

New York County Surrogate's Court NYSCEF Protocols

These Protocols do not supersede any statutory or regulatory provisions regarding electronic filing as those are controlling and take precedence.

1) Eligibility for E-Filing:

E-filing is consensual in all proceedings in the following areas:

Probate, Administration, Small Estates and in all related and subsequent proceedings thereto.

All such proceedings may be commenced by filing with the court electronically through NYSCEF and, except in limited circumstances, all subsequent documents filed by participating parties must be e-filed.

The following proceedings are **NOT** permitted to be e-filed. They must be filed in person or mailed to the court with the proper filing fee, if any:

- **All Accounting Proceedings**
- **All Miscellaneous Proceedings** (including but not limited to Apartment Searches, Compulsory Accountings, Advance Payment of Commissions, or Legal Fees, Applications to Appoint a Trustee or Successor Trustee, Petitions to Compel Production of a Will, Discovery proceedings, Petitions to Suspend or Revoke Letters or Remove a Fiduciary, Orders to Show Cause, Orders to Attend, Applications to Record Powers of Attorney, Safe Deposit Box Searches Petitions, Applications to Compromise Wrongful Death Causes of Action, Turnover proceedings)
- **Lifetime Trust matters**
- **Guardianships**
- **Adoptions**

Further, motions are NOT permitted to be e-filed. All motions and papers in support of or opposition to those motions, regardless of the type of proceeding in which a motion is made, must be filed in person or mailed to the court.

2) Non-Participation in E-Filing:

- **Declination of Consent (Consensual Cases):** Attorneys who do not consent to e-filing in a consensual proceeding should file a declination of consent with the court and serve the

declination on all parties. Non-participating attorneys in a consensual proceeding must attach a Notice of Hard Copy Submission – E-Filed Proceeding (see NYSCEF forms page [Document Delivery Home \(state.ny.us\)](http://www.state.ny.us/document-delivery-home))

Unrepresented litigants in a consensual proceeding are not required to decline consent or to attach the Notice of Hard Copy Submission – E-Filed Proceeding to any of their hard copy filings.

3) E-Filing Documents in the New York County Surrogate's Court:

Prior to entering any information into an initial filing, an inquiry on the decedent's last name, using the first initial, to see if a file is already open should be run. Due to the numbering system in Surrogate's Court, an inquiry based on the file number alone may not produce accurate results. Please do NOT call the court to determine if a proceeding was already filed. In addition, you must ascertain whether there may be another Will for the decedent on file with the court. To make an appointment to visit the court's records room or to order record searches, please call (646) 386-5090.

Any error in the initial entry of case information can significantly delay the proceeding. The Court will only accept filings for decedents who resided in New York County (or with property or causes of action in New York County) unless it is an Ancillary petition and the decedent had property in New York County.

The case name must be entered as follows:

- Initial entry must be identical to the signature on the Will
- If the name on the death certificate is different, add as an "AKA"
- If the name on the Will does not match the signature, add as an "AKA"
- Add any other AKA that may appear on the decedent's assets

- The Request for Surrogate's Court Action is not a required filing. Do not include.
- Death Certificates: In addition to e-filing the death certificate, a certified copy must be mailed to the court within two (2) business days of e-filing.
- Wills: The original Will is required to be scanned by the filer; the Will must not be unstapled. Scan the original Will, but DO NOT UNSTAPLE it. Mail to the court the original paper Will within two (2) business days of e-filing.
- Citations: Submit a proposed citation electronically through NYSCEF. The court will complete the citation and upload the completed version to NYSCEF as quickly as possible. If your proposed citation requires amendment, you will be notified.

- **Decrees and Orders:** E-file proposed decrees and orders through NYSCEF. Once the decree or order is signed, the court will upload the signed version to NYSCEF and notify all consenting parties that the decree or order has been signed and posted. Users who have requested a certified copy of the decree or order and have paid the appropriate fee will receive the certified copy.

- **Oversized Exhibits:** If an exhibit or attachment is unsuited for electronic filing (e.g., a large map, large family tree), it shall be submitted to the court and served on the other parties in hard copy. Attach a Notice of Hard Copy Submission – E-Filed Proceeding. In addition, a Notice of Hard Copy Exhibit must be completed and electronically filed. (See Forms page on the NYSCEF site <https://iappscontent.courts.state.ny.us/NYSCEF/live/forms.htm>.)

- 4) **Payment:** This court accepts payment of fees required by the SCPA by credit card payments made via NYSCEF, attorney or bank checks mailed to the court, money orders or by payments made at the court (cash, credit and debit cards.) There is an additional administrative fee for using a credit or debit card. Fees are calculated in accordance with SCPA § 2402 based on the documents filed with NYSCEF and the representation regarding the value of the estate. Review by the court may result in a modification of the fees initially anticipated or charged. In the event of any such modification, the court will contact the filing user by e-mail with the proper amount and request an additional fee, if applicable. This court will not allow the filing of additional documents by the filer if the filer owes an outstanding fee in that proceeding.

If choosing to pay at the court, be aware that documents are not “filed” until payment is received. The court cannot process the filing until payment is received in full.

- 5) **Notifications:** Notification of defective filings will be sent out by e-mail or by telephone, depending on the circumstances.
- 6) **Signatures:** Documents requiring signatures shall be signed under the circumstances outlined in Uniform Rule §207.4-a(f). When e-filing a document bearing an actual signature, the e-filer is responsible for maintaining the original, executed document pursuant to Uniform Rule 207.4-a(f)(2).
- 7) **Decrees, Orders, and Written Decisions:** Decrees, Orders, and Written Decisions will be issued electronically or signed in hard copy by the Surrogate and forwarded to the Clerk for filing and scanning into the NYSCEF system. Under either scenario, NYSCEF will then transmit notification to all parties. However, the notification does not constitute service of notice of filing upon any party (see, Uniform Rule § 207.4-a[h]). Court issued Letters and Certificates of Appointment will be mailed in hard copy to the filer via a self-addressed, stamped envelope provided by the party requesting such documents.

- 8) Envelopes: Filers requesting copies of any document must provide the court with self-addressed stamped envelopes bearing adequate postage for the return. Express mail labels can be uploaded to NYSCEF for delivery of documents as well.