court for: (1) the origination of proceedings in such court, and (2) the filing and service of papers in pending proceedings.

(ii) Participation in this program may be required or may be voluntary as provided by the chief administrator, except that it shall be strictly voluntary as to any party to an action or proceeding who is not represented by counsel unless such party, upon his or her request, chooses to participate.

§ 17. Subdivisions (c), (d), (e), (f) and (g) of section 214 of the family court act, as added by chapter 237 of the laws of 2015, are relettered subdivisions (d), (e), (f), (g) and (h) and a new subdivision (c) is added to read as follows:

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(c) (i) Where participation in this program is to be voluntary:

(1) filing a petition by electronic means with the court for the purpose of originating a proceeding shall not require the consent of any other party; nor shall the failure of a party or other person who is entitled to notice of the proceedings to consent to participation bar any other party from filing and serving papers by electronic means upon the court or any other party or person entitled to receive notice of such proceeding who has consented to participation;

(2) all parties shall be notified clearly, in plain language, about their options to participate in filing by electronic means;

(3) no party to an action or proceeding shall be compelled, directly or indirectly, to participate;

(4) where a party is not represented by counsel, the court shall explain such party's options for electronic filing in plain language, including the option for expedited processing, and shall inquire whether he or she wishes to participate, provided however the unrepresented litigant may participate in the program only upon his or her request, which shall be documented in the case file, after said party has been presented with sufficient information in plain language concerning the program;

(5) upon the filing of a petition with the court by electronic means, a party to the proceeding and any attorney for such person shall be permitted to immediately review and obtain copies of such documents and papers if such person or attorney would have been authorized by law to review or obtain copies of such documents and papers if they had been filed with the court in paper form.

(ii) Where participation in this program is to be required:

(1) such requirement shall not be effective in a court in a county unless the chief administrator shall:

(A) first consult with and obtain the agreement of each authorized presentment agency, child protective agency, the family court bar providing representation to parents, and the family court bar providing representation to children (as represented by the head of each legal services organization representing parents and/or children, the head of each public defender organization, and president of the local bar association as applicable) of such county, provide all persons or organizations, or their representative or representatives, who regularly appear in proceedings in the family court of such county, in which proceedings the requirement of consent is to be eliminated with reasonable notice and an opportunity to submit comments with respect thereto and give due consideration to all such comments, and consult with the members of the advisory committee continued pursuant to subparagraph (vi) of paragraph (u) of subdivision two of section two hundred twelve of the judiciary law; and

(B) afford all those with whom he or she consults pursuant to clause (A) of this subparagraph with a reasonable opportunity to submit comments with respect to the program, which comments he or she shall consider and shall post for public review on the office of court administration's website; and

(C) consult with the members of the advisory committee continued pursuant to subparagraph (vi) of paragraph (u) of subdivision two of section two hundred twelve of the judiciary law; and

(2) as provided in subdivision (d) of this section, no party who is not represented by counsel nor any counsel in an affected case who opts out of participation in the program shall be required to participate therein.

§ 18. Section 11 of chapter 237 of the laws of 2015 amending the judi-

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ciary law, the civil practice law and rules and other laws relating to the use of electronic means for the commencement and filing of papers in certain actions and proceedings, as amended by chapter 554 of the laws of 2022, is amended to read as follows:

§ 11. This act shall take effect immediately[, ~~provided that sections four, five, six and seven of this act shall each expire and be deemed repealed September 1, 2027; and provided that paragraph 2-a of subdivision (b) of section 2111 of the civil practice law and rules, as added by section two of this act, shall expire and be deemed repealed September 1, 2027~~].

§ 19. This act shall take effect immediately.

## **Appendix B**

### **Memorandum in Support of Legislative Proposal to Expand E-Filing**





**NEW YORK STATE**  
**Unified Court System**

OFFICE OF COURT ADMINISTRATION  
**TAMIKO A. AMAKER**  
ACTING CHIEF ADMINISTRATIVE JUDGE

Agency Bldg., 4., 20<sup>th</sup> Floor, ESP

Albany, New York (518) 453-8650

**MARC C. BLOUSTEIN**  
LEGISLATIVE COUNSEL

OCA 2023-9

**IN SUPPORT OF**

**S.7524 (Hoylman-Sigal)**

**A.**

AN ACT to amend the judiciary law, the civil practice law and rules, the court of claims act, the New York city criminal court act, the uniform district court act, the uniform city court act, the uniform justice court act, the criminal procedure law and the family court act, in relation to filing by electronic means; to amend chapter 237 of the laws of 2015 amending the judiciary law, the civil practice law and rules and other laws relating to the use of electronic means for the commencement and filing of papers in certain actions and proceedings, in relation to the effectiveness thereof; and to repeal certain provisions of the civil practice law and rules, the criminal procedure law and the family court act, relating to court filings

This measure is being introduced at the request of the Judiciary.

**Summary of the Measure's Provisions**

This measure would expand current authority for the use of e-filing in the courts, as follows:

**In the trial courts**

At present, the Chief Administrative Judge's statutory authority to institute e-filing in the trial courts – while much broader than it once was – is still limited in some important respects. Although permitted to institute voluntary e-filing in a broad spectrum of cases – all civil cases in Supreme Court, the Court of Claims, the Surrogate's Court, and the New York City Civil Court; all criminal cases in Supreme and County Courts; all cases in Family Court – and to institute mandatory e-filing in many civil cases in Supreme Court and the Court of Claims along with some in superior criminal court and Civil and Family Court, the Chief Administrative Judge may not require e-filing in some major classes of civil cases in Supreme Court (*e.g.*, matrimonial and Article 78 cases), nor in more than six counties each in criminal court and Family Court. Further, no form of e-filing – whether voluntary or mandatory – may be instituted in the civil courts of lesser jurisdiction or in the local criminal courts.

## Memorandum in Support of Legislative Proposal to Expand E-Filing

Under this measure, the Chief Administrative Judge would be permitted to institute e-filing – on either a voluntary or mandatory basis – *in any or all* of the State’s trial courts and in any class of cases, as follows:

- *Bill section 2.* Amends CPLR 2111(a) to extend the authority to institute e-filing in all of the State’s trial courts of civil jurisdiction. Advance approval of the local county clerk outside New York City is still required as to e-filing in Supreme Court and County Court.
- *Bill section 3.* Repeals paragraphs 1, 2, and 2-a of CPLR 2111(b) [provisions that now mandate that e-filing in courts of civil jurisdiction, where instituted, be voluntary unless the Chief Administrative Judge imposes mandatory e-filing – which can only be done in Supreme Court subject to prohibition upon its use in some major classes of cases, and in the New York City Civil Court in but one class of cases (*i.e.*, cases brought by health care providers against certain insurers)]. The measure would replace them with new paragraphs 1 and 2, permitting the Chief Administrative Judge to exercise discretion to institute voluntary/mandatory e-filing, without limitation as to court or class of cases. New paragraphs 1 and 2 continue the present exemptions from mandatory e-filing for unrepresented persons and for certain lawyers without technical skills or equipment. They also continue the requirement for consultation with various bar associations and attorneys.
- *Bill section 4.* Makes a technical, non-substantive change in paragraph 3 of CPLR 2111(b).
- *Bill section 6.* Amends section 11-b(1) of the Court of Claims Act to eliminate its restriction that filing by FAX and e-filing in the Court of Claims be voluntary.
- *Bill section 7.* Adds a new section 42 to the New York City Criminal Court Act to clarify that e-filing may be instituted in the Criminal Court.
- *Bill section 8.* Adds a new section 2103-a to the Uniform District Court Act to clarify that e-filing may be instituted in both civil and criminal cases in the District Courts.
- *Bill section 9.* Adds a new section 2103-a to the Uniform City Court Act to clarify that e-filing may be instituted in both civil and criminal cases in the City Courts.
- *Bill section 10.* Adds a new section 2103-a to the Uniform Justice Court Act to clarify that e-filing may be instituted in both civil and criminal cases in the Town and Village Justice Courts.
- *Bill section 11.* Amends section 10.40(2)(a) of the Criminal Procedure Law to extend the authority to institute e-filing in all of the State’s courts of criminal jurisdiction.
- *Bill section 12.* Repeals section 10.40(2)(b) of the Criminal Procedure Law and replaces it with a new paragraph (b), permitting the Chief Administrative Judge to institute voluntary/mandatory e-filing in all criminal cases in all courts at his discretion.
- *Bill section 13.* Adds a new paragraph (c) to section 10.40(2) of the Criminal Procedure Law (and reletters existing paragraphs (c) and (d) to be (d) and (e)) prescribing

rules governing both voluntary and mandatory e-filing in the criminal courts. Regarding the latter, new paragraph (c) continues the present exemptions from mandatory e-filing for unrepresented persons and for certain lawyers without technical skills or equipment. It also continues the requirement for consultation with various bar associations and attorneys practicing criminal law in the courts to be affected by e-filing; and, likewise, continues the present requirement that the Chief Administrative Judge secure approval of the local District Attorney and criminal defense bar before instituting mandatory e-filing in criminal cases in courts in a county.

- *Bill section 14.* Makes a technical, non-substantive change in paragraph (d) of section 10.40(2) of the Criminal Procedure Law.

- *Bill section 15.* Amends section 10.40(2)(e)(ii) of the Criminal Procedure Law to clarify that e-filing may be instituted in any criminal court, not just in Supreme and County Courts.

- *Bill section 16.* Repeals section 214(b) of the Family Court Act and replaces it with a new subdivision (b), permitting the Chief Administrative Judge to institute voluntary/mandatory e-filing in all Family Court proceedings.

- *Bill section 17.* Adds a new paragraph (c) to section 214 of the Family Court Act (and reletters existing paragraphs (c) through (h) to be (d) through (i)) prescribing rules governing both voluntary and mandatory e-filing in Family Court. Regarding the latter, new paragraph (c) continues the present exemptions from mandatory e-filing for unrepresented persons and for certain lawyers without technical skills or equipment. It also continues the requirement that the Chief Administrative Judge secure approval of authorized local presentment and child protective agencies, along with the Family Court bars representing parents and children, respectively, before instituting mandatory e-filing in Family Court in a county.

#### In the appellate courts

At present, CPLR 2112 grants the Appellate Divisions broad authority to implement e-filing in appeals brought before them. This proposal does not change that. It does, however, clarify that the Appellate Divisions' authority extends to permitting them to institute e-filing in Appellate Terms they have established (*see* Bill section 5).

#### **Justification**

A. *State's Long Experience with E-Filing.* As far back as 1999, almost a quarter of a century ago, the State began to introduce pilot programs in the use of electronic means for the purpose of commencing certain categories of cases and of filing court papers with judges and serving them on adverse parties. *See* L. 1999, c. 367. In the years since, those programs have been continued and progressively expanded – to apply to a broader spectrum of cases in additional courts. *See* the Appendix to this memorandum for a list of all statutory enactments to date that have expanded the e-filing program in New York. As has been well-documented in numerous analyses and reports prepared over the past 23 years to assess the effectiveness of e-

filing in New York's State courts, the pilot programs have been very successful and greeted with great enthusiasm by both bench and bar<sup>1</sup>.

E-filing's many virtues have been well-documented. They include:

- benefits for all sectors of the bar, particularly solo and small-firm practitioners who lack the resources of large law firms and attorneys in rural counties who must travel long distances to reach a courthouse.
- savings to the bar in the time and expense of serving other parties (*i.e.*, the e-filing system serves other parties automatically and instantaneously, providing immediate access to the newly-filed documents).
- reduced costs and enhanced efficiency for the bench, County Clerks (especially in connection with storage and retrieval of court documents), and local governments.
- increased security for documents in reducing the incidence of lost documents, in allowing courts to keep track of which users have accessed the files, and in protecting against loss of documents due to fire or flood. Relatedly, increased ability of the County Clerk and the courts to maintain the confidentiality of sealed files and files for which confidentiality is otherwise required.
- convenient access to the entire court file of a case, 24 hours a day, seven days a week
- promotion of a green environment, reducing the number of trips attorneys must make to the courthouse to file papers and the amount of paper required in litigation.
- demonstrated success in Federal courts and in other state courts.

*B. Need for Further Expansion of E-Filing.* Even before the COVID-19 pandemic struck in 2020, it had become evident that there was a need for further expansion of e-filing and for the elimination of several restrictive features of the existing e-filing program. In particular:

- In 2015, the Legislature gave permanent status to a program, first authorized in 2009, in the use of mandatory e-filing in the courts. L. 2015, c. 237. In doing this, the Legislature excepted several classes of cases from this program including, most significantly, matrimonial actions<sup>2</sup>. See CPLR 2111(b)(2)(A). Whatever the rationale for that exception when it was enacted, it is now abundantly clear that the exception has grown to be obsolete and counterproductive. E-filing in matrimonial cases has long been used on a consensual basis and all indications are that requiring its use in those cases would be no less appropriate than it is in other classes of cases that now are subject to mandatory e-filing. Indeed, we are advised that there are many in the matrimonial bar, along with

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<sup>1</sup> Most recently, the great success of New York's increasing use of e-filing in the courts has been heralded in the report of the Structural Innovations Working Group of the Commission to Reimagine the Future of New York's Courts. See *The Expansion of Electronic Filing: A Report and Recommendations of the Structural Innovations Working Group of the Commission to Reimagine the Future of New York's Courts* (December 2020). The principal recommendation included in this report is the legislative enactment of the instant measure.

<sup>2</sup> Although the 2015 legislation prohibited use of mandatory e-filing in matrimonial actions, it did not bar use of e-filing in such actions where the parties all consented thereto.

most County Clerks, who strongly favor extending mandatory e-filing to matrimonial actions for many reasons not least of which is the fact that maintaining dual-track filing systems is cumbersome and costly. Most recently, the members of the Executive Committee of the Family Law Section of the State Bar voted unanimously to support this proposal.

- The 2015 legislation authorizing use of mandatory e-filing also created an exclusion for residential foreclosure and consumer debt actions in Supreme Court. Under present law, other than for purposes of initial filings in these cases and, until September 1, 2027 (*see* L. 2022, c. 554), with exemption for certain statutorily stipulated counties where mandatory e-filing was in effect prior to 2015, e-filing may not be made mandatory in these cases. And, yet, the experience we have had in the exempt counties since 2015 has been highly positive, with no indication of problems that would contraindicate continued application of mandatory e-filing in them beyond the coming sunset, or, indeed, that would dictate against permanent elimination of the existing exclusion for the benefit of practitioners in all counties.

With the emergence of the pandemic, it also became evident that broad authorization for use of e-filing in *all* of the State's trial courts was very much needed. As we entered the pandemic season, e-filing was statutorily permitted only in Supreme Court, the Court of Claims, the Surrogate's Court, the New York City Civil Court and, on a very limited basis, in Family Court and in superior criminal courts<sup>3</sup>. *See* CPL 10.40(2)(a); Family Court Act §214(b). There was no authority for use of e-filing in the NYC Criminal Court and the District, Town, Village, and City Courts outside the City. This was truly unfortunate as the pandemic shuttered public and private institutions across the State. These courts – which, aside from Family Court, all serve as criminal courts and, upstate, as courts of lesser civil jurisdiction including small claims, landlord/tenant, and commercial claims – are typically among the courts most frequented by New Yorkers. They play a crucial role in dispensing justice in a broad range of case types and in collecting fines and fees for State and local government. Many of the litigants in these courts are self-represented and quite often do not reside near the courthouses in which their cases are being heard. For these litigants, especially those in rural areas without easy access to transportation, the availability of e-filing during the pandemic would have enabled them and, where they are represented, their attorneys, to safely, conveniently, and securely file their court documents with the court and with their adversaries. For self-represented litigants, in particular, it would have spared them from having to take time off from work to attend court in many matters. And, for courts and the judges and nonjudicial personnel that serve them, the availability of e-filing would have promoted a safer working environment as much unnecessary foot traffic in courthouses could have been avoided.

The pandemic and its impact upon our communities should serve as the strongest possible incentive to expand the availability of e-filing to all courts of our Judiciary. Note that enactment of this measure would not automatically institute e-filing in all courts. Consistent with the careful and deliberate way in which, historically, e-filing has been introduced in the courts that now use it, this measure would only permit, but not require, the Chief Administrative Judge to institute e-filing programs in the lower courts of the State. Actual roll-out of these

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<sup>3</sup> Authorization for use of e-filing in Family Court and superior criminal court will expire on September 1, 2027. (L. 2022, c. 554). Also, while there is statutory permission for mandatory e-filing in these courts, it is limited, in both instances, to six venues. *See* Family Court Act §214(b)(ii)(2); CPL 10.40(2)(b)(ii).

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programs would be undertaken in the future as community needs, court resources, and local bench/bar interests dictate.

In short, this measure will simplify and clarify e-filing's role in the administration of justice in New York. Moreover, by expanding that role to permit use of e-filing in more courts and in more classes of cases, this measure can be a vital step in protecting public health for all those who must work in and use the courts at a particularly anxious time in our state's history."

C. *Effective Date.* This measure, which would have no meaningful fiscal impact, would take effect immediately.

Legislative History 2021-22: OCA-1(R1)

**Appendix**

The following is a chronicle of the statutory evolution of e-filing in New York State since its inception in 1999:

**L. 1999, c. 367, effective 7/27/1999**

The State's introduction to e-filing. This measure authorized use of consensual e-filing in Supreme Court in one county in New York City and in one county outside the City, to be selected by the Chief Administrative Judge with the approval of the Administrative Board of the Courts. Under chapter 367, e-filing would be available for the filing of papers in commercial and tax *certiorari* cases in Supreme Court to commence a case and, as well, for the exchange of legal papers between counsel for the parties in such cases where all have consented to such exchange. Chapter 367 was scheduled to sunset on July 1, 2002, approximately three years after its enactment. In the wake of its enactment, consensual e-filing was authorized for commercial cases in the Commercial Divisions of Supreme Court in Monroe and New York Counties; and for tax *certiorari* cases in Supreme Court in Westchester County.

**L. 2002, c. 110, effective 6/28/2002**

This measure continued the e-filing programs established by chapter 367 for another year, *i.e.*, until July 1, 2003. Also, in order to permit broader experience with e-filing under the programs, the measure expanded the number of venues in which consensual e-filing could be authorized to include commercial claims in the Commercial Divisions of Supreme Court in Albany, Monroe, Nassau, New York, Suffolk, and Westchester Counties; and tax *certiorari* cases in Supreme Court in Monroe, New York, Suffolk, and Westchester Counties. Finally, the measure authorized – for the first time – use of consensual e-filing in the Court of Claims.

**L. 2003, c. 261, effective 7/29/2003**

This measure continued the e-filing programs established by chapter 367 and modified by chapter 110 for another 26 months – until September 1, 2005.

**L. 2004, c. 384, effective 8/17/2004**

Responding to community requests, this measure expanded the number of venues and classes of cases in which consensual e-filing could be authorized to include commercial claims and tort cases in Supreme Court in Albany, Bronx, Kings, Monroe, Nassau, New York, Queens, Richmond, Suffolk, and Westchester Counties; commercial claims in Supreme Court in Erie County; tax *certiorari* cases in Supreme Court in Bronx, Kings, Monroe, New York, Queens, Richmond, Suffolk, and Westchester Counties; and cases in Surrogate's Court in Erie County.

**L. 2005, c. 504, effective 8/16/2005**

This measure continued the e-filing programs established by chapter 367, as amended, for another four years – until September 1, 2009. Again, recognizing growing community

enthusiasm for e-filing in the courts, this measure further expanded the number of venues and classes of cases in which consensual e-filing could be authorized to include commercial claims, tax *certiorari* and tort cases in Supreme Court in Albany, Broome, Bronx, Erie, Essex, Kings, Monroe, Nassau, New York, Niagara, Onondaga, Queens, Richmond, Suffolk, Sullivan, and Westchester Counties; and *all* classes of cases in Supreme Court in Broome County. At the same time, it continued authority for e-filing in cases in Surrogate's Court in Erie County.

**L. 2007, c. 369, effective 7/18/2007**

This measure further expanded the number of venues in which consensual e-filing could be authorized in commercial claims, tax *certiorari* and tort cases in Supreme Court to include Livingston County, along with Albany, Broome, Bronx, Erie, Essex, Kings, Monroe, Nassau, New York, Niagara, Onondaga, Queens, Richmond, Suffolk, Sullivan, and Westchester Counties (and *all* classes of cases in Supreme Court in Broome County). At the same time, it continued authority for e-filing in cases in Surrogate's Court in Erie County and added comparable authority for e-filing in cases in Surrogate's Court in Chautauqua, Monroe, Queens, and Suffolk Counties. Finally, it added authority for consensual e-filing in the New York City Civil Court in claims brought by a provider of health services specified in section 502(a)(1) of the Insurance Law against an insurer for failure to comply with Insurance Department rules promulgated pursuant to section 5108(b) of the Insurance Law.

**L. 2008, c. 95, effective 5/27/2008**

This measure authorized the Chief Administrative Judge to permit consensual e-filing in all classes of cases in Supreme Court in Erie County, along with Broome County.

**L. 2009, c. 416, effective 9/1/2009**

Marking the tenth anniversary of New York's experience with consensual e-filing programs, this measure made permanent the Chief Administrative Judge's authority to permit such programs; and expanded that authority so that it could be used to permit e-filing in *any* class of cases in Supreme Court in any county, in Surrogate's Court in *any* county, in the Court of Claims statewide and in the New York City Civil Court. The measure also, for the first time, permitted establishment of mandatory e-filing programs, albeit limited to certain categories of commercial claims in New York County, tort cases in Westchester County, and one or more classes of cases (excluding matrimonial actions, Article 78 proceedings, proceedings under the Mental Hygiene Law and Election Law proceedings) in one other county outside New York selected by the Chief Administrative Judge. This authority for mandatory e-filing was made subject to a three-year sunset (September 1, 2012).

**L. 2010, c. 528, effective 9/17/10 [retroactive to 9/1/09]**

This measure built upon the changes instituted by chapter 416 of the Laws of the preceding year, especially as they applied to the newly-authorized deployment of mandatory e-filing in civil parts of Supreme Court. Specifically, the measure authorized the Chief Administrative Judge to permit mandatory e-filing in the same categories of



commercial claims in Westchester County as it had authorized for such claims in New York County; and replaced authority for the Chief Administrative Judge to permit unrestricted (but for the exceptions created under chapter 416) mandatory e-filing in a single county outside New York with authority to permit such e-filing in the following four counties: Livingston, Monroe, Rockland, and Tompkins. The measure also added the requirement that each local county clerk okay institution of mandatory e-filing in his or her county before it could be required. Finally, the measure imposed a continuing and more detailed annual reporting requirement for the Chief Administrative Judge relating to the operation of e-filing programs.

**L. 2011, c. 543, effective 9/23/2011**

This measure expanded the breadth of mandatory e-filing programs in civil parts of Supreme Court. Specifically, it authorized their establishment in Supreme Courts in New York City in commercial claims without regard to the amount in controversy; and in a broader array of counties than had been authorized by chapter 528 of the Laws of 2010 (adding Allegany, Essex, and Onondaga Counties, and permitting mandatory e-filing in all classes of cases (excluding matrimonial actions, Article 78 proceedings, proceedings under the Mental Hygiene Law and Election Law proceedings) in Westchester). The measure also permitted the Chief Administrative Judge to authorize mandatory e-filing in Surrogate's Court in any county, and in the New York City Civil Court in claims brought by a provider of health services specified in section 502(a)(1) of the Insurance Law against an insurer for failure to comply with Insurance Department rules promulgated pursuant to section 5108(b) of the Insurance Law. Finally, the measure created additional advisory committees to assist the Chief Administrative Judge in meeting a responsibility to provide the Legislature with continuing evaluations of the State's e-filing programs and to help plan for institution of e-filing in criminal courts and Family Court.

**L. 2012, c. 184, effective 7/18/2012**

This measure further expanded the breadth of mandatory e-filing programs in civil parts of Supreme Court. Specifically, it again added to the array of counties that had been authorized by chapter 528 of the Laws of 2010 (and modified by chapter 543 of the Laws of 2011), this time to include Erie and Suffolk Counties. At the same time, it authorized the Chief Administrative Judge to extend mandatory e-filing to any class of cases (with the same exclusions applicable to mandatory e-filing in upstate counties<sup>1</sup>) in Supreme Court in the counties of New York City. Lastly, the measure authorized the Chief Administrative Judge to institute consensual (and, under limited circumstances, mandatory) e-filing in criminal superior courts and in Family Court.

**L. 2013, c. 113, effective 7/12/2013**

This measure once again expanded the breadth of mandatory e-filing programs in civil parts of Supreme Court, adding Nassau County to the array of counties that had been authorized by chapter 528 of the Laws of 2010 (and modified by chapter 543 of the Laws of 2011 and chapter 184 of the Laws of 2012).

**L. 2015, c. 237, effective 8/31/2015**

This measure made permanent the Chief Administrative Judge's authority to permit institution of mandatory e-filing programs in all counties and in most classes of cases<sup>4</sup>. Also, it continued permanently, without change, programs of consensual and mandatory e-filing in Surrogate's Court and the New York City Civil Court; programs for consensual e-filing (and filing by FAX) in the Court of Claims; and existing authorization for the use of e-filing, both consensual and mandatory, in criminal superior courts and in Family Court subject to sunset on September 1, 2019. Finally, this measure authorized use of e-filing in the Appellate Divisions at the discretion of each Judicial Department subject to the same exclusions for mandatory e-filing applicable in the trial courts. Beyond these substantive changes, the measure relocated statutes governing e-filing from the State's Unconsolidated Laws to the CPLR and other appropriate procedural statutes in the Consolidated Laws<sup>5</sup>.

**L. 2017, c. 99, effective 7/24/2017**

This measure eliminated the exclusions of certain classes of cases as to which the Appellate Division could require mandatory e-filing. Henceforth, an Appellate Division could make *all* classes of cases before it subject to such e-filing. Also, this measure extended by one year, until September 1, 2018, the two-year sunset on permission for the deployment of mandatory e-filing in residential foreclosure and consumer debt proceedings. Finally, the measure changed the due date for the Chief Administrative Judge's annual report to the Legislature on e-filing (from April 1 to February 1).

**L. 2018, c. 168, effective 7/31/2018**

This measure extended by another year, until September 1, 2019, the sunset on permission for the deployment of e-filing in residential foreclosure and consumer debt proceedings.

**L. 2019, c. 212, effective 8/29/2019**

This measure extended by another year, until September 1, 2020, the sunsets on: (1) authorization to deploy e-filing in criminal superior courts and in Family Court, and (2) permission for the deployment of mandatory e-filing in residential foreclosure and consumer debt proceedings.

**L. 2020, c. 58, Item SS, effective 4/3/2020**

This measure extended by another year, until September 1, 2021, the sunsets on: (1) authorization to deploy e-filing in criminal superior courts and in Family Court, and (2) permission for the deployment of mandatory e-filing in residential foreclosure and consumer debt proceedings.

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<sup>4</sup> The legislation preserved the same exclusions from mandatory e-filing as were already in place.

<sup>5</sup> When originally enacted, the statutes enabling use of e-filing were placed in provisions of the State's Unconsolidated Laws. This made it very difficult for judges and lawyers to find these statutes. Accordingly, this measure relocated them in more familiar, more easily accessible places.

**L. 2021, c. 118, §1, effective 6/11/21**

This measure extended by another year, until September 1, 2022, the sunsets on: (1) authorization to deploy e-filing in criminal superior courts and in Family Court, and (2) permission for the deployment of mandatory e-filing in residential foreclosure and consumer debt proceedings.

**L. 2022, c. 554, §1, effective 8/31/22**

This measure extended by another five years, until September 1, 2027, the sunsets on: (1) authorization to deploy e-filing in criminal superior courts and in Family court, and (2) permission for the deployment of mandatory e-filing in residential foreclosure and consumer debt proceedings.

# Appendix C

## E-Filing Advisory Committees Membership Lists

## E-Filing Advisory Committees Membership Lists

### Supreme Court (Civil) Advisory Committee on E-Filing

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

**Christopher Gibson**  
Director, OCA Division of E-Filing,  
E-Filing Statewide Administrator

#### Staff

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**Hon. John R. Higgitt**  
Acting Justice, Supreme Court, Bronx, NY

**Hon. Judith M. Hunter**  
Steuben County Clerk

**Hon. Bradford Kendall**  
Dutchess County Clerk

**Brooke Kenmark**  
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**Hon. Nancy T. Sunshine**  
County Clerk, Kings, County, Brooklyn, NY

### Supreme And County Court (Criminal) Advisory Committee on E-Filing

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

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Former Deputy Chief Administrative Judge for  
Courts Outside New York City

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Director, Statewide Coordinator for E-Filing

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## E-Filing Advisory Committees Membership Lists

### Civil Court Advisory Committee on E-Filing

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

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### Surrogate's Court E-Filing Committee

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

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## E-Filing Advisory Committees Membership Lists

### Family Court Advisory Committee On E-Filing

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

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#### Members

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Supervising Attorney, Albany County  
Family Court

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Appellate Division, Third Deptment,  
Albany, NY

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Legal Aid Society, Juvenile Rights  
Division

**Harriet Weinberger, Esq.**

**Sarah Tirgary, Esq.**  
State of New York, Law Guardian  
Program, Second Judicial Department

**Brian J. Zimmerman, Esq.**  
Member Assigned Counsel,  
Atty for Child Panel (18-b), Brooklyn, NY

### Legal Services Advisory Committee on E-Filing

#### Committee Chair

**Christopher Gibson**  
Director, OCA Division of E-Filing

#### Committee Vice-Chair

**Marc Bloustein**  
First Deputy Counsel & Legislative  
Counsel, OCA

#### Staff

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**Mindy Jeng, Esq.**

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Empire Justice Center  
Unit Director, HOPP Regional  
Coordinator, Public Advocacy Center,  
Touro Law Center

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Legal Services of the Hudson Valley

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Division of E-Filing

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Westchester County Clerk

**Jacob Inwald**  
Director of Foreclosure Prevention, Legal  
Services NYC

**Catherine Isobe**  
Brooklyn Legal Services

**Joseph Kelemen**  
Western Law Center, Executive Director

**Brooke Kemak**  
Cortland County Clerk's Office

**Tashi Lhewa, Esq.**  
Legal Aid Society

**Mark Muoio, Esq.**  
Program Director, Housing Unit, Legal  
Aid Society of Rochester, New York

**Silvia Orna**  
Chief Operating Officer,  
Latino Justice PRLDEF

**Nancy Sunshine**  
Kings County Clerk



# Appendix D

## Advisory Committee Letters

Civil Court  
of the  
City of New York



ALIA A. RAZZAQ  
CHIEF CLERK

111 CENTRE STREET  
NEW YORK, NEW YORK 10013

February 29, 2024

Hon. Joseph Zayas  
Chief Administrative Judge  
25 Beaver Street  
New York, New York 10004

Re: Report of Civil Court Advisory Committee on E-Filing

Dear Judge Zayas,

This letter is intended to fulfill the obligation of the NYC Civil Court Advisory Committee on e-filing to consult with the Chief Administrative Judge regarding: (1) the State's experience with programs in the use of electronic means for the commencement of proceedings; (2) the service of papers therein; and (3) recommendations for further appropriate legislation.

The Committee met on Friday, January 12, 2024. The Committee again finds much to report and update concerning the successful implementation of electronic filing platforms in the New York City Civil Court. Notably, during the height of the pandemic, consensual e-filing programs were implemented for all Landlord and Tenant matters filed with the New York City Civil Court, in every borough including the Harlem Community Justice Center, and more recently the Red Hook Justice Center.<sup>1</sup> Beginning in September 2021, mandatory e-filing in no-fault Health Services actions pursuant to Insurance Law was authorized in the New York City Civil Court and also implemented in each borough.<sup>2</sup> The benefits of e-filing and the e-filing programs have been well received.

In fact, impressed with the NYSCEF program and its many benefits, many legal service groups have been advocating for an expansion of e-filing to the high-volume consumer credit matters. The Committee agreed that e-filing would greatly benefit the high-volume consumer credit practice area. As previously reported, meetings regarding this initiative were held with NYSCEF representatives, stakeholders including legal service organizations, and Civil Court Administration. While a pilot program was anticipated in 2022, like many other projects, it was

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<sup>1</sup> In 2023, approximately 152,000 landlord and tenant matters have been filed via NYSCEF, with nearly 400,000 cases e-filed since authorized in 2020.

<sup>2</sup> No Fault actions are the only case type under current statute that can be mandated in the New York City Civil Court, and the New York City Civil Court is the only local Civil Court that has authorization to e-file.

temporarily placed on *hold* as court resources were re-directed to create/implement a NYSCEF program in Family Court.

At this juncture, the NYSCEF team, Civil Court Administration, and the Division of Technology will attempt to identify resources necessary to execute this project, produce a project timeline, and communicate with stakeholders to chart a path forward to making this project a reality. As it is evident that all parties would like to continue moving forward with e-filing in additional case types, the Committee **strongly recommends** that all e-filing programs become a priority. In alignment with the vision of OCA's Leadership Team, the "time is now" to continue to modernize and improve our court services.

The Committee is very mindful of the many self-represented parties who find themselves navigating the Civil Court and supports NYSCEF leadership in their efforts to improve access to justice for the self-represented who wish to e-file. To assist in this endeavor, Committee members suggested improvements to the e-filing process including but not limited to: updating self-represented NYSCEF web pages and integrating them with DIY platforms, creating forms in multiple languages, examining the possible introduction of new platforms, and reaching out to broader community-based platforms to introduce e-filing and to conduct training.

The Committee is also aware that there may be self-represented litigants who wish to avail themselves of the convenience of remote court access, but who may be unable to do so because they lack access to a computer, scanner, or other device. In this regard, the Committee highlighted efforts that OCA Administrators have made to tackle these issues and have also tasked itself with considering how to make technology and equipment more accessible, at self-help centers, legal services offices, and other forums. The Committee agreed to continue these discussions to ensure that all persons have meaningful entry/access to the courts.

The Committee further discussed the use of the Electronic Document Delivery System (EDDS), created during COVID-19, as a secure means for documents to be transmitted digitally to the court where NYSCEF is not available. The Committee discussed the differences between the extensive functionality in NYSCEF and the limitation of EDDS. However, currently, the Committee concluded that EDDS continues to serve a purpose for courts that do not have the authority to e-file.

Lastly, as in years past, the Committee addressed the Chief Administrative Judge's Annual Report on E-Filing for 2024 and the proposed legislation. The Committee once again supports legislation to move away from the incremental approach of expanding for the last two decades and to lift the restraints upon the Chief Administrative Judge to introduce e-filing in any court and/or action, with the continuation of the current safeguard whereby self-represented litigants are automatically exempt from e-filing.<sup>3</sup> Additionally, the Committee respectfully recommends that resources should be made available to assist the NYSCEF Division to make the additions and enhancements outlined within this submission.

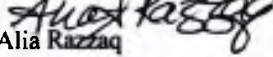
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<sup>3</sup> Members of this committee have suggested that the committee should consider requesting a meeting with members of the Legislature to understand and/or discuss their reluctance to act, year after year, on this important legislation.

Advisory Committee Letters

The Committee looks forward to continuing to work together to ensure efficient and effective court operations and equal access to justice through e-filing and will continue to report on the progress of e-filing in the New York City Civil Court.

Respectfully submitted,



Alia Razzaq

Chief Clerk of the Civil Court

Chairperson, Civil Court Advisory Committee on E-Filing



EUGENE W. HURLEY  
CHIEF CLERK

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

60 LAFAYETTE STREET  
NEW YORK, N.Y. 10013

February 26, 2024

Honorable Joseph A. Zayas  
Chief Administrative Judge  
New York State Court System  
25 Beaver Street  
New York, N.Y. 10004

Dear Chief Administrative Judge Zayas:

**Re: Report of Family Court Advisory Committee on E-Filing**

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.

This Committee met on January 12, 2024. The Committee is pleased to report the continued expansion of the consensual e-filing pilot program in the Family Court. Since its debut in August 2022, e-filing is now available in limited case types, (Custody/Visitation, Guardianship, Paternity, Parentage-Assisted Reproduction, Parentage-Surrogacy, Support), in a total of 10 Family Courts: New York (Manhattan), Richmond (Staten Island), Queens, Chemung, Fulton, Genesee, Niagara, Saratoga, Suffolk, and Wyoming Counties. The committee was informed that Family Court Administrators plan further expansion in 2024, beginning with the remaining courts within NYC (Bronx, Kings).

Although the Electronic Document Delivery System (EDDS) was a helpful pandemic related tool, the members agree that NYSCEF is clearly the preferred system for the future of the Family Court. The option to submit documents via EDDS is no longer available in the limited case types within the courts that have implemented the NYSCEF pilot outside of NYC, (Chemung, Fulton, Genesee, Niagara, Saratoga, Suffolk, and Wyoming Counties), although documents submissions are accepted at the courthouse. The Family Courts within NYC will also remove the option to submit documents via EDDS in those limited case types once the pilot program is implemented in the remaining two counties, Bronx and Kings, to keep the filings uniform within NYC. Along with the Pilot Program, Administrators, and Family Court Judges/staff, developed e-filing rules which

Hon. Joseph A. Zayas  
February 26, 2024  
Page 2

were introduced by Administrative Order once the pilot program was authorized.<sup>1</sup> Additional programming continues to be developed for the Family Court, including the transfer of data directly into the court's case management system (UCMS), the development of specific family DIY programs/interviews that can support/interact with NYSCEF, and the direct creation of petitions on the NYSCEF system. The committee also considered the importance of keeping Family Court matters confidential and thoroughly reviewed the NYSCEF functionalities which provide these necessary protections.

The committee discussed current statistics showing the number of matters e-filed, remarking that unrepresented parties were e-filing more than attorneys in these authorized matters. In an effort to better promote the pilot program to attorneys, the committee will reach out to the OCA public relations office to prepare/submit an article for the *New York Law Journal* detailing the Family Court e-filing pilot program and its many benefits. Also discussed were additional promotional efforts including having informational monitors/screens available in the courthouses displaying the pilot program's availability, its benefits, and other information regarding the program, and additional short video clips on the NYSCEF website on "how to obtain a User ID", in addition to live training sessions offered by the NYSCEF Resource Center.

The committee remains very aware of the many unrepresented parties appearing in Family Court proceedings and is cognizant of the extraordinary effort, preparation, and coordination between NYSCEF administrators/staff, Family Court administrators/staff, and DoT, to make certain the pilot program sufficiently addresses the specific and unique needs of these parties, while keeping the files confidential. Additionally, the committee emphasizes that current rules make clear that the pilot program is consensual and that no party is compelled to participate in e-filing at this time.

The committee discussed how NYSCEF affords the ability to share data and case files electronically between the departments of the Appellate Division and Family Court. This will be of great convenience to both entities. Also discussed by committee members, especially from those practicing regularly in Family Court, is the disorganization caused by different policies within each Family Court and the eagerness to be able to utilize NYSCEF to create additional uniformity and organization.

Finally, the committee discussed and supports the proposed legislation allowing for the expansion of e-filing in all courts, for any case type, and the committee supports the legislation that would allow the Chief Administrative Judge to implement these e-filing programs with the current safeguards in place.

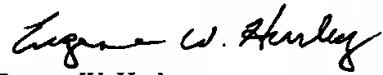
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<sup>1</sup> These rules have not been vetted for public comment and/or promulgated. They have been created solely for the pilot and will be updated as necessary when administrators are prepared to remove the program from a "pilot" stage, and at that time the rules will be vetted/promulgated.

Honorable Joseph A. Zayas  
February 26, 2024  
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Thank you for considering our input.

Respectfully Submitted,



Eugene W. Hurley  
Chairperson  
Family Court Advisory Committee on E-Filing



**WESTCHESTER COUNTY CLERK**

**Timothy C. Idoni**  
County Clerk

January 17, 2024

Hon. Joseph A. Zayas  
Chief Administrative Judge  
Office of Court Administration  
25 Beaver Street  
New York, New York 10004

Dear Judge Zayas:

This letter is intended to fulfill the obligation of the Supreme Court (Civil) Electronic Filing 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 services of papers therein.

The committee met on January 16, 2024 at 12:30 p.m. to discuss and vote on the following issues:

- 1) A discussion was held regarding the new functionality of the New York State Courts Electronic Filing System. Among the enhancements discussed were:
  - Providing litigants and attorneys a convenient method for organizing and managing their e-filed case inventory, offering options to sort by different categories such as status (e.g. active/stayed/disposed)
  - User ID for a litigant or party in a matrimonial action represented by an attorney to permit viewing access only.
  - The capability to link back and forth between an e filed case and the related appellate division case in NYSCEF.
- 2) The committee discussed the Chief Administrative Judge's forthcoming 2024 Electronic Filing Report to the Legislature, the Governor and the Chief Judge of the State of New York – evaluating the state's experience with programs in the use of electronic means – which have been enormously successful – and further recommending appropriate legislation regarding the expansion of these programs. Of particular note was the recommendation by this committee



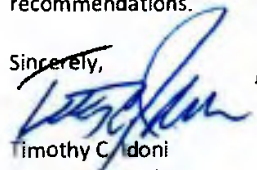
## Advisory Committee Letters

eliminating carve-outs which we find no longer necessary due to over a decade of success state-wide.

- 3) We note your invitation to comment on the proposed legislation authorizing the Chief Administrative Judge's implementation of the program in all of the State's trial courts. The committee advises, that in addition to itself, said legislation has been highly recommended by the Commission for the Reimagining of the Future of the State's Courts and the New York State Association of County Clerks.
- 4) It was noted for the record that 61 of the 62 counties have successfully implemented and been using the New York State Courts Electronic Filing system as authorized by the State legislature.

No other items were considered by the committee. Our committee stands ready to assist in any further actions and advocacy on these matters. We thank you for your consideration of our recommendations.

Sincerely,



Timothy C. Itoni

Chair, New York Supreme Court (Civil) Advisory Committee on E-Filing'

cc: New York Supreme Court (Civil) Advisory Committee of E-Filing  
Christopher Gibson, Director, OCA Division of E-Filing

**SUPREME AND COUNTY (CRIMINAL) ADVISORY COMMITTEE ON E-FILING**  
**For the New York State Unified Court System**  
Committee Chair – Hon. Michael Cocco, JSC (ret.)  
Former – Deputy Chief Administrative Judge  
Outside NYC

February 26, 2024

Hon. Joseph A. Zayas  
Chief Administrative Judge  
25 Beaver Street  
New York, NY 10004

Re: Report of Supreme and County (Criminal) Advisory Committee on E-Filing

Dear Chief Administrative Judge Zayas,

As Chair of the Supreme and County Court (Criminal) E-filing Advisory Committee, I am writing to fulfill our obligation to consult with the Chief Administrative Judge regarding the state's experience with electronic filing programs and to offer recommendations for further legislation.

The full Committee, along with its "working" subcommittees, convened on January 12, 2024, to discuss the progress and challenges related to the criminal e-filing initiative. To provide context, in December 2019, after 3 years of this committee meeting and discussing this project, we finalized specific e-filing screens to accommodate the e-filing of criminal actions in Supreme and County Courts. Unfortunately, plans for a pilot program in early 2020 were paused due to the pandemic and in 2022 as we were about to continue the plans for the criminal project resources were redirected toward a Family Court e-filing pilot program. Now, with the Family Court project launched, we are eager to resume the criminal e-filing initiative in Superior Criminal courts.

Here are the key points discussed in our recent meeting:

**Project Resumption:** Plans to restart the criminal e-filing project in Superior Criminal courts are underway. Courts initially interested in the pilot will be contacted to ascertain that their group of stakeholders remain ready to participate. The Division of Technology has resumed programing and developing of the new criminal e-filing platform. Testing of new functionality and adjustments will follow. (There was a brief demo of some of the functionality related to the filing of an indictment at the start of the meeting).

**Rules Subcommittee:** Committee members emphasized that they wanted to ensure that detailed e-filing rules were promulgated before the pilot project commenced. The subcommittee will resume meetings to again review the general provisions of consensual e-filing rules which may be generally relied upon and to review the equivalent rules drafted by this committee prior to COVID (with some updates) for the electronic filing of indictments and SCI(s). These proposed rules will undergo review by the full committee for comments and submitted to OCA's Counsel's Office and the Administrative Board as part of the approval processes before public vetting and ultimately promulgated as per OCA's policy. The program will not be launched until these rules are in place.

**Committee Readiness:** Over 35 committee members, representing various legal entities, are prepared to resume activities. The pandemic has underscored the need for electronic filing, and members are eager to review completed rules and test new functionality and provide all necessary feedback.

**EDDS Experience:** While NYSCEF remains unavailable in criminal courts, the Electronic Document Delivery System (EDDS) has been available for digital document submissions in criminal courts and has increased demand by attorneys and parties for the NYSCEF pilot program due to its additional benefits, such as access to view documents 24/7. We are hopeful that a pilot program will be implemented – (initially in no more than 3 counties) – by the fall of 2024.

**Support for Proposed Legislation:** A majority of the committee supports the proposed legislation permitting the expansion of e-filing, with the current safeguards, and lifting the restraints on the Chief Administrative Judge's discretion to introduce e-filing programs, whether consensual or mandatory, in all courts and case types. The e-filing system would continue to assure confidential treatment of these cases and they will be subject to the same sealing and confidentiality protections as paper documents. Additionally, CPL Sec. 10.40(2)(d)(ii) makes clear that "no paper or document that is filed by electronic means in a criminal proceeding in supreme court or county court shall be available for public inspection online." The proposal further requires consultation in advance of e-filing expansion with the Bar, legal service providers, County Clerks, District Attorneys, and other groups affected by such electronic filing. The proposal also maintains all notice and safeguard provisions in the current e-filing legislation. (These safeguards outlined above and within the legislation address the concerns reported in the Joint Defender's submission/comments - attached). To be clear, the roll out of an e-filing program is with consultation of all stakeholders.

The committee continues to look forward to testing functionality as it is developed for this very exciting and long-awaited e-filing platform, and in drafting appropriate e-filing rules for these matters. We thank you for considering our input as you prepare your annual report.

Respectfully submitted,

*Michael Cocomo*

Hon. Michael Cocomo, JSC (ret.)

*Former - Deputy Chief Administrative Judge*

*Outside New York City,*

*Committee Chair*

STATE OF NEW YORK

Hon. Craig J. Doran  
Supreme Court Justice



Seventh Judicial District  
Ontario County Courthouse

February 27, 2024

Hon. Joseph A. Zayas  
Chief Administrative Judge  
NYS Unified Court System  
Office of Court Administration, Executive Office  
25 Beaver Street  
New York, NY 10004

Re: Report of Surrogate's Court Advisory Committee on E-Filing

Dear Administrative Judge Zayas,

I am writing on behalf of the Surrogate's Court Advisory Committee to fulfill our obligation to consult with the Chief Administrative Judge regarding the state's experience with electronic filing programs and to offer recommendations for potential legislation.

Our committee has been meeting regularly since 2015 and has consistently reported on the gradual expansion of e-filing in Surrogate's Courts across the state. The NYSCEF program in the Surrogate's Courts has proven to be a valuable tool, particularly during the challenging circumstances brought about by the pandemic. It has provided convenience for both unrepresented litigants and legal professionals, enabling them to continue their work outside the traditional court setting.

The Committee met once again on January 16, 2024, and reports as follows:

- As of December 2021, all 62 Surrogate's Courts have active e-filing programs, with 57 of them implementing mandatory e-filing. The remaining 5 courts, all within NYC, have chosen to proceed with consensual e-filing, as they had been awaiting specific functionality updates in the Surrogate's Court NYSCEF platform. The NYSCEF enhancements/updates have been accomplished. The Committee further discussed the benefit of having mandatory e-filing programs in all Surrogate's Courts. Additionally, members of the Committee reported that they have been made aware of many comments from the Bar about long waiting periods for processing documents and backlogs within the NYC Surrogate's Courts. The Committee recommended that as Committee Chair, I start a dialogue with the Chief Administrative Judge, to discuss the benefits of having mandatory e-filing programs implemented in these 5 Courts, and to offer assistance in reaching out to these courts to discuss moving to a mandatory platform. It is believed by the majority of this Committee, that having all Surrogate's Courts

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27 NORTH MAIN STREET  
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cdoran@nycourts.gov

## Advisory Committee Letters

February 27, 2024  
Hon. Joseph A. Zayas  
Page 2

matters uniform as to e-filing, will add transparency and efficiency to the Court's process/procedures.

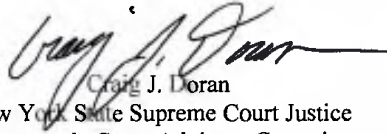
- Additionally, we discussed the 2024 annual Electronic Filing Report of the Chief Administrative Judge, which evaluates the state's experience with electronic means. We also explored the invitation to comment on proposed legislation authorizing the Chief Administrative Judge to extend e-filing to all trial courts. The Committee fully supports the legislative proposal, as it has consistently in years past, to empower the Chief Administrative Judge to expand e-filing to all trial courts and actions statewide, with essential safeguards, especially exemptions for self-represented litigants.
- The Committee will also seek to form a smaller working group to review current rules for potential updates and replace committee members that are no longer active.

The Committee also suggests that additional resources be made available for the NYSCEF Division to meet the growing demands for e-filing in all authorized courts. As we have done in years past, the Committee again conveys the need for an updated case management system in Surrogate's Court. Moving beyond the current DOS-based system to an improved system would also create better functionality with NYSCEF.

The robust foundation of the NYSCEF system, which ensured access throughout the pandemic, supports the continued expansion of electronic filing into all courts.

Thank you for considering our recommendations as you evaluate the state's experience with electronic filing.

Sincerely,



Craig J. Doran

New York State Supreme Court Justice  
Chair, Surrogate's Court Advisory Committee on E-Filing

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Phone: 585-412-5292

**27 NORTH MAIN STREET**  
Fax: 585-412-5328

**CANANDAIGUA, NY 14424**  
cdoran@nycourts.gov



**NEW YORK STATE**

## Unified Court System

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OFFICE OF COURT ADMINISTRATION

**JUSTIN BARRY, ESQ.**  
EXECUTIVE DIRECTOR

**CHRISTOPHER GIBSON**  
DIRECTOR, OCA DIVISION OF E-FILING

February 26, 2024

Hon. Joseph A. Zayas  
Chief Administrative Judge  
Office of Court Administration  
25 Beaver Street, 11<sup>th</sup> Floor  
New York, NY 10004

Re: Legal Services Advisory Committee on E-Filing – Annual Report

Dear Chief Administrative Judge Zayas:

The Legal Services Advisory Committee on E-Filing was established in 2019. It joins the Advisory Committees on Electronic Filing for the Supreme and County (Criminal) Court, the Surrogate's Court, the Supreme Civil Court, the Civil Court, and the Family Court established by Ch. 237 of the Laws of 2015 for consulting with the Chief Administrative Judge about electronic filing in the New York State courts. The purpose of this committee is to foster effective communication between the legal services community and the Court System regarding electronic filing. The Committee is focused on gathering information regarding electronic filing and self-represented litigants and any difficulties that they might encounter in any court anywhere in the state. Further, the Committee is interested in suggestions on how to improve electronic filing for the self-represented and to address any other concerns the legal services community might have regarding other aspects of electronic filing.

The Committee met on January 16, 2024. The Committee reviewed its purpose and discussed several steps taken to improve the processing of electronic filing for self-represented litigants and plans for future enhancements.

The Committee discussed the current family courts that have implemented the e-filing pilot program and its availability in limited case types – Custody/Visitation, Guardianship, Paternity, Parentage-Assisted Reproduction, Parentage-Surrogacy, and Support proceedings. The Committee also discussed the successful programs implemented in the NYC Civil Court, specifically for Landlord-Tenant matters, and the mandatory e-filing of No-Fault matters.

There was also a discussion regarding an issue brought to the attention of committee member Tashi Lhewa, Director of the Economic Equities Project for the Legal Aid Society, concerning a self-represented litigant who was not permitted to submit documents at the courthouse because he was told it was an "e-filed case." Mr. Lhewa did not have further specifics to share other than he believed it was a matter in the Bronx Housing court but did convey he would follow-up with the NYSCEF team and Family Court Administrators with further details so that they can address/alert the appropriate clerk's office about this issue. The Committee discussed the issue – wherein a self-represented litigant may have been provided wrong information and/or turned away when attempting to submit a paper document in the courthouse in an e-filed matter – recalling that this situation may have once caused challenges for self-represented litigants. However, with the appropriate training of Court staff and the law stating that self-

## Advisory Committee Letters

represented litigants are never required to e-file, this issue/concern has generally been resolved. The Committee was reminded of the creation of the UCS e-mail for legal service attorneys statewide to report instances or issues related to court staff affecting self-represented persons in e-filed cases. Legal service attorneys never had to make use of this dedicated e-mail address, demonstrating the adaptability of all parties involved.

As of December 2023, the number of self-represented active NYSCEF Users has surpassed 65,000. The Committee recognizes the growing demand for remote court access among self-represented litigants who may face barriers due to a lack of technology such as computers and scanners. To address this issue, the OCA Administration is actively exploring ways to enhance accessibility to technology and has added equipment at self-help centers, kiosks, or stations in courthouses, and made courthouse libraries more equipped to assist self-represented litigants with electronic filing.

Despite acknowledging limited resources, the Committee strongly advocates prioritizing all e-filing programs and providing sufficient staffing/support for self-represented litigants choosing to e-file. The Committee expresses support for NYSCEF leadership to collaborate with other OCA Departments/Divisions/Programs in bridging the digital divide. Proposed coordination efforts include upgrading self-represented NYSCEF web pages, creating a user-friendly website with clear e-filing instructions in plain language, offering documents in primary languages spoken in New York, integrating UCS "Do It Yourself" (DIY) platforms with e-filing capabilities, participating in community-based remote court platforms by offering NYSCEF training, and conducting training sessions for court "help-centers" and libraries so that staff is better able to assist self-represented litigants.

The Committee also discussed the Chief Administrative Judge's annual report, and as it has in past years, The Committee generally supports the proposed legislation to permit the Chief Administrative Judge to introduce e-filing in any court and/or action. It emphasizes the importance of maintaining safeguards for self-represented litigants, including ensuring their automatic exemption from e-filing. The Committee also recommends that the practice/requirement of extensive outreach and consultation with stakeholders, including County Clerks, Court Administrators, bar associations, district attorneys (where applicable), and attorneys from relevant courts and venues when new programs are anticipated be continued.

The committee looks forward to contributing to an electronic filing program that works well for all litigants and all attorneys in New York State.

Respectfully submitted,



Christopher Gibson  
Director, OCA Division of E-Filing  
Chairperson  
Legal Services Advisory Committee on E-Filing





# Appendix E

## Comments from County Clerks

*State of New York*



*Nancy T. Sunshine*  
County Clerk, Kings County

*360 Adams Street*  
*Brooklyn, NY 11201*

January 5, 2024

Christopher Gibson  
Statewide Coordinator for Electronic Filing  
VIA EMAIL [cgibson@nycourts.gov](mailto:cgibson@nycourts.gov)

Dear Mr. Gibson:

As Kings County Clerk, I support the proposed legislation authorizing the Chief Administrative Judge to implement e-filing in all of the State's trial courts.

As the digital world benefits the day-to-day lives of citizens, the expansion of NYSCEF, through the grant of authority by the Chief Administrative Judge, would most certainly benefit all court users, filing parties, attorneys, the media and the public. Notably, there are appropriate safeguards in the law to permit self-represented litigants, who have not embraced the digital world, to file court documents in hard copy/paper format.

The success of NYSCEF in the office of the Kings County Clerk is established beyond question by the digital filing of court documents via NYSCEF as the preferred and dominate method, far exceeding hard copy/paper filings.

Significantly, in both 2022 and already in 2023, a total of over 52,000 cases were commenced each year in NYSCEF and unrepresented litigants have embraced NYSCEF in impressive number, 8,885 in 2022 and 10,681 as of mid-December 2023, a marked increase. In 2022, a total of 1,262,839 documents were filed in NYSCEF and that number has already increased to 1,365,791 as of mid-December 2023.

## Comments from County Clerks

Notably, NYSCEF, as designed and improved with the input of stakeholders including County Clerks, implements the confidential treatment of cases as required by law and the sealing of court files or portions of court files pursuant to court order. Accordingly, the issue of proper safeguarding of confidential cases exists in NYSCEF.

The benefits of NYSCEF in providing permitted unrestricted access to view a clear list of all filed documents, immediate access to non-confidential filed documents, quick and efficient filing of documents, notice to all parties of documents filed in a case, promotes transparency, accountability and confidence in the court system. The success of NYSCEF has been promoted by the County Clerks in sixty-one counties who have already embraced some form of authorized e-filing in their respective counties. Expansion of e-filing in impacted counties should be, respectfully, with the consent of the relevant County Clerk. Transfer of cases from one County Clerk as Clerk of Supreme Court to another County Clerk is far more efficient than using snail mail, pre-NYSCEF transfer of Supreme Court cases from one County to another.

In conclusion, the importance and benefits of e-filing has been well established during the pandemic during which time the Kings County Clerk, as well as the courts, have functioned and continue to function efficiently and effectively. There is no better time than now to eliminate all restrictions and expand e-filing to all case types, and importantly, authorize the Chief Administrative Judge to implement e-filing across the State in all of the State's trial courts.

Sincerely,



Hon. Nancy T. Sunshine  
County Clerk, Kings County

Comments from County Clerks



PUTNAM COUNTY CLERK'S OFFICE

County Office Building  
40 Gleneida Avenue  
Carmel, New York 10512  
Tel. (845) 808-1142  
Fax (845) 225-3953

MICHAEL C. BARTOLOTTI  
*County Clerk*

JAMES J. McCONNELL  
*First Deputy County Clerk*

January 19, 2024

**VIA ELECTRONIC MAIL**

Christopher Gibson  
Director, Division of E-Filing  
NYS Unified Court System  
25 Beaver Street, Room 926  
New York NY 10004

Dear Mr. Gibson:

Putnam County instituted mandatory electronic filing of all permitted actions on May 3, 2017. We also allowed for permissive e-filing on all other case types. On October 17, 2018 Putnam County expanded mandatory commencement via e-filing for Residential Mortgage Foreclosure and Consumer Credit Transactions.

In 2023, 2,262 civil actions were commenced in Putnam County. Of the actions filed in 2023, 2,105 representing 93% were electronically filed. In addition, 16 cases were converted from paper to NYSCEF.

We are extremely pleased with the efficiency that electronic court filing has brought to this office. The NYSCEF system is a comprehensive, fully functional and secure means to electronically file court documents. We feel extremely comfortable with the controls within the system and are ecstatic with the amount of participation from the members of our local bar. As such, we fully support any initiative to expand the powers of the Chief Administrative Judge to expand mandatory electronic filing to all case types upon consultation with the respective County Clerk.

Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael C. Bartolotti".

Michael C. Bartolotti  
Putnam County Clerk

MCB/mb



NEW YORK STATE  
ASSOCIATION OF

**COUNTY  
CLERKS**

Hon. Craig A. Hayner  
*President*

Hon. Michael Bartolotti  
*Post President*

Hon. Nancy Sunshine  
*1<sup>st</sup> Vice President*

Hon. Gizelle Meeks  
*2<sup>nd</sup> Vice President*

Hon. Andrea Bailey  
*3<sup>rd</sup> Vice President*

Hon. Bradford Kendall  
*Corresponding Secretary*

Hon. Maureen Reynolds  
*Recording Secretary*

Christopher Gibson  
Statewide Coordinator for Electronic Filing  
VIA EMAIL [cgibson@nycourts.gov](mailto:cgibson@nycourts.gov)

January 31, 2024

Dear Mr. Gibson:

Thank you for inviting our Association to partake in providing comments and recommendations towards your annual report to the Legislature, Governor, and the Chief Administrative Judge.

As Clerks of the Supreme and County Courts and a key stakeholder in the process, we are pleased to offer our continued support for the expansion of E-Filing Court Documents with the Office of Court Administration. With on-going consultation with County Clerks, judges and the local bar associations, the Office of Court Administration has done a superb job of developing the electronic filing application through which the New York State Courts Electronic Filing System (NYSCEF) functions.

NYSACC wishes to continue its strong support for further expansion of this program. Specifically, we encourage and recommend legislation be promulgated to allow for approval of mandated e-filing in matrimonial, mental hygiene, and Article 78 cases. In addition, we recommend the law be amended to allow for expedited approval so additional counties can begin e-filing. Additionally, the elimination of sunset clauses would remove the need for counties to continually seek approval from the state legislature for their already successful e-filing programs.

In conclusion, e-filing has proven to be beneficial in a variety of ways. Creating better efficiencies for all stakeholders while providing continued safeguards in the law for self-represented litigants, who may need to file documents in hard copy/paper format instead. Continuing to work collaboratively, we are pleased to offer our letter of support for the continued expansion of E-filing Court documents.

Sincerely,

Craig A. Hayner

President, New York State Association of County Clerks

# Appendix F

## Comments from Other Stakeholders

## Comments from Other Stakeholders

**From:** Miriam Davidson ESQ <Miriam@miriamdavidsonesq.com>  
**Sent:** Thursday, December 14, 2023 2:56 PM  
**To:** eFiling Comments  
**Cc:** plcollins2@gmail.com; jmayeresq@aol.com; Meredith Jones  
**Subject:** Automatic access to E-files in Guardianship Cases for attorneys who file notices of appearances for interested parties and interested parties required notice under Article 81 of the MHL

**Importance:** High

**Categories:** Green category

Dear NY Courts:

Currently, in New York County, Judge Tingling, the County Clerk, takes the position that a judge assigned to a guardianship case must authorize, by Order, access to the e-file for EVERYONE who is not the petitioner. Judge Tingling claims that he was not consulted with when the e-file system was implemented and that there is no provision for anyone other than the petitioner to have access to the e-file system without an additional order from the Court. I have discussed this matter with Judge Tingling, and he claims his hands are tied, even after I explained to him that County Clerks in other boroughs (Kings County, Bronx County) help interested parties obtain access to the e-file in guardianship cases without an additional order from the Court.

For example, Judge Carol Sharpe (M/o Caroline Laurent Corwin, Index No. 500648-2022), REFUSED to sign such an order after a request from litigant WHO DID NOT COMMENCE the proceeding (even litigants who filed Cross-Motions). Additionally interested parties (as defined under the statute) are prevented from accessing what is filed in the case, creating an opaque proceeding, rather than providing the transparency which was one of the foundational reasons that NY enacted Article 81 of the Mental Hygiene Law around 1993 replacing conservatorships and committees.

There must be uniform rules for the County Clerks to facilitate all parties represented by counsel and interested parties NOT represented by counsel, to have access to MHL Article 81 guardianship matters, all of which are now e-filed.

I am including Peter Collins, the spouse of Caroline Laurent Corwin, and a cross-petitioner, on this email: feel free to speak with him directly and Joel Meyer, Esq., his attorney in the annulment proceeding now before Judge Carol Sharpe on their inability to access documents e-filed in that matter. I am also including Meredith Jones on this email and have already notified her of the problems accessing e-filed documents in guardianship cases in NY County.

Respectfully submitted,

Miriam Davidson Esq.  
3 West 35<sup>th</sup> Street  
6<sup>th</sup> Floor  
New York, NY 10001-2204  
[miriam@miriamdavidsonesq.com](mailto:miriam@miriamdavidsonesq.com)  
Tel: 212-308-4810

## Comments from Other Stakeholders

**From:** Atika Turkistani <turkistaniatika@gmail.com>  
**Sent:** Wednesday, January 10, 2024 3:12 PM  
**To:** eFiling Comments  
**Subject:** NYCEF user feedback

Thank you for giving the opportunity to provide feedback regarding NYCEF e-filing. I am Atika Latif a.k.a Atika Turkistani, and has educational background of doctorate degree in medicine, and consider myself fluent in writing and speaking English language.

The e-filing process has been extremely frustrating to me since I filed my petition index number 718244/2023 on 9/1/2023. I am listing all the barriers below;

-difficulty in finding the form to submit- after completing online application for name change petition, and submitting online, I got rejected by county clerk multiple time without clear instructions of corrections need to be done. I called the helpline for queens county clerk, who deferred me to exparte department who later deferred me to online resource center, and then few other departments. I was on the phone for hours and no one knew what needs to be done. Finally someone told me an exparte order need to be submitted online along with the petition

-Next step was to locate the exparte form online. It took me another 7 calls and 3-4 hours to figure out how to find it and fill it. None of the representatives knew where its located and how it should be filled/submitted.

-Then I got rejected again by county clerk stating I need an RJI for the supreme court. Another few calls and hours down the line till I fill and ultimately submit RJI with exhibits for proof of address, birth certificate etc.

-My petition was declined as my electricity bill included my spouse name besides my name, and respectable judge considered the full name (my name + spouse name) to be my a.k.a name which was not mentioned in the petition, asked me to submit amended petition and mention this name as a.k.a.

-I submitted the petition again, paying fee for the 4<sup>th</sup> time, explaining the situation, and providing my marriage certificate with my spouse name and another con edison bill with my name only listed on the bill. The judge denied my petition again listing that I have not provided a reasonable explanation for the name- my name +spouse name, and suggested to submit an amended petition listing the name as a.k.a. I cannot do it as I was never known by this name so it would be a lie in the supreme court.

-I have called county clerk and they have told me to submit an appeal order, another petition and a statement to appeal the judge decision.

I am frustrated, and have wasted a lot of money, time and resources. All I want is to practice my basic right to change my name as a US citizen, and the system has failed so far.

Please look into this, I have provided my index number so you can review it if needed. Please make the process clear, and easy to follow especially the forms needed, how to submit them, and then how to appeal judge 's decision. Also can the representatives over the phone listen to the questions before transferring or directing to other department? Almost all of them interrupted even before questions was completed, and asked to call another department as I mentioned above.

I would really appreciate if the processes can streamline to serve the citizens better.

Respectfully,  
Atika Latif.



## Comments from Other Stakeholders

**From:** Dashnaw, Carolyn A. <cdashnaw@goldbergsegalla.com>  
**Sent:** Monday, December 18, 2023 12:35 PM  
**To:** eFiling Comments  
**Subject:** Individual case subscriptions & Attorney removal from a case

I think we should be able to subscribe to individual cases like in federal court as opposed to all cases. If opposing counsel doesn't want a certain assistant on a specific file they should be able to unsubscribe to receiving notices for that one case opposed to all cases.

If a party is stipulated out and other parties remain we should be able to remove the attorney from that case based on the individual stipulation unlike currently.

Thank you.

**Carolyn A. Dashnaw**

**Legal Assistant**

**DIRECT** 315.413.5411 | **EXT** 5511

**EMAIL** [cdashnaw@goldbergsegalla.com](mailto:cdashnaw@goldbergsegalla.com) | [goldbergsegalla.com](http://goldbergsegalla.com)

5786 Widewaters Parkway, Syracuse, NY 13214-1840

**FAX** 315.413.5401

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## Comments from Other Stakeholders

**From:** Robert Miletsky <rjmiletsky@rjmiletsky.com>  
**Sent:** Monday, December 18, 2023 11:26 PM  
**To:** eFiling Comments  
**Cc:** Robert Miletsky  
**Subject:** Comments on E-filing

Hi:

Thank you for the opportunity to comment on the Court's electronic filing system. The system works well. I have a few suggestions:

1. Once a case is started, or once we make a filing, the case should automatically be registered with e-Track. I understand they are separate systems, but hopefully at some point, there can be some automatic cross-referencing, so we do not have to log in separately to e-track to get the case on that system.

2. Allow us to add more documents on each page. As of now we can add – what around six or seven documents. However, on motions, we generally file a lot more documents. It would be more convenient if we can do more on each one page.

3. Revise how documents are identified once filed. This becomes an issue if we are filing – say on a motion – previously filed documents. If I make the Summons and Complaint Exhibit 1, it already had the filing information at top. Once the Summons and Complaint is filed as an exhibit, the new filing information is placed over the initial information – it really then cannot be read.

Thank you. The system does work well though.

Happy holidays

Robert J. Miletsky, Esq.  
Contributor: Expert Commentary - Construction Law:  
International Risk Management Institute, Inc. (IRMI.com)  
Fmr Editor and Writer: Contractors Business Management Report

## Comments from Other Stakeholders

**From:** Kevin Duffy-Greaves <kgreaves@mfjlegal.org>  
**Sent:** Tuesday, December 19, 2023 9:04 AM  
**To:** eFiling Comments  
**Subject:** NYSCEF Comment

Good morning,

As a practicing attorney in the landlord-tenant space in New York City, I am mostly pleased with my experience with NYSCEF and am grateful for the option to e-file documents. One feature I would like to see added to NYSCEF would be the ability to remove or at least "hide" cases that are discontinued from my case list. After years of using NYSCEF, my case list is very cluttered and difficult to search through. Thank you for your consideration.

Best,

Kevin Duffy-Greaves  
Supervising Attorney  
Mobilization for Justice, Inc.  
100 William Street, 6<sup>th</sup> Floor  
New York, NY 10038  
P: (212) 417-3884  
F: (212) 417-3891  
E: [kgreaves@mfjlegal.org](mailto:kgreaves@mfjlegal.org)

**From:** DelliCarpini, Chris <CDellicarpini@triallaw1.com>  
**Sent:** Monday, December 18, 2023 2:30 PM  
**To:** eFiling Comments  
**Subject:** Uploading vs. "Entry"

One of the most frustrating aspects of e-filing is the apparent difference between the uploading of a document by the court clerk and "entry" of that same document.

The practice varies widely from county to county, but typically the clerk will enter an order in the case file on NYSCEF only to re-enter that same document some days or weeks later as "entered." In other counties, however, it appears that a document is "entered" when the clerk uploads it to NYSCEF.

This is frustrating to counsel because we cannot file notice of entry of any court order without being sure that it has been entered. In the absence of any stated court policy or practice, we often have to call the clerk to clarify whether the order that they just uploaded has been entered-and if not, then we have to ask how we'll know when it is entered.

I don't understand the difference between uploading and entry, but I'd like to them occur simultaneously, so that we could be sure that any e-filed order is also entered.

Christopher J. DelliCarpini  
**Sullivan Papain Block McGrath Coffinas & Cannavo P.C.**  
1140 Franklin Avenue, Suite 200  
Garden City, NY 11530  
212.266.4207  
[cdellicarpini@triallaw1.com](mailto:cdellicarpini@triallaw1.com)

## Comments from Other Stakeholders

**From:** Robert Mascari <Robert.Mascari@madisoncounty.ny.gov>  
**Sent:** Tuesday, December 19, 2023 3:02 PM  
**To:** eFiling Comments  
**Subject:** E-Filing Comment

I believe the e-filing system is great with one caveat: Do away with a requirement to follow up the e-filing with paper copies. Now, my experience is limited to the 3<sup>rd</sup> Department, but it makes no sense to institute a safe and secure means of filing paperlessly then have to subsequently submit paper copies. In fact, a PDF with a decent version of Acrobat makes the reading easy and the searching even easier.

Thanks,

*Robert A. Mascari*  
*Chief Assistant District Attorney*  
Madison County District Attorney's Office  
Veterans Memorial Building  
Wampsville, New York 13163  
O: 315-366-2236  
F: 315-366-2503  
C: 315-399-6453  
Email: [robert.mascari@madisoncounty.ny.gov](mailto:robert.mascari@madisoncounty.ny.gov)



**From:** Boulé, Eugene T. <Eugene.Boule@wilsonelser.com>  
**Sent:** Friday, December 29, 2023 12:06 PM  
**To:** eFiling Comments  
**Subject:** Comments on Electronic Filing Program

Overall I am pleased with the electronic filing system. I would recommend one change; there should be two more categories added for withdrawing an attorney's consent or representation. Currently the choices include 1) a consent to change attorney being filed, 2) an order authorizing the withdrawal/change of attorney, 3) the attorney no longer being affiliated with the firm or no longer handling the file in the firm, and 4) the attorney having completed the purpose of their limited representation. I believe there should also be a category added for withdrawing representation **after a settlement** with one of the defendants to a multi-defendant case, and another category added **for an order dismissing the claims** against one of the defendants in a multidefendant case.

Thank you for your consideration.

Eugene T. Boulé  
Attorney at Law  
Wilson Elser Moskowitz Edelman & Dicker LLP  
150 E 42nd Street  
New York, NY 10017  
212.915.5587 (Direct)  
917.757.4412 (Cell)  
212.490.3000 (Main)  
212.490.3038 (Fax)  
[eugene.boule@wilsonelser.com](mailto:eugene.boule@wilsonelser.com)

Comments from Other Stakeholders

**From:** David Tolchin <dtolchin@lawjaros.com>  
**Sent:** Tuesday, January 2, 2024 4:50 PM  
**To:** eFiling Comments  
**Subject:** eFiling - Comments

**Christopher Gibson, Director  
OCA Division of E-Filing Office of Court Administration  
25 Beaver Street, Room 926  
New York, New York 10004**

**Dear Mr. Gibson:**

**Efiling in Supreme Court is generally GREAT! We have some suggestions:**

- 1. Can NYSCEF be programed permit a used to download all files on a motion sequence, or opposition, at once, like the federal courts do on PACER? Or, can there be a way to select for download a series of documents: say by checking “Docs 23, 24, 27, 44, 67, 98” or “all pleadings” or “all orders”. That would be a great time-saver!**
- 2. When a document saved upon download, can NYSCEF default to insert the doc number at beginning of a file name? Now it goes at the end of a file name, and is very hard to organize documents chronologically that way.**
- 3. The margin/date/doc number at the top of a document is overwritten when a previously filed document is re-filed. Can NYSCEF provide an option to reduce the document footprint by 7-10%, so that when it is re-filed, the new doc header will not obliterate the original information?**
- 4. Can NYSCEF be programmed to send a notice to the judge and/or all parties that an application has been pending more than 60 days, in violation of CPLR 2219(a). I have a petition for leave to serve a late notice of claim, where, ironically, the notice of claim was served just 7 days late. The petition has been pending fully briefed but undecided for over 18 months! Years ago there was a procedure—for the movant to write a letter to the judge—but that was discontinued apparently because it drew irritation against the movant. If NYSCEF sent periodic notices automatically, there would be no call for animosity aimed at the movant.**

**Efiling in Surrogate’s Court in New York City is generally USELESS! Nothing suggests to us that anyone in the Surrogate’s courts—particularly NY, Kings, Bronx, and Queens—reviews petitions when they are efiled. We deal mostly with petitions for Letters of Administration or Letters Testamentary—a very common application. We detect no increase in efficiency since the Surrogate Courts went digital. From our experience, the only movement ever achieved in any Surrogate’s Court file—whether efiled or paper filed—occurs after a considerable amount of time has passed, and when someone physically visits the clerk’s office and pleads with a clerk to look at a file. A colleague of mine recently did just that, after his straight-forward, no-issues petition had been pending for over six months. The clerk explained that the petition could not be processed because the check had gone stale! PLEASE PLEASE PLEASE assign more Surrogate Court clerks—at least in the short term—to purge what must be a huge backlog. Efiling alone is not breaking any jams. This is really an emergency.**

**Thank you!**

**David Tolchin, Esq. | Jaroslawicz & Jaros PLLC**  
225 Broadway | 24th Floor | New York, NY 10007  
212-227-2780 | [dtolchin@lawjaros.com](mailto:dtolchin@lawjaros.com)

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## Comments from Other Stakeholders

**From:** Emma Blair <emma@sarilaw.com>  
**Sent:** Thursday, January 4, 2024 2:00 PM  
**To:** eFiling Comments  
**Cc:** Bernadette Heid  
**Subject:** NYSCEF Suggestion

Dear Sir or Madam,

I think the overall functions of NYSCEF are great. One useful improvement would be to have a way that filers can edit/remove a document in the event of error. This way it would save your staff the time from having to go into the account to remove a document.

Very truly yours,

Emma N. Blair  
Paralegal  
Friedman & Friedman PLLC  
120 Bloomingdale Road, Suite 307\*  
White Plains, New York 10605  
(914) 686-8258 (Telephone)  
(914) 873-0957 (Facsimile)  
[emma@sarilaw.com](mailto:emma@sarilaw.com)

666 Old Country Road, Suite 704  
Garden City, New York 11530  
(516) 222-1030 (Telephone)  
(516) 222-1053 (Facsimile)

**From:** Chris Affronti <Chris@Affronti.law>  
**Sent:** Tuesday, January 16, 2024 9:10 AM  
**To:** eFiling Comments  
**Subject:** Efiling

Please add an ADR certification and order of reference button to the Monroe County Clerk's Office website.

**Francis C. Affronti**



2024 W Henrietta Road, Suite 5A  
Rochester, New York 14623  
Office: (585) 978-7870  
Cell: (585) 733-3898

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## Comments from Other Stakeholders

**From:** Abdul, Mohammed <MAbdul@DC37.NET>  
**Sent:** Tuesday, December 26, 2023 6:22 PM  
**To:** eFiling Comments  
**Subject:** NYSCEF Edit Necessary

Dear Sir/Madam,

NYSCEF presently does not permit UNNAMED parties (and their attorneys) to appear in landlord-tenant proceedings.

This ought to be corrected as a party (such as a co-tenant) may not be sued, yet have an absolute interest in preventing his/her eviction.

Yours,

Mohammed Abdul, Esq.  
Staff Attorney, Housing Unit  
DC 37 Municipal Employees Legal Services  
55 Water Street – 22<sup>nd</sup> Floor  
New York, New York 10041  
Tel. [212-815-1875](tel:212-815-1875)  
Fax. [212-815-1871](tel:212-815-1871)  
<https://www.dc37.net>

**From:** Yandy Reyes <estateplanningreyes@gmail.com>  
**Sent:** Tuesday, December 26, 2023 4:38 PM  
**To:** eFiling Comments  
**Subject:** Efficiency and Green Initiative - Option to Reduce Paper Mailing

I recommend that the court provide an option to e-filers so that we do not receive paper documents via mail when those documents are available online. That will save the courts work and make it easier for us to obtain documents online -- and avoid documents being lost in the mail.

Best of luck and happy holidays.



## Comments from Other Stakeholders

**From:** Matthew C. Kesten <mkesten@ssrga.com>  
**Sent:** Tuesday, December 26, 2023 1:22 PM  
**To:** eFiling Comments  
**Subject:** comments to NYS Electronic Filing Program

Mr. Gibson,

I write to wholeheartedly endorse the continuation and expansion of electronic filing to all NY Courts, with a small caveat or carve out that I believe is needed with regard to two instances of filings through NYSCEF (unless already included in the NYSCEF rules).

1. In truly emergency situations in which a TRO is sought without notifying the opposing party (for fear of rendering the request for a TRO moot if the other side were to be aware of the request), a filing through NYSCEF in fact notifies the opposing party of the request for a TRO prior to the Court acting on the request and prior to service being made, giving the opposition time to act (and potentially render the TRO moot) before the TRO is granted and served.
2. In connection with some motions seeking leave to withdraw as counsel, in which allegations about a client are made which might prejudice the client if known to the other side, it is common to request that the Court permit service of only the Order to Show Cause (seeking leave to withdraw) without supporting papers upon opposing counsel. Again, the filing of the entire motion with supporting papers through NYSCEF provides opposing counsel with copies of all papers before the Court has even acted on the motion and therefore all of the allegations which might prejudice the client.

In such situations, it seems that there should be some formalized procedure or carve out from the electronic filing rules so as to permit direct contact with the Court/the assigned Justice to seek to file hard copies of papers and eliminate the opposition from knowing about the filing until after it was acted on by the Court/assigned Justice, and avoid the two scenarios mentioned above.

Thank you.

SCHWARTZ  
SLADKUS  
REICH  
GREENBERG  
ATLAS LLP

**Matthew C. Kesten**

[mkesten@ssrga.com](mailto:mkesten@ssrga.com)

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444 Madison Avenue, New York, NY 10022

Phone: 212-743-7000 | Fax: 212-743-7001

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## Comments from Other Stakeholders

**From:** Robert Lefland <Robert.lefland@ondrovicplateklaw.com>  
**Sent:** Thursday, January 4, 2024 1:04 PM  
**To:** eFiling Comments  
**Subject:** removing my name

Like most attorneys, I find electronic filing to be a godsend.  
One issue has recently arisen for me and I am sure it exists for many others. It has to do with receiving on-going emails.

In a multi party litigation, my clients were granted summary judgment and the case against them is over, no appeal by anyone.

Yet as the case continues, I still receive emails as a result of subsequent submissions.

NYSCEF tells me that there is no way that my representation/email address can be removed from the system.

Really? Why not? I am not seeking to have my representation removed from the record, simply that I be removed from any future emails.

There should be a way.....

Thank you very much.



ROBERT M. LEFLAND, ESQ.  
ONDROVIC & PLATEK, PLLC.  
303 OLD TARRYTOWN ROAD  
WHITE PLAINS, NY 10603  
[ROBERT.LEFLAND@ONDROVICPLATEKLAW.COM](mailto:ROBERT.LEFLAND@ONDROVICPLATEKLAW.COM)  
MAIN: (914) 821-5300  
DIRECT: (914) 265-4217

## Comments from Other Stakeholders

**From:** Courtney Radick <cradick@apfwlaw.com>  
**Sent:** Friday, January 5, 2024 3:25 PM  
**To:** eFiling Comments  
**Subject:** Comment

Good afternoon:

With so many more cases being e-filed now, sometimes it is hard for me to locate one of my own cases. Instead of having to use the search feature for all cases, I think it could be helpful if we could search just our own cases.

Thank you for your consideration of this information.

Courtney S. Radick, Esq.  
Amdursky, Pelky, Fennell & Wallen, P.C.  
26 East Oneida Street  
Oswego, New York 13126  
Telephone: (315) 343-6363  
Facsimile: (315) 343-0134  
Email: [cradick@apfwlaw.com](mailto:cradick@apfwlaw.com)  
[www.apfwlaw.com](http://www.apfwlaw.com)



Amdursky  
Pelky  
Fennell  
Wallen

## Comments from Other Stakeholders

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**From:** Linette Espinal <linette.espinal@mcbllaw.com>  
**Sent:** Friday, January 5, 2024 2:35 PM  
**To:** eFiling Comments  
**Subject:** Notice Seeking Comments on Electronic Filing Program  
**Categories:** Green category

As per your request, here are some minor improvements I feel must be added to the E-Filing System (generally the Civil/Supreme, if that makes any difference):

- An option for a "Motion to Compel" in the "Main Relief Sought" section of the filing;
- Confirmation Pages used to also list "Additional Document Information" comments, now it just remains a blank space. Can this feature please return to the NYSCEF e-filing system, it helps with documentation/identification purposes (i.e. exhibits for motions, etc.)
- Document Limit Size used to be an error at the top of the page when uploading a document that was oversized (there used to be red lettering at the top of the page indicating the error of a document being oversized), however, now there is an "error gateway" error (new webpage that pops up) that makes the filing user think that they have timed out or that NYSCEF is somewhat experiencing server issues. Please revise this to prevent a surmountable waste of time trying to figure out why the server "timed out" when in fact it was just that a document didn't meet the size criteria for the site...

That is all of the ideas I feel would improve the NYSCEF site. Thank you for your time and consideration..

Best,  
Linette



**Linette Espinal** | Executive Assistant  
90 Merrick Avenue, Suite 401 | East Meadow, New York 11554  
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## Comments from Other Stakeholders

**From:** Debra Castiglione <dcastiglione@pmtlawfirm.com>  
**Sent:** Tuesday, January 9, 2024 9:03 AM  
**To:** eFiling Comments  
**Subject:** Comments on Efiling -

Good morning: Personally, I love the eFiling concept and think it saves tons of time. I would like to see an option to “withdraw” a document for a certain period of time – maybe 15 minutes – in case you hit the submit button and realize that there was an error. By way of example, there was a handwritten change by an attorney on an Answer that I missed. He had signed it and I efiled it. I was looking through the Answer after I efiled it and realized I had missed a correction. I immediately made the correction and efiled an Amended Answer. It would have been very helpful if I could have withdrawn that efiled Answer and re-file it without having to efile an Amended Answer.

If there is an easier way to correct an instance such as the above, please let me know!

Thank you.  
Debra

*Debra L. Castiglione*  
*Office Manager*

**Pillinger Miller Tarallo, LLP**  
555 Taxter Road, Fifth Floor  
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Elmsford, NY | Buffalo, NY | Garden City, NY | New York, NY | Syracuse, NY | Roseland, NJ | Philadelphia, PA | Norwalk, CT



## Comments from Other Stakeholders

**From:** Steven Beard <SBeard@coranober.com>  
**Sent:** Tuesday, January 9, 2024 5:19 PM  
**To:** eFiling Comments  
**Subject:** Comment on New York State Courts Electronic Filing Program  
**Attachments:** Letter with Efile Comments dated January 10 2024.pdf

Attached please find a comment from the undersigned in support of legislation making electronic filing mandatory and uniform for all courts in all counties.

Very truly yours,

Steven T. Beard, Esq.  
Associate  
Coran Ober P.C.  
25-02 Francis Lewis Boulevard  
Flushing, NY 11358  
Tel: (718) 767-1177  
Direct: (914) 521-4458  
Fax: (718) 767-2455

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## Comments from Other Stakeholders

**From:** Stockler, Asher <AStockler@lohud.com>  
**Sent:** Wednesday, January 10, 2024 2:59 PM  
**To:** eFiling Comments  
**Subject:** NYSCEF Comments

Good afternoon,

I am writing to include my comments in the feedback period for the NYSCEF system. I am a journalist with Gannett Co., Inc., dba The Journal News and lohud.com. There is no reason why non-party users of the NYSCEF system, such as myself, should not be able to receive automatic notifications when there are new filings in cases we are tracking. The federal PACER system, which is the federal analogue to NYSCEF, allows non-party users such as members of the media to receive automatic case updates. There is no reason why the same feature cannot be replicated in NYSCEF. It is a burden to manually refresh a page multiple times per day to see if there are new filings in a case. The system should be configured to alert users when cases they are tracking have new activity, including a new filing.

Thank you,

**Asher Stockler**  
Reporter  
The USA Today Network New York

**lohud.**

o: (914) 694-5060  
c: (914) 267-7050

**From:** Nick Rivera <nick@servesmarter.net>  
**Sent:** Tuesday, January 16, 2024 12:33 PM  
**To:** eFiling Comments  
**Subject:** Civil Court Efiling

We file many cases in the Civil Courts of New York City. No fault via NYSCEF and other cases such as consumer credit cases, physically. We have found that the NYSCEF filing process significantly reduces error with filings. If consumer credit was moved to NYSCEF it would greatly reduce the number of issues that we find with filing physically, such as the same index number being issued to multiple cases because a wrong stamp was used, no filing dates being stamped on summonses, papers and checks getting lost, etc. I would assume that it would make it much easier for consumers to answer as the summons as well.

Regards,

Nick Rivera  
Progressive Legal Support  
99 W Hawthorne Ave Ste. 418  
Valley Stream, NY 11580

## Comments from Other Stakeholders

**From:** Daniel Trenk <daniel@trenklaw.com>  
**Sent:** Thursday, December 14, 2023 1:02 PM  
**To:** eFiling Comments  
**Subject:** Comments re NYSCEF notifications

It would be useful to have a way of removing myself from e-filing notifications in cases I am no longer actively involved in.

I don't believe there currently is a process for doing so.

**Daniel Trenk**  
Managing Attorney, Trenk & Trenk, LLC  
646.470.0020 / [daniel@trenklaw.com](mailto:daniel@trenklaw.com)  
954 Lexington Ave. Suite #1024 New York, NY 10021

**From:** Hon. Debra Silber  
**Sent:** Monday, December 18, 2023 10:02 PM  
**To:** eFiling Comments  
**Subject:** A comment

Enabling the uploading of video needs to happen. There is no other way to assure the video sent to the judge as a part of a motion is the same as provided in an appeal.



## Comments from Other Stakeholders

**From:** Hon. Andrea Masley <[amasley@nycourts.gov](mailto:amasley@nycourts.gov)>  
**Sent:** Thursday, January 11, 2024 10:31 PM  
**To:** Christopher Gibson <[cgibson@nycourts.gov](mailto:cgibson@nycourts.gov)>  
**Subject:** While I'm waiting to be allowed back into efilng and esiging..

Hi Chris,  
Happy New Year. I write in response to the following invitation:

In preparation for an annual report on e-filing, to be submitted to the Chief Judge, the Governor, and the Legislature, the Office of Court Administration is seeking comments from the public addressing users' experience with NYSCEF. Observations and recommendations are welcome from attorneys, litigants, and other members of the public. [View Posted Notice](#). Interested parties may [email comments](#), or submit them by letter to Christopher Gibson, Director, OCA Division of E-Filing, 25 Beaver St, Room 926- New York, New York 10004. **Comments will be accepted through January 16, 2024.**

Efiling is a game changer. I'm not sure how we lived without it. When documents are properly identified in NYSCEF, writing decisions become much easier. Decisions are better because there are clear citations to the record. The one request I would make is that all documents be stamped at the top with the NYSCEF number and date filed. Whether I am looking at the screen with many documents open or I have printed out documents as well, it makes our job much more difficult if we have to keep checking to find the NYSCEF number for a document.

Thank you for all you and efilng do to help us.  
Andrea.

JUSTICE ANDREA MASLEY  
SUPREME COURT, NY COUNTY, PART 48,  
COMMERCIAL DIVISION  
60 CENTRE STREET, ROOM 242  
NEW YORK, N.Y. 10007  
646-386-5174  
[AMASLEY@NYCOURTS.GOV](mailto:AMASLEY@NYCOURTS.GOV)

## Comments from Other Stakeholders

**From:** Jason Tenenbaum <jason@JTNYLAW.com>  
**Sent:** Friday, January 12, 2024 10:36 AM  
**To:** eFiling Comments  
**Subject:** NYSCEF e-filing/ comment

Good morning,

I wish to share my comment about the NYS E-filing system. I practice primarily in the State Courts of New York, New Jersey and Florida. I would like to initially note that the Supreme Court e-filing system in New York is very user friendly, compared to systems in other states. The features allow statewide searches by name and are usually quick in returning results. The ability to upload exhibits individually and the field given the users to complete the information is a plus. Again, it is very user friendly.

My two issues with the system involve hyperlinked documents causing "security issues" and the system "timing out" when large amounts of exhibits are uploaded during the same session. The former has made it very difficult for me to upload Lexus hyperlinked documents in appellate briefs. This has caused me to look for free online case citations that do not contain the same error to avoid hyperlinking and/or to attach the case to the end of the brief. This is suboptimal.

When I have to upload many exhibits, the system will often time out; then I will need to upload everything again. This can add 1-2 hours of work. This is also suboptimal.

In total, and as I have commented in years past, the New York system is better than the New Jersey system which I can only characterize as clunky and the Florida system, which does not allow individual exhibits to be uploaded. The NYSCEF system is also easier to work with than the federal system in terms of layout. Again, I believe except for the two issues I identified, OCA has done a great job with NYSCEF.

Now, my biggest gripe is that we are in the year 2024 and my lower court practice is still paper filing and EDDS filing, no-fault and landlord-tenant notwithstanding in the Civil Courts.

The time has come where OCA needs to by the end of the year get the Long Island District Courts, the State City Courts, the State Village/justice/town courts, and the remaining Civil type cases in the Civil Courts on the e-filing platform. While I am not a large criminal practitioner, County Court and Supreme Court criminal cases should be e-filed also.

As a practitioner, I am very hesitant to file certain case types in the lower courts because the inability to e-file adds additional cost, expense, and uncertainty to my practice. I know I am not alone. Supreme Court should not be the court of default due to a lack of e-filing system in the lower courts. And what I will tell the committee is that certain actions that I know are within the \$50,000 Civil Court jurisdiction will be brought in Supreme Court due to the e-file capabilities. As a cruel irony, if these cases are "325-d", then they will be placed in the e-filing platform in the Civil Courts.

As a comparison, Florida County Courts (our lower courts) and New Jersey Special Civil Supreme Court (our lower courts) all are e-filing courts.

I would urge OCA to get this done by the end of the year. The bar would greatly appreciate this modernization.

Two more ancillary comments. First, Kings County Civil Court has a 4-6 month backlog in assigning index numbers on e-filed cases. I think that needs to be addressed. Second, certain lower courts (Nassau District Court and Suffolk County Third District) refuse to participate in EDDS. Unsure if OCA has approved of this arrangement.

In conclusion, I think the state is headed in the right track with the e-filing program.

Thank you for considering my comments.

Jason Tenenbaum, Esq  
**The Law Office of Jason Tenenbaum, P.C.**  
35 Pinelawn Road  
Suite 105E  
Melville, NY 11747

## Comments from Other Stakeholders

**From:** Nolen, Meredith <Meredith.Nolen@lewisbrisbois.com>  
**Sent:** Monday, January 15, 2024 3:22 PM  
**To:** eFiling Comments  
**Subject:** Comment on an Issue with NYSCEF and Consenting to Representation

Good afternoon,

I saw that you are accepting comments on issues with NYSCEF. One issue we have had is that an attorney left our firm and went to another firm. When she changed her e-mail on NYSCEF, it did not delete her consent for representation from all of the cases where she had previously recorded representation while at our firm. She will not delete it either even though her new firm is not representing those defendants. We cannot delete her either. So, now, NYSCEF shows two law firms representing the defendant, one of which has no authority to represent the defendant in court.

There should be a way where we can request that she be deleted from her representation on NYSCEF or that we can request that NYSCEF ask this attorney to prove that she has been retained as counsel on these cases. As an example, if you look at **741947/22 (Kings Cty. Civil Court)**.

If you go to the details regarding representation, it lists Sarah Rubin at Gallo Vitucci and Meredith Nolen at Lewis Brisbois. The law firm of Gallo Vitucci DOES NOT represent the defendant. The case stayed with Lewis Brisbois when she left. But, she refuses to remove her new firm's representation from NYSCEF despite my request.

If this does not make sense, please feel free to call me. My office number is 212-232-1365 or cell 212-363-0728.  
Meredith



**Meredith Nolen**  
Partner  
Meredith.Nolen@lewisbrisbois.com

T: 212.232.1365 F: 212.232.1399

77 Water Street, 21st Floor, New York, NY 10005 | [LewisBrisbois.com](http://LewisBrisbois.com)

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## Comments from Other Stakeholders

TO: Christopher Gibson, Director, OCA Division of E-Filing

FROM: Anette Bonelli, Supervising Attorney, DC-37 Municipal Employees Legal Services

DATE: January 16, 2024

RE: New York state Courts Electronic Filing Program

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DC-37 Municipal Employees Legal Services (MELS) is a legal services office that provides free legal services to eligible members of District Council 37 in certain areas of the law. As relevant to this comment on NYSCEF, MELS represents its clients who face eviction in a summary proceedings in any of the Housing Courts in the City of New York, as well in as the counties of Westchester, Nassau, and parts of Suffolk.

As you know, in September 2020, electronic filing became available in the Housing Courts in New York City. While there have been many benefits associated with electronic filing in Housing Court, there is one enormous problem affecting certain persons' due process rights that NYSCEF has not solved despite, upon information and belief, being advised of the problem by the court administrators.

Where a person resides in an apartment in NYC<sup>1</sup> as an occupant, but is not named in the caption of a summary nonpayment proceeding in Housing Court, that person has a right to answer the petition pursuant to section 743 of the Real Property Actions and Proceedings Law (RPAPL). Prior to electronic filing, such a person/occupant or their attorney could file their answer with the clerk in Housing Court. However, NYSCEF lacks a mechanism for an occupant who is not named in the caption to answer the petition in a nonpayment<sup>2</sup> proceeding, whether the occupant is pro se or represented by counsel. As a result, where the named respondent has died or vacated or declines to answer the nonpayment petition, the occupant is denied their due process right to answer the petition.

Current and former administrators of the Housing Court have stated that they have requested that NYSCEF correct this problem, but that NYSCEF has not yet fixed it. I urge you to promptly modify NYSCEF so that the attorney for an occupant of a dwelling unit can answer a petition in Housing Court even where the occupant is not named in the petition and where there is no "John Doe" or "Jane Doe."

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<sup>1</sup> In NYC, in a nonpayment proceeding, there is no court date set forth in the notice of petition. Rather, the court date is scheduled if and when a respondent answers the petition. In Nassau, Suffolk, and Westchester, the court date is set forth in the notice of petition.

<sup>2</sup> In a holdover proceeding, the petitioner generally names fictitious persons with fictitious names such as "John Doe" and "Jane Doe." An unnamed occupant or their attorney can answer via NYSCEF by consenting and filing for such respondent named with such a fictitious name. However, petitioners do not generally name a "John Doe" and a "Jane Doe" in a nonpayment proceeding.



January 16, 2024

Christopher Gibson, Director  
OCA Division of E-Filing Office of Court Administration  
25 Beaver Street, Rm. 926  
New York, New York 10004  
efilingcomments@nycourts.gov

Re: Comment on New York State Courts Electronic Filing Program (NYSCEF)

Dear Mr. Gibson:

Thank you again for the opportunity to comment on the New York State Courts Electronic Filing Program (NYSCEF) and the proposed amendments to Criminal Procedure Law §10.40, the New York City Criminal Court Act, Family Court Act §241, CPLR Article 21A and other relevant statutes to authorize the Chief Administrative Judge to mandate courts across New York State to accept electronic filings with limitations, exceptions, and consent as set forth therein.

Last year, we submitted our comments in a letter, dated December 15, 2022. We were optimistic about this technological step forward for our courts and stakeholders, especially in light of the need to modernize and increase access to our Courts as we experienced during and after the COVID-19 Pandemic. See Final Report of the Pandemic Practices Working Group as part of The Commission to Reimagine the Future of New York's Courts (January 25, 2023)(recommending expansion of electronic filing, NYCourtsPandemicPracticesReport.pdf) Since our comments last year, it appears that little has progressed as to expansion to the criminal courts. We remain disappointed that plans to expand access to courts by piloting NYSCEF in identified Supreme Courts, Criminal Term, are still delayed and have yet to resume.

We reiterate that together we bring a broad perspective of our community that we serve in need of greater access to our courts. We represent thousands of people in criminal, family, immigration, and civil legal matters every year. We practice in some of New York's busiest courthouses and have seen the impact the pandemic has had on our clients and communities firsthand. We have been active stakeholders, voicing such needs for greater access in testimony before the Commission to Reimagine the Future of New York's Courts and its working groups. We have also served on NYSBA's Task Force on the Modernization of Courts which included a subcommittee on technology. We continue to call for the development and implementation of electronic filing via a secure and well-developed portal.

We must however provide access to all including vulnerable populations who are often penalized for the digital gap inside our court system. We also have grave concerns about privacy and security of confidential client information, accessibility of data, and mandating a statewide system before rules are

promulgated and a full pilot program launched. Although we agree there are many benefits to an electronic filing system in New York's court system, these benefits can only be fully realized after rules have been promulgated and the system is thoroughly tested. Our offices continue to welcome the opportunity to be part of this project from its inception and remain invested in ensuring the new system is accessible and efficient while also protecting the privacy of all its users and litigants.

As we continue to assess our courts together and develop paths forward, we must address concerns with NYSCEF as we develop and implement a much need platform to provide greater access:

### **1. Security and Privacy Concerns**

We must provide security and privacy required in a digital platform that will hold critical confidential, and highly sensitive information of thousands of New Yorkers. Our offices share the Commission's privacy and security concerns, as detailed in its 2020 report.<sup>1</sup> The vulnerable populations we represent, those accused of crimes, parents accused of child neglect and abuse, undocumented immigrants, survivors of domestic and sexual violence, are especially at risk of the life altering consequences should their court records ever be improperly accessed. We must protect against improper access of a person's court record which may compromise their employment, housing, immigration status and ruin their life. Yet, far more information is needed now about how court documents, discovery and sensitive information will be stored, secured, and accessed only by counsel, prosecutors and court personnel while a case is pending. If discovery materials are to be uploaded, we need to ensure that only counsel have access to discovery materials. Documents filed electronically should remain confidential and not be accessible to the public unless and until there is a conviction. If *ex parte* applications are filed, the electronically filed document and the fact of its filing should be unavailable for viewing online by any other party.

### **2. Rules for NYSCEF Are Needed Before It Can Be Rolled Out Across the State**

We cannot expand and mandate NYSCEF into new areas, such as criminal matters, without first conducting and completing the proper process to promulgate rules. Committees were established to draft rules to define how the electronic filing portal will be used and its impact on the legal rights of the parties involved. Proposed rules would then be subject to public comment,<sup>2</sup> and final rules are then published. See, e.g., NY Ct. Rules 202.5 (setting forth rules for Civil matters). Yet, to date, no proposed rules have been shared with any committee regarding implementation for criminal matters. No such rules have been offered for public comment nor promulgated. We must move forward now on Rules and such Rules must address critical legal issues, such as:

- Categories or types of legal matters which will require mandatory electronic filing;
- Instruction on registration and access rights for counsel and filing agents, including notifications as to which parties will have access to the filed documents;
- Procedural rights as to filing deadlines and accuracy of filings and service [with time and date stamps for all filings];
- Provision for emergency applications, including the filing of Orders to Show Cause and Temporary Restraining Orders, how papers will be conformed without missing statutory deadlines and how cases will be calendared.

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<sup>1</sup> <https://www.nycourts.gov/whatsnew/pdf/OCWG-Report.pdf>

<sup>2</sup> OCA, for example, posts requests for comments publicly using, in part, the OCA website, here: <https://ww2.nycourts.gov/rules/efiling/index.shtml>.

### 3. Conduct Full Pilot Project

With criminal matters, proper testing and feedback first must be conducted through a pilot project before an untested portal replete with confidential information be mandated statewide. During the development of NYSCEF for criminal court, many stakeholders working together provided invaluable and critical feedback leading to significant revisions of NYSCEF screens. However, such feedback occurred prior to substantial changes in bail and discovery reform leaving questions as to additional required updates to address changes in law. The current platform needs to be thoroughly tested by all parties (prosecutors, defense counsel, and court) to determine if there are any issues and address the needs of all before mandating electronic filing statewide.

In conclusion, there is much more we need to understand about the vulnerabilities and security measures needed for electronic filing, how to protect the privacy of litigants and how to ensure greater access before New York rolls out a state-wide mandatory e-filing system in all its courts. We strongly recommend that the project first be piloted in several localities, as was recommended in 2019, allowing the system and its accompanying rules to be tested and gathering critical stakeholder feedback before the system is mandated and implemented across all courts in New York State.

We hope to continue the conversation with your office on this issue. Please reach out with any questions.

Sincerely,

Lisa Schreibersdorf  
Executive Director  
Brooklyn Defender Services

Ann Matthews  
Managing Director  
The Bronx Defenders

Justine M. Luongo  
Attorney-in-Chief  
Criminal Defense Practice  
The Legal Aid Society

Alice Frontier  
Managing Director  
Neighborhood Defender  
Service of Harlem

Stan German  
Executive Director  
New York County Defender Services

Lori Zeno  
Executive Director  
Queens Defenders

## Comments from Other Stakeholders

Chief Operating Officer

**From:** (212) 685-9800 Office  
(212) 340-0629 Direct  
(800) 427-7325 Toll Free  
(718) 696-0885  
Maria Piperis <mpiperis@counselpress.com>  
**Sent:** Tuesday, January 16, 2024 1:52 PM  
**To:** eFiling Comments  
**Cc:** Cristina Stout; Scott Thompson  
**Subject:** Counsel Press' Feedback and Suggestions for Enhancement of NYSCEF Filing Program

**Importance:** High

Good afternoon,

In response to the court's solicitation of feedback on the NYSCEF Filing Program, I am pleased to submit the following points for your consideration on behalf of Counsel Press:

1. Is it possible to link appeal numbers for cases associated with each other? Similar to Pacer's functionality, this feature would prove highly beneficial. When consolidating multiple appeals, establishing a connection to the secondary appeal would eliminate the need for multiple uploads to separate cases.
2. Could the lower court case and appellate case be linked for seamless access? A feature enabling users to click on one docket and effortlessly navigate to the other would enhance efficiency.
3. Is there a possibility of developing a direct upload feature for digital/video exhibits to NYSCEF?
4. Can additional document categories be introduced specifically for Original Proceeding filings and Transfer Proceedings? Currently, various documents such as Answers, Records of Proceedings, and Petitions must be filed under the generic "other" category, with the actual document name entered in the notes.
5. Could the functionality be added to log in, track a case, and receive email alerts without the necessity of consenting to represent a party?
6. Another enhancement would be the inclusion of the Note of Issue in the dropdown menu when perfecting in AD1. Currently, the dropdown menu comprises a Record and Appellant's Brief but lacks an option for the Note of Issue. This requires users to take additional steps to separately e-file the NOI.

Thank you for your attention to these suggestions and your ongoing commitment to the advancement of the NYSCEF Platform. We look forward to continued collaboration and appreciate the valuable features the platform provides. If I can be of further assistance, please feel free to contact me.

Sincerely,  
Maria Piperis



## Comments from Other Stakeholders

**From:** perdiem@pfwattorneys.com  
**Sent:** Wednesday, January 17, 2024 11:26 AM  
**To:** eFiling Comments  
**Subject:** NYSCEF COMMENTS

**Importance:** High

Since there are 62 counties in NYS there are still some courts [Alleghany] that still do not subscribe to NYSCEF ELECTRONIC FILING. That notwithstanding there appears to be little if any uniformity with the courts that subscribe to and use NYSCEF. For example, The way the civil docket number is entered into the system some courts use "E"; "EF"; "EFCA" or none of those letters and just The actual number. Some courts have five or six zeros preceding the actual number and all digits must be entered in order to Locate the case. Some courts use the court notice section and some do not. Often times there is information in the court notice Section albeit it is old information. For example, the attorney will receive a NYSCEF email scheduling a matter for either an in Person appearance or a virtual appearance but that information is not necessarily on the NYSCEF website only available in an Email. Some courts use the comments section some do not. I would like to see more consistency among all courts in NYS with the Use of NYSCEF particularly as it relates to comments and court notice section and a uniform way of entering the court docket Number. Additionally, some upstate courts do not indicate the year of the court filing just the index number for example: 12345/\_\_\_\_ Please feel free to respond to this email and thank you for the opportunity to allow me to provide my observations regarding the Usage of NYSCEF.

**PFW** Pressler, Felt &  
Warshaw, LLP  
**Eileen Barton**  
**Pressler Felt & Warshaw, LLP**  
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