



NEW YORK STATE
BAR ASSOCIATION

Report and Recommendations of the **New York State Bar Association Committee on Courts of Appellate Jurisdiction**

June 2026

COMMITTEE ON COURTS OF APPELLATE JURISDICTION

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COVER NOTE

To: NYSBA House of Delegates Reports Group
From: New York State Bar Association Committee on Courts of Appellate Jurisdiction
Subject: Delays in Perfecting Indigent Criminal Appeals

Summary

The New York State Bar Association Committee on Courts of Appellate Division (CCAJ) prepared the attached report, *Justice Delayed is Justice Denied: Recommended Changes to Reduce Delays in Perfecting Indigent Criminal Appeals* (the Report). This Report addresses known reasons for why indigent criminal appeals are often perfected far later than their civil counterparts (missing transcripts, exhibits, and pleadings) and proposes reforms to avoid delays in the future.

Purpose and Scope

- Analysis of data from appellate defenders throughout the state, including case narratives and datapoints
- Addresses difficulties and impediments criminal appellate defense attorneys face in perfecting appeals
- Recommends a shift to NYSCEF in criminal courts using existing models and making changes to Appellate Division orders of assignment of appellate counsel.
- This report solely addresses proposed changes to practice in the Appellate Divisions of the State of New York. It does not address appeals to county courts from misdemeanor or violation convictions, appeals to the New York Court of Appeals, or appeals to any federal courts.

Action Requested

The Committee submits this Report for review and consideration by the House of Delegates. It is respectfully requested that the House of Delegates consider this report and urge the adoption of the proposals requested herein: 1) implementing a date certain for requiring NYSCEF use in criminal matters; and 2) modifying language in assignment orders of appellate counsel.

Attachments

- Full Report
- Appendix of cited material

TITLE PAGE

Justice Delayed is Justice Denied: Recommended Changes to Reduce Delays in Perfecting Indigent Criminal Appeals

**New York State Bar Association
Committee on Courts of Appellate Jurisdiction**

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*Justice Delayed is Justice Denied: Recommended Changes
to Reduce Delays in Perfecting Indigent Criminal Appeals*

INTRODUCTION

Indigent defendants are often met with delay after countless delay in perfecting criminal appeals. Each minute an appeal is delayed is another minute defendants suffer in prisons and in solitary confinement. The effects are particularly egregious for those defendants who have meritorious issues on appeal, yet cannot have their appeals perfected for years because of delays in receiving exhibits, transcripts, and record items necessary for perfecting their appeals.

In 2024, the CCAJ raised concerns about these delays. The Subcommittee on Indigent Criminal Appeals was created to address these issues and propose recommendations.

Preliminary findings were compiled in 2024 and yielded startling, but unsurprising results: appellate counsel could not perfect appeals for defendants because of staggering delays in receiving documents necessary for perfecting their appeals.³

Surveying appellate defense providers in 2026 reflected that the problem has not gone away. Nearly all appellate counsel agree that the problems creating the delays have not abated. The same providers agreed that the problems can be alleviated with simple, uniform, statewide measures.

³ Although this data set does not include appeals by the People, this data set was chosen because most appeals are filed by defense counsel, and large institutional providers of appellate counsel maintained high-quality data.

EXECUTIVE SUMMARY

This report finds that there are pervasive delays in perfecting criminal appeals throughout the state that are largely attributable to four common pain points: 1) delays in receiving transcripts; 2) difficulties in locating and obtaining exhibits and record material; 3) the lack of any meaningful ability to compel production of missing record items; and 4) non-uniform approaches to document storage in the trial courts.

The CCAJ recommends the implementation of the following changes:

1. Adopting mandatory e-filing in criminal cases, including transcripts, exhibits, and other record materials. These items may be uploaded via NYSCEF either during the pendency of the criminal action below or following appellate counsel's entry on NYSCEF. This can be achieved with modifications to the Uniform Rules for New York State Trial Courts.⁴
2. Modifying the Practice Rules of the Appellate Division following consultations with the Presiding Justice of each Department.⁵ The amendments should include language requiring orders of assignment to specify who should provide the documents to appellate counsel.

These changes will necessarily need to be implemented after appropriate consultation with key stakeholders including OCA and the Presiding Justices of the Appellate Division. However, OCA already envisions a move toward NYSCEF in the distant future.

⁴ Compare 22 NYCRR §§ 200.23, 200.24 (criminal trial courts) with 22 NYCRR § 202.5-b (d) (4) (civil trial courts).

⁵ Practice Rules of the Appellate Division, 22 NYCRR 1250.

BACKGROUND

Profound delays in perfecting indigent criminal appeals were apparent before the pandemic. Other bar associations have continued to highlight the problem. The courts themselves have come to accept that this has deleterious effects for defendants. The issues leading to the delays start early on for our defendants. To adequately describe those problems, it is necessary to describe how appellate counsel moves through an assignment.

A. The mechanics of an assigned appeal

Appellate defense counsel does not immediately enter into a case upon a defendant's sentencing date. The first delay defendants face is having counsel assigned.

This report does not address delays in the assignment of appellate counsel. But knowing about this initial delay is critical for understanding the problem presented and how it can be resolved in later stages of a defendant's case.

Indigent defendants are largely dependent on trial counsel to: 1) timely file a notice of appeal; and 2) file an application for assignment of counsel. Although an amendment to Criminal Procedure Law § 380.55 was meant to streamline the assignment of counsel, trial counsel routinely "forgets" to file the application or neglects to file a motion for assignment of counsel on appeal. Although a defendant's appeal may not be dismissed outright when counsel fails to file an application for assignment of counsel on appeal, it may take years for appellate counsel to be assigned in the most extreme cases.

This delays the order of assignment from being issued. The order of assignment is critical for defendants as it triggers the preparation of the transcripts and the record on appeal. Most orders of assignment throughout the Appellate Division use standardized language in it. The following sample is provided from a Fourth Department Appeal:

Now, upon reading and filing the papers with respect to the application, and due deliberation having been had thereon,

It is hereby ORDERED that the application is granted, and ERIN A. TRESMOND, ESQ., LEGAL AID BUREAU OF BUFFALO, 290 MAIN ST STE 350, BUFFALO, NY 14202, is assigned as counsel to conduct the appeal, and

It is further ORDERED that the Niagara County Clerk provide ERIN A. TRESMOND, ESQ. with copies of all papers and transcripts of stenographic, digitally recorded, or audiotaped minutes, if any, of the proceedings upon which the appeal is based, and

It is further ORDERED that the appeal be perfected by electronic filing pursuant to 22 NYCRR 1245 and 22 NYCRR 1000.17 (b), within 120 days of the filing of the transcripts with the Niagara County Clerk's Office, and that appellant submit one hard copy each of the appendix and transcripts and an original and five hard copies of appellant's brief in accordance with 22 NYCRR 1000.17(b)(4).

B. Receiving transcripts and the court file

Following the assignment order, appellate counsel is expected to file initial documents on NYSCEF, including the notice of appeal, proof of service of the notice of appeal, and a copy of the judgment appealed from (typically the certificate of conviction). Counsel is also expected to file a notification of case number upon the People.⁶

It comes as a surprise to many civil litigation practitioners that criminal courts do not utilize NYSCEF. While a defendant in a civil appeal has the benefit of a nearly complete record on NYSCEF, criminal defendants do not enjoy that same benefit. Rather, they start from scratch on NYSCEF and appellate counsel often struggles to gather all necessary documents for perfecting the appeal.

Obtaining the court file and transcripts is largely dependent on the county where the underlying conviction occurred. The clerk's office in

⁶ The Second Department does not use NYSCEF for all criminal appeals yet.

most counties will make a copy of the court file. The court reporter typically files the transcripts with the clerk's office.

Unfortunately, the record is not always complete: transcripts are missing, exhibits cannot be located, sentencing documents seemingly vanish. Each county varies on how to obtain a copy of the presentence investigation report, with most counties referring appellate counsel to the probation department.

This is perhaps the stage that yields the greatest delays. As addressed below, these delays can be significant. However, appellate counsel cannot perfect an appeal where exhibits are missing unless they want to run the unacceptable risk of giving the defendants ineffective assistance of counsel on appeal.

Transcripts may be delayed for any number of reasons. Court reporters may be strained and have myriad cases to transcribe. In other cases, court reporters may have retired. There are other circumstances where it appears that all of the transcripts were filed but appellate counsel identifies that there are still missing transcripts.⁷

Most exhibits in criminal cases involve documentary, paper evidence (i.e., photos, statements, lab reports). But where these exhibits end up after a trial again varies by jurisdiction. Some jurisdictions return all exhibits — including defense exhibits — to the People. Others return them to the party who moved them into evidence. Yet others may keep the exhibits in the court file. For as many cases where the location of the exhibits is known, there are just as many where appellate counsel cannot locate the exhibits.

Yet, appellate counsel is left with little recourse when missing any type of document. This leaves appellate counsel in a difficult position: either they can argue an appeal without a complete record or they can delay

⁷ This typically happens when comparing the clerk's notes of proceedings to the available transcripts. Transcripts and pleadings may also reference court dates that are missing from the available transcripts. It is then incumbent on appellate counsel to work with the clerk's office and the court reporter to locate these missing transcripts, a process that delays perfection even further.

perfecting the appeal inordinately in the hopes that the missing documents will surface.

Each Department varies in how to obtain missing documents. Attorneys in the First⁸ and Second⁹ Departments report filing motions to compel production. However, the motions are often denied.

The Fourth Department has the option for counsel to file a demand for exhibits, but the demand cannot be filed until the appeal is perfected.¹⁰ The Third Department has temporal limits for filing the demand as well.¹¹

C. Narratives from providers in 2025 and 2026

CCAJ's 2024 report is attached. That report looked at data from 2023 to 2024 for appellate defense providers. While not all providers were able to provide uniform data, all provided case illustrations to show the delays in receiving the record, exhibits, and other necessary documents for perfecting the appeal. Those datapoints are not all reproduced here as they are fully addressed in the annexed report.¹²

Appellate defense providers were surveyed again in 2026. The information collected drew both from qualitative and quantitative reports. The results are mixed, with some providers experiencing improvements and others experiencing further delays.

For example, juxtapose the numbers reported from the **Center for Appellate Litigation** (Bronx and New York Counties) between two different time periods:

⁸ 22 NYCRR 600.9, 600.11.

⁹ 22 NYCRR 670.9, 670.11.

¹⁰ See 22 NYCRR 1000.7 (e) (“*Upon perfecting an appeal*, an appellant shall file the original exhibits or, when the exhibits are in the control of a respondent or a third party, a five-day written demand for the exhibits” (emphasis added)).

¹¹ 22 NYCRR 850.7 (a).

¹² See generally CCAJ Report.

July 1, 2024 to June 30, 2025

	Time between Judgment and assignment	Time between assignment and record receipt	Time between assignment and record completion	Time between assignment and receipt of exhibits	Time between record and completion and perfection
<i>Average</i>	505 days (17 months)	603 days (20 months)	1335 days (44.5 months)	553 days (18.5 months)	226 days (7.5 months)
<i>Median</i>	109 days (3.5 months)	244 days (8 months)	1049 days (35 months)	336 days (11.5 months)	11 days (<1 month)

July 1, 2024 to June 30, 2025

		Time between Judgment and assignment	Time between assignment and record receipt	Time between assignment and record completion	Days between Assignment and Perfection	Days between Record Complete Date and Perfection
<i>2024</i>	<i>Average</i>	220	197	393	561	169
	<i>Median</i>	95	166	280	396	39
<i>2025</i>	<i>Average</i>	179	210	392	522	131
	<i>Median</i>	90	177	295	383	49

At first glance, the numbers appear to show an improvement. However, the Center for Appellate Litigation notes that there were outliers in the previous report that substantially skewed the numbers higher. The wait times reported for the 2026 report are more in line with the delays the Center for Appellate Litigation is used to seeing. It is critical to note that these delay times have not gone down over the years; they have only increased in select years or remained stagnant.

The Legal Aid Society of Nassau County reports that they had significant improvements to their delays in appeals to the Appellate Term after working in tandem with OCA and the Hon. Joseph A. Zayas. When transcripts are delayed beyond 90 days, OCA has a mechanism for contacting the appropriate individuals to have those transcripts expedited.

However, the lack of access to digital transcripts continues to remain a problem for appeals to the Second Department. It takes The Legal Aid Society of Nassau County anywhere from 5 months to 1 year to receive a full set of transcripts. Should electronic copies of the transcripts be utilized, it is anticipated that the delay would drop sharply.

The Legal Aid Society of Nassau County reports no problems with obtaining the court file on appeal or with receiving exhibits. However, they note that their office is in a unique position:

“The assigned counsel clerk of the Appellate Division, Second Department has implemented a policy whereby our office is currently generally only assigned to appeals of cases that originated out of our office. This is contrary to assignments made to every other institutional provider of other counties within the Second Department. It is for this reason that the other offices experience significant delays in obtaining exhibits from cases that did not originate in their office.”

Two case illustrations¹³ in appeals from a trial bear note from their office:

County: Nassau
Date of Conviction: 11/04/24
Order of Assignment: 01/27/25
Hard Copy Transcripts Received: 04/11/25
Trial Court File Received: 12/23/24
Probation Report Received: N/A
Exhibits Received: N/A

County: Nassau
Date of Conviction: 5/1/23
Order of Assignment: 7/7/23
Hard Copy Transcripts Received: 8/1/23

¹³ Additional case illustrations are detailed in the attached report authored by Tammy Feman, Appeals Bureau Chief of the Legal Aid Society of Nassau County.

Trial Court File Received: No delay
Probation Report Received: 9/19/23
Exhibits Received: Never received -filed without exhibits

The **Albany County Public Defender's Office** highlighted similar problems with obtaining transcripts:

“Recently, some of our court reporters have apparently left the job or the area, and we are short on court reporters for pending trial matters at times (on occasion, county court calendars have been cancelled because of this). The remaining court reporters have less time to create transcripts because they are in court so often, leading to some delays. I have also had issues with court reporters transferring because they did not receive notice requesting production of transcripts. I was informed by the county clerk that this may have been an administrative issue with their email access during the transition period.”

“In other cases, I have had retired court reporters delay production of transcripts seemingly because there are no repercussions for failing to do them promptly. In your last report, it was noted that [an appellate attorney] did motions to compel transcript production in 3 of the cases. He told me those were all denied. I have also had issues where they produce transcripts and send hard copies to the county clerk, which are not provided to me until I go searching for them or request the clerk to look at the file for them.”

The Legal Aid Bureau of Buffalo, Inc. (LABB), is the appellate defender for Erie, Cattaraugus, Genesee, Niagara, and Orleans Counties. Since drafting the last report, LABB saw marked improvements to receiving the court file and transcripts from each respective clerk's office. The typical delay on average for all of these counties between the

assignment of counsel and receipt of the transcripts is generally 4-6 months. There is typically no delay with receiving the court file. The same can be said of the probation reports as well.

LABB coordinated with the clerk's office in each county it serves to determine the easiest method for the clerk's office to provide the file. That, of course, varied with each county. Some offices prefer to send the files on a flash drive, others prefer email, many still prefer sending hard copies of the documents.

However, little has changed with receiving exhibits on appeal. In Erie County, for example, exhibits are most often returned to the Erie County District Attorney's Office following a trial. More often than not, defense exhibits are returned to the DA's office as well. LABB must request these exhibits from the DA's office. However, their office's appellate attorneys have an extensive case load that includes more than criminal appeals. It may take anywhere between 4-8 months to receive exhibits in a given appeal.

D. Reports from other groups

Other groups have noted these problems for years.

The New York County Lawyers Association issued a memorandum on January 25, 2021, that predominantly commented on electronic filing, but noted existing delays in compiling the record on appeal. A major recommendation in that report was to transition to NYSCEF in criminal cases.¹⁴ Filing transcripts directly to NYSCEF was urged for efficiency and cost-saving measures.¹⁵

Memoranda attached to that report detail the unchanging delays in receiving transcripts, exhibits, and the court file. At the extreme end, the New York City Bar found delays of up to two years for compiling all necessary record documents.¹⁶

¹⁴ New York County Lawyers Association, Comments on Electronic Filing 3 (Jan. 21, 2021).

¹⁵ *Id.* at 5.

¹⁶ *Id.* (New York City Bar, Delays Associated with Compiling the Record on Appeal in Criminal Cases [Mar. 5, 2020]).

The Appellate Practice Working Group of the Commission to Reimagine the Future of New York’s Court’s identified similar problems and made substantially similar recommendations regarding e-filing in criminal cases.¹⁷

Since the last report, a pilot program in Ontario County has been met with great success. Once appellate counsel files the initial documents on NYSCEF, court reporters individually upload transcripts to NYSCEF as they are completed. This not only cuts down on the usual delays, but it also saves practitioners time later because they do not have to reupload these transcripts.

The courts are inclined to begin rolling out e-filing in criminal cases in the near future. Judge Zayas’ 2025 report on e-filing alluded to the Ontario County pilot program.¹⁸ He expressed hope that the program would expand to each county in the Third and Fourth Departments by the end of 2025.¹⁹ However, practitioners have not seen this rollout beyond Ontario County. Judge Zayas also gave an update on moving toward NYSCEF in criminal cases in the trial courts in the near future.²⁰

ANALYSIS AND PRESENTATION OF RECOMMENDATIONS

The delays in perfecting criminal appeals have been known for years, and the reasons for those delays are apparent. This report largely makes the same recommendations others have made, but limits the recommendations to issues that can be readily addressed with

¹⁷ Appellate Practice Working Group of the Commission to Reimagine the Future of New York’s Courts, *Second Report of the Working Group on Appellate Practice* 4 (Nov. 2021) (“Ideally, the Working Group envisions an e-filing and docketing system that begins at the trial level, is integrated—or can communicate—with appellate e-filing systems, and permits e-filing of all types of documents [e.g., transcripts, emails to/from a court, charging documents, exhibits; for physical pieces of evidence, photographs that accurately reflect the items could be taken and certified by the courtroom clerks]. All documents and evidentiary items should be automatically uploaded to the e-filing system as they are presented in a case, and parties to an action should be able to view and download items that have already been added to the online case file.”).

¹⁸ Hon. Joseph A. Zayas, *Electronic Filing the New York State Courts* at 6 (2025)

¹⁹ *Id.*

²⁰ *Id.* at 7.

amendments to the Appellate Division orders of assignment of appellate counsel. Notably, these changes do not require action of the Legislature.

CCAJ's recommendations fall into two broad categories: 1) adopting mandatory e-filing in county court and supreme court criminal matters; and 2) modifying the Appellate Division orders of assignment of appellate counsel to specify who should provide specific documents to appellate counsel.

A. Moving toward e-filing in criminal matters

There is a move toward e-filing in criminal matters. While this is greatly appreciated, practitioners have yet to see tangible results outside of limited pilot programs. For those who have worked within those programs, the benefit was immediately apparent.

Requiring e-filing in criminal cases will alleviate most of the problems described above. Exhibits will not go missing. The presentence investigation report will already be uploaded for filing. None of the pleadings will suddenly vanish. In short, there will be no reason for appellate counsel to go on a hunt for missing record materials for months to years when it is all in one central location.

So, too, should the Ontario pilot program be expanded statewide. All appellate practitioners surveyed for this report agreed that having immediate access to digital transcripts would shave a significant amount of time off of perfecting an appeal.

Recognition of the need to move toward NYSCEF is laudable, but CCAJ recommends that concrete dates be provided to practitioners for when criminal matters will be moved to NYSCEF. The incremental approach the Fourth Department took with the switch to NYSCEF may be helpful in this regard.²¹

It is recommended that OCA notifies all attorneys statewide about sunset dates for non-NYSCEF filings. For example, attorneys may be advised

²¹ Appellate Division, Fourth Department, E-File Quick Start Guide, Designated Case Types, <https://ad4.nycourts.gov/efile> (last accessed Mar. 17, 2026).

halfway through 2026 that e-filing will be required by the end of December 2027. Attorneys can begin to e-file voluntarily in criminal cases, but it allows them the opportunity to familiarize themselves with NYSCEF before e-filing is required. A date 1.5 years out also allows criminal courts and each respective clerk's office to establish procedures for filing on NYSCEF.

To clarify, these recommended changes are only for criminal matters in superior courts (County Court and Supreme Court). CCAJ acknowledges that implementing NYSCEF in town, village, and justice courts is an incredibly difficult and separate endeavor.

Another way to implement these changes is to adopt the language in the Uniform Trial Court Rules for use in criminal matters. This does not require any legislative action. It does not require significant redrafting. It is already a provision that the vast majority of attorneys are familiar with.²² And it is a provision that most clerks are aware of and work with.

B. Changes to orders of assignment

A recurring theme in this report is that appellate counsel knows where a missing item may be, but that they lack any real mechanism to compel their production.

An easy solution to this is to modify the orders of assignment in each Department. Appellate Counsel routinely uses an order of assignment to get necessary documents. Many probation departments require the order of assignment before providing documents.

CCAJ recommends that the order of assignment be sent to trial counsel and include language specifying that documents and exhibits in the control of the clerk's office or counsel in the underlying criminal action must be provided to appellate counsel. The following language can be included after the paragraph in the order of assignment addressing transcript production:

²² Compare 22 NYCRR §§ 200.23, 200.24 (criminal trial courts) with 22 NYCRR § 202.5-b (d) (4) (civil trial courts)

“It is further ORDERED that the _____ County Clerk’s Office, counsel to the People, and trial counsel for defendant-appellant in the underlying criminal conviction provide appellate counsel with copies of any exhibits or record materials in their control and custody and make any physical exhibits available for inspection, and...”

This change in the order of assignment will give more force to the order of assignment and hopefully alleviate the need to file motions or subpoenas at a later date.

The proposed amendment finally gives teeth to record requests, and it does so in a manner that does not require appellate counsel to wait until an appeal is perfected. The successive application language is necessary in the event that appellate counsel determines that other documents are missing.

CONCLUSION

No one disputes that there are significant delays in perfecting indigent criminal appeals. The recommendations made in this report are not new or novel, but they address problems that have persisted for years. They also do so in a way that requires no legislative amendments and uses existing frameworks.

Justice delayed is justice denied. Appellants should not languish in prison for years waiting for their appeals to be perfected.

APPENDIX OF ATTACHMENTS

1. New York State Bar Association, Committee on Courts of Appellate Jurisdiction, Delays in Perfecting Indigent Criminal Appeals (2024)
2. Tammy Feman, Chief, Appeals Bureau, The Legal Aid Society of Nassau County, Update of anecdotal information for dates of receipt of transcripts, exhibits, and probation reports (2026)
3. New York County Lawyers Association, Appellate Courts Committee, Comments on Electronic Filing (2021)
4. Appellate Practice Working Group of the Commission to Reimagine the Future of New York's Courts, Second Report of the Working Group on Appellate Practice (2021)
5. Practice Rules of the Appellate Division, 22 NYCRR 1250
6. First Department Rules of Practice, 22 NYCRR 600
7. Second Department Rules of Practice, 22 NYCRR 670
8. Third Department Rules of Practice, 22 NYCRR 850
9. Fourth Department Rules of Practice, 22 NYCRR 1000
10. Hon. Joseph A. Zayas, Electronic Filing in the New York State Courts (2025)

Delays in Perfecting Indigent Criminal Appeals

Table of Contents

New York City.....2

Greater Buffalo.....6

Long Island.....7

Albany County.....11

Monroe County.....13

Onondaga County.....17

I. New York City: Bronx, New York, Queens, Kings, and Richmond Counties

A. Bronx and New York Counties (Center for Appellate Litigation)

1. Average and Median Wait Times: FY24 (7/1/23 to 6/30/24)

	Time between Judgment and assignment	Time between assignment and record receipt	Time between assignment and record completion	Time between assignment and receipt of exhibits	Time between record and completion and perfection
Average	505 days (17 months)	603 days (20 months)	1335 days (44.5 months)	553 days (18.5 months)	226 days (7.5 months)
Median	109 days (3.5 months)	244 days (8 months)	1049 days (35 months)	336 days (11.5 months)	11 days (<1 month)

2. Narrative

The Center for Appellate Litigation (“CAL”) does not record the date that PSRs are received – and that date, until recently, almost always preceded the receipt of the record – that data is not included. CAL receives the transcripts and file papers together from the First Department, so that data is reflected in just one column; however, because most of those records that we receive are incomplete, we added a column to reflect the date that the complete records (including transcripts and file papers) are received.

CAL believes that the median numbers better reflect the time periods as the averages get skewed by outlying cases where the time periods might be significantly longer for reasons not related to the purpose of this study.

The time “between judgment and assignment” is largely due to the time it takes for the Appellate Division to cut an order of assignment based on the filing of a CPL § 380.55 notice or, less commonly, the time it takes for that court to decide the motion for in forma pauperis. We believe that the CPL § 380.55 applications could be handled much more swiftly as assignment of counsel should be automatic in those cases. The average time is inflated by motions (usually granted) for the filing of late notices of appeal and is skewed (in the trial categories) by a few cases in which a

timely notice of appeal was filed but no effort was made until years later to get counsel assigned.

The time “between assignment and record receipt” is due to the delays occurring with court reporters preparing transcripts and with the occasional difficulties in locating the court file itself. During the period covered (but less true in earlier times), the records that we received were almost never complete. For example, the majority of Bronx cases are sent to us without the omnibus motions, because those motions may have been filed through the EDDS system and never printed out or otherwise incorporated with the court file. Pre-pleading memorandums are also frequently missing from the files. Some files are sent to us without any transcripts, when the court clerks get frustrated by their unanswered requests to the court reporters. Transcripts, particularly in trial cases, are frequently missing pages or whole chunks of legal arguments, which might not have originally been transcribed for the daily copy provided to the trial litigants. The time “between assignment and record complete” reflects the additional time that CAL staff works to obtain the items missing from the record on appeal. Unfortunately, some cases we end up perfecting without the complete record because further delays would frustrate our clients’ right to appeal and the relief sought. Until recently, we almost always received the PSR (directly from the probation department) during this period; more recently, the Bronx probation department has effectively limited us to just a few PSRs a week, meaning that we cannot timely obtain PSRs in many of our cases.

The time “between assignment and receipt of exhibits” reflects how long it takes us to receive exhibits, which are retained by the party that introduces them. Getting exhibits from assigned counsel is nearly impossible, while obtaining them from the District Attorneys’ offices is time consuming and slow. As shown, sometimes we are forced to perfect trial appeals even without obtaining all of the exhibits as further delays would frustrate our clients’ ability to obtain meaningful relief on appeal.

3. Illustrative Cases

Case Number	Type of Case	Judgment Date	Assignment Date	Record received Date	Record Complete Date	Date exhibits received
1	Trial	11-Aug-16	11-Oct-16	29-Feb-24	01-Mar-24	never received
2	Trial	28-Jun-18	19-Feb-19	17-Sep-19	10-Jul-23	28-Oct-21
3	Trial	12-Jul-18	28-Feb-19	30-Oct-19	06-Jul-23	never received
4	Trial	11-Oct-19	28-Jan-20	09-Jul-20	12-Dec-22	30-Aug-23

5	Stip	10-Dec-19	02-Apr-20	18-Nov-20	17-Jun-22	27-Sep-21
6	Trial	17-Dec-19	02-Apr-20	28-Dec-20	22-Oct-21	29-Nov-21
7	Trial	13-Jun-13	08-Oct-20	19-Nov-21	04-Aug-23	06-Jun-22

Case Number	Time between Judgment and assignment	Time between assignment and record receipt	Time between assignment and record completion	Time between assignment and receipt of exhibits
1	61 days	2697 days	2698 days	<i>*never received*</i>
2	236 days	210 days	1602 days	772 days
3	231 days	244 days	1589 days	<i>*never received*</i>
4	109 days	163 days	1049 days	1147 days
5	114 days	230 days	806 days	313 days
6	107 days	270 days	568 days	336 days
7	2674 days	407 days	1030 days	199 days

B. Kings, Queens & Richmond Counties (Appellate Advocates)

1. Average Wait Times in 2023

County	Time between assignment and Transcripts	Time between assignment and record (file papers)	Time between assignment and Pre-Sentence Reports	Time between assignment and Prosecution exhibits
Kings	105 days (3.5 months)	45 days (1.5 months)	345 days (11.5 months)	180 days (6 months)
Queens	120 days (4 months)	195 days (6.5 months)	315 days (10.5 months)	120 days (4 months)
Richmond	180 days (6 months)	165 days (5.5. months)	90 days (3 months)	60 days (2 months)

2. Narrative

Transcripts

Since 2021/2022, Kings County has produced all transcripts electronically, which in our experience tends to explain why we receive transcripts on average faster in Kings compared with Queens and Richmond, which still produces transcripts in hard copy, and which we must physically pick up from the courthouse in each county.

Record/File Papers

The shorter delay in Kings can be explained by the fact we receive file papers, like minutes, electronically, unlike in Queens and Richmond, where we must photocopy ourselves the court file for each case at the courthouse.

Pre-sentence Report

In Kings County, we have been instructed that due to staffing issues at the Kings County Probation Department, we are limited to requesting only 5 pre-sentence reports per week. Given that we have a current backlog of **672 outstanding pre-sentence report** requests for Kings County, it will take months, if not years, for us to receive these based on this schedule. In Queens County, we have a smaller, but still substantial backlog of **134 outstanding pre-sentence report** requests.

II. Greater Buffalo: Erie, Cattaraugus, Genesee, Ontario, Orleans Counties

A. Average Wait Times (9/01/23 to 10/10/24)

County	Time between Judgment and assignment	Time between assignment and transcript	Time between assignment and record	Time between assignment and PSR	Time between record exhibits
Cattaraugus	106 days (3.5 months)	91 days (3 months)	40 days (1.5 months)	40 days (1.5 months)	384 days (13 months)
Chautauqua	497 days (16.5 months)	610 days (20 months)	76 days (2.5 months)	270 days (9 months)	440 days (14.5 months)
Erie	169 days (5.5 months)	114 days (4 months)	97 days (3 months)	96 days (3 months)	344 days (11.5 months)
Genesee	64 days (2 months)	269 days (9 months)	213 days (7 months)	130 days (2.5 months)	423 days (14 months)
Ontario	182 days (6 months)	416 days (14 months)	415 days (14 months)	417 days (14 months)	407 days (13.5 months)
Orleans	136 days (4.5 months)	161 days (5.5 months)	71 days (2.5 months)	53 days (2 months)	236 days (7.5 months)

B. Narrative

Sentencing documents (victim impact statements, defense sentencing memoranda) are considered exhibits for purposes of this report. The exhibits received column reflects it. In the event that there were no exhibits, the date on the spreadsheets reflects the date that our office confirmed that.

Accessing the transcripts, court files, and PSR in Erie, Orleans, and Ontario Counties is incredibly streamlined. However, the remaining counties can, at times, be difficult to work with. We have had some counties fight us for more than a year about whether they are required to turn over the statute. The Appellate Division Assignment Order means little to nothing in those counties.

The consistent thread through all of the counties we represent is the delay in obtaining the transcripts. In four of the appeals in the dataset, we had to perfect the appeal without exhibits because they could not be located after years.

III. Long Island: Nassau & Suffolk Counties

Nassau and Suffolk County providers lacked the technical capability to provide average wait times and, instead, provided a list of examples illustrating typical delays.

A. Nassau County, Illustrative Cases

County/Type of Case/Court	Time between Judgment and assignment	Time between assignment and transcript	Time between assignment and record/file	Time between assignment and probation	Time between assignment and exhibits
Nassau/Trial/Appellate Term	193 days (6.5 months)	161 days (5.5 months)	447 days (14.9 months)	125 days (6 months)	N/A Exhibits already in file
Nassau/Trial/Appellate Term	188 days (6 months)	119 days (4 months)	120 days (4 months)	32 days (1 month)	N/A Exhibits already in file
Nassau/Trial/App. Div.	67 days (2 months)	25 days (1 month)	N/A	74 days (2.5 months)	*Never Received*
Nassau/Plea/App. Div.	15 days (<1 months)	317 days (10.5 months)	N/A	163 days (5.5 months)	N/A
Nassau					
Average	505 days (17 months)	603 days (20 months)	1335 days (44.5 months)	553 days (18.5 months)	226 days (7.5 months)
Median	109 days (3.5 months)	244 days (8 months)	1049 days (35 months)	336 days (11.5 months)	11 days (<1 month)

B. Suffolk County Illustrative Cases

Case No.	Time between Judgment and assignment	Time between assignment and transcript	Time between assignment and record/file	Time between assignment and Pre-Sentence Report	Time between assignment and exhibits
1	151 days (5 months)	10 days (<1 month)	450 days (15 months)	4 days (<1 month)	450 days (15 months)
2	252 days (8.5 months)	100 days (3.5 months)	211 days (7 months)	100 days (3.5 months)	211 days (7 months)

CASE	Date Conviction	Order of Assignment	Transcripts Rec'd	Supreme Court File Rec' d	PSR Rec'd	Exhibits Rec'd
1.AD2d trial	9/8/22	2/6/23	2/10/23	5/1/24	2/10/23	5/1/23
2.AD2d Trial	4/26/23	1/3/24	4/12/24	08/1/24	4/12/24	08/01/24

C. Narrative: Nassau and Suffolk Counties

1. Appellate Term, Second Department

A large part of our appellate practice involves misdemeanor appeals to the Appellate Term, Second Department. For our Appellate Term practice there are unique issues.

Transcripts

There are no electronic transcripts available. The appeals clerk tries his best to impress upon the court reporters to timely provide us with the hardcopies of the transcripts, but the delays average a year. Many times by the time we receive the transcripts, the client has completed their sentence. We currently have numerous Appellate Term appeals with outstanding transcript delays averaging between 6 months and a year. Once we receive the transcripts, we have to scan them, and send them to the District Attorney for settlement. The District Attorney's Office typically sends the transcripts to the trial assistant for a line by line check of the transcripts which causes an additional delay.

Court File Access

Once the record is settled the appeals clerk has to send the file to Brooklyn. Sometimes the court file is sent to Brooklyn before we have the chance to review the file. We then have to go to the Appellate Term in Brooklyn with our own scanner to scan the documents that we need. There is no place to review and scan the file in Brooklyn so the assigned attorney has to review and scan the file in the public hallway. The file is sent to Brooklyn with a "runner". We were informed that the runner can take several weeks or more to go from Nassau County to Brooklyn because the runner makes several other pickups at other courthouses before going to Brooklyn. This also delays the availability of the court file and prevents litigants from making any initial motions in the Appellate Term until the file has arrived.

Exhibits

When we are assigned to an appeal that did not originate from our office obtaining the exhibits is difficult. The 18-b trial attorneys are typically unresponsive or promise access to their trial file and exhibits but fail to follow through. On average it takes several months or more to obtain exhibits from other attorneys. The Appellate Term, Second Department has an internal (non-published) rule that requires the litigants to send the exhibits entered as evidence to the Appellate Term before the brief is filed. If exhibits are missing the court will reject the brief.

Probation Reports

Counsel for the Nassau County Department of Probation routinely provides us with timely access to probation reports. Occasionally, for misdemeanor appeals, there is a delay because probation reports are not always written for misdemeanor cases, and it takes time to research if a report was made.

2. Appellate Division, Second Department

Transcripts

In Nassau County, electronic transcripts are not available for assigned appeals from County Court to the Appellate Division, Second Department. We are required to wait for the court reporters to print hard copies of the transcripts and file them with the Clerk of the County. We then have to wait for the County Clerk to notify us that the transcripts are ready for pickup. The delays take place when we have to obtain hard copies from the County Clerk's Office. Hard copies of transcripts average between 4.5 months and 1 year.

The Associate Court Clerk who handles the County Court appeals files in Nassau County recognizes the difficulties and delays with not having electronic transcripts and occasionally sends us scanned copies on very short guilty plea transcripts and on some shorter SORA transcripts. When the transcripts are electronic, the transcripts average between 1.5-2 months.

In one full trial appeal our office purchased the transcripts for a CPL330.30 motion and still had to wait four months for the official hard copy of the transcripts for the appeal when we already had an electronic copy of the transcripts that we had paid for independently.

Exhibits

Currently our office is only assigned by the Appellate Division, Second Department to handle cases originating out of our office in the trial court. The assigned counsel

clerk of the Appellate Division, Second Department, following the position of the Nassau County 18-b assigned counsel administrator and in disagreement with our position, has implemented a policy whereby our office is currently generally only assigned to appeals of cases that originated out of our office. This is contrary to assignments made to every other institutional provider of other counties within the Second Department. It is for this reason that the other offices experience significant delays in obtaining exhibits from cases that did not originate in their office.

We rarely have trouble obtaining exhibits on cases from our own office. In the past when we were assigned to cases that did not originate from our office, we had difficulties obtaining files and exhibits from the assigned trial counsel. Recently, when we were assigned to handle a CPL 330.30 motion on a case handled by another office, we were unable to obtain any exhibits from the original trial attorney. We managed to file the appeal without the exhibits by relying on the transcript references which was far from ideal.

Probation Reports

Counsel for the Nassau County Department of Probation routinely provides us with timely access to probation reports. Occasionally, the reports are delayed by several months but when we follow-up they are provided.

Court File

We do not have any problems with access to the County Court file. We contact the Associate Court Clerk in charge of appeals and she immediately provides us with file access.

IV. Albany County

Albany County providers lacked the technical capability to provide average wait times and, instead, provided a list of examples illustrating typical delays.

A. Narrative

There are two public defender offices in Albany County – the Albany County Public Defender and the Albany County Alternative Public Defender. Appeals are handled in each office by one attorney.

Neither office has a criminal appeal backlog. And both offices report that they have little difficulty obtaining party exhibits from the District Attorney’s Office and trial counsel. However, both offices are experiencing significant delays in obtaining complete sets of minutes, which causes several month delays in the commencement of work on their assigned appeals.

Unlike in many other Judicial Districts, there is no principal court reporter in the Third Judicial District to direct, manage, and oversee the production of indigent appeal transcripts. The responsibility of ensuring that transcripts are timely and completely produced falls upon assigned counsel.

As shown in the examples provided below by both Public Defender Offices, there have been several month delays in the production of complete transcripts, requiring the Offices to expend time and resources contacting individual stenographers and seeking judicial intervention to compel the production of complete transcripts.

Example 1: Counsel assigned 3/19/23; Completed transcript filed 2/13/24

Request for transcripts sent 5/23/23; inquired with court reporters regarding missing proceeding minutes on 8/31/23 and followed-up on 9/1/23 and 11/4/23; motion to compel production of missing proceeding minutes made 2/9/24

Example 2: Counsel assigned 6/30/23; Completed transcript filed 2/12/24

Request for transcripts made shortly after assignment; motion to compel production of missing minutes made 2/8/24

Example 3: Counsel assigned 7/27/23; transcript request 8/8/23; To date (10/10/24) transcript is incomplete

Court reporter contacted regarding missing minutes on 2/17/24; motion to compel production of missing proceeding minutes made on 6/11/24 (motion still pending)

Example 4: Poor person status granted in privately retained on 12/23; To date (10/10/24) transcript is incomplete

Court reporter contacted 4/2/24; follow-up 5/20/24; motion to compel production of missing proceeding minutes on 6/24/24, which is still pending.

V. Monroe County

The provider in Monroe County lacked the technical capability to provide average wait times and, instead, provided a list of examples illustrating typical delays.

A. Narrative

1. Background

The Monroe County Public Defender's Office currently has a backlog of appellate cases, preventing the Office from beginning work on a case until approximately 2 ½ years from the date of sentence. Given this backlog, the Office is able to obtain the transcript and the court file in a case well before work on an appeal can begin. Thus, delays in obtaining transcripts and court files are not responsible for the delays in the perfection of the Office's appeals. However, significant delay, beyond that due to the Office's current backlog, does result from the Office's difficulties in obtaining party exhibits.

The Office cannot know which party exhibits are relevant to an appeal until after it has begun work on the appeal – specifically, until after the transcript and court-filed documents are read. It is at that point that the Office requests copies of the exhibits from the custodian of those exhibits – either trial counsel or the District Attorney's office. As shown below, it can take several months to obtain copies of the relevant exhibits. In some instances, the Office is unable to obtain exhibits. Further, the Office spends a considerable amount of time and resources locating party exhibits.

2. Transcripts

A Fourth Department order assigning counsel and granting poor person relief directs the court reporters to transcribe the minutes of the case (from indictment on). Until very recently, the court reporters would file two hard copies with the County Clerk. One copy was considered the original, which would remain in the County Clerk's Office. The second hard copy would be provided to assigned appellate counsel. Fourth Department rules require assigned counsel to file the second hard copy at the time of perfection of the appeal. The County Clerk's Office, however, would not provide the second hard copy of the transcript until it made a PDF copy

by scanning it so that the District Attorney would have a copy of the transcript. The scanning process took as long as several months.

This process has recently changed because of an OCA pilot project in Monroe County. Under the new procedure, the court reporters file just one hard copy of the transcript and digitally upload the transcript to a NYSCEF portal, which the parties and the Appellate Division can access. This means that the transcript is immediately available to the parties upon the transcript's filing, and the County Clerk no longer needs to create a PDF of the transcript.

3. Pre-sentence Reports (PSR)

The entire process – submitting the motion and proposed order to the court, the signing of the order, providing the order to probation, and probation furnishing a copy of the report – takes approximately 20 – 25 days. The Monroe County Public Defender begins this process shortly upon its assignment and the process does not ordinarily delay the perfection of appeals.

4. Difficulty Obtaining Exhibits

Example 1 (Attorney Plank):

Sentenced 1/29/21; counsel assigned on 12/1/21; transcript filed 5/2/22

Request of the DA for exhibits made 8/2023 and exhibits received 8/2024 (12-month delay)

Several emails were sent to the DA's office, which were not responded to.

Example 2 (Attorney Plank):

Sentenced 6/2/21; counsel assigned 6/22/21; transcript filed 12/1/21
DA provided exhibits 9 months after request. Several emails were sent to the DA's office, which were not responded to.

Example 3 (Attorney Plank):

City Court appeal to County Court. DA's office lost the People's exhibits. Appellate counsel tried to locate them through the City Court, County Court, and Judge's chambers. Determined that they were lost. The DA's office recreated them.

Example 4 (Attorney Prieto):

Sentenced 4/5/21; counsel assigned 3/3/22; transcript filed 5/2/23

Request of the DA for exhibits 4/4/24; some exhibits received 7/3/24 (3 months), but DA was unable to locate three exhibits. Appeal perfected without exhibits

Example 5 (Attorney Prieto)

Sentenced 11/18/21; counsel assigned 12/20/22; transcript filed 5/31/23

Request of DA for exhibits on 1/16/24 and exhibits received 3/2/24 (1½ month delay), but only after multiple follow-ups

Example 6 (Attorney Prieto)

Sentenced 3/12/19; counsel assigned 5/20/19; transcript filed 7/8/20

Request of DA for exhibits on 4/22/24 and exhibits received on 5/26/24 (1 month delay)

Example 7 (Attorney Weiss):

Sentenced 9/2/21; counsel assigned 12/8/21; transcripts filed 5/2/22

Request of DA for exhibits on 12/22/2023, a follow-up made 1/26/24, and exhibits received on 1/30/24 (1 month delay)

Example 8 (Attorney Weiss):

Sentenced 4/15/21; counsel assigned 4/29/21; transcript filed 12/1/21

Request of DA for exhibits on 1/25/24, follow-up on 2/26/24 and 4/11/24, and exhibits received 4/11/24 (3 ½ month delay)

Example 9 (Attorney Weiss):

Sentenced 5/17/22; counsel assigned on 2/6/23; transcripts filed 5/31/23

Request of DA for exhibits on 4/17/24, received a blank DVD (recorded interrogation) exhibit on 8/6/24, received another, incomplete DVD. As of 9/30/24, DA has yet to provide a complete copy of the DVD exhibit (over 5-month delay)

Example 10 (Attorney Bremer):

Sentenced on 2/9/22; counsel assigned on 3/24/23; transcripts filed 9/8/23

Request of the DA for exhibits on 6/26/24. On DA 8/23/24 DA's office advises that it cannot locate body camera footage exhibit

Example 11 (Attorney Bremer):

Sentenced 2/25/22; counsel assigned on 4/27/22

Request of the DA for exhibits 9/8/24. DA's office advises that it does not have any of the exhibits in this DWI case.

Example 12 (Attorney Juergens):

Sentenced 3/21/19; counsel assigned 5/27/21; transcripts filed 12/1/21 and 9/21/22

DA unable to locate particular People's hearing exhibit. Request of trial counsel (solo practitioner) for trial file made by email (5/16/24) and by letter (5/31/24). To date (5 months later), trial counsel has not responded.

Example 13 (Attorney Juergens):

Sentenced 11/13/2017; counsel assigned 8/13/18; transcript filed 1/18/2019

DA unable to locate DVD -surveillance video exhibit. Appeal perfected at the Fourth Department and Court of Appeals without surveillance video. Shortly before Court of Appeals oral argument, DA locates the video.

Example 14 (Attorney DuBrin):

Sentenced 9/20/18; counsel assigned 8/10/20; transcript filed 4/5/21
Request of DA for a hearing exhibit on 12/1/23, follow-up on 1/26/23.
Request unfulfilled.

Request of privately retained trial counsel for the hearing exhibit.
Counsel did not respond to voice mail messages. Though defense counsel was privately retained, he does take 18-B assignments.
County's assigned counsel administrator requested to contact trial counsel. Trial counsel promptly called appellate counsel and promised to look for the hearing exhibit. Trial counsel never again contacted appellate counsel and appeal perfected without review of the exhibit.

Example 15 (Yoon):

Sentenced 3/20/17; counsel assigned 5/20/17; transcript filed 2/18/18
Request for specific exhibits on 1/31/23, follow-up requests on 3/27/23, 4/20/23, 5/22/23, and 6/23/23. Exhibits received on 7/12/23 (5 ½ month delay)

Example 16 (Yoon)

Sentenced 5/30/19; counsel assigned 10/18/19; transcript filed 2/5/20
Request for specific exhibits on 7/6/23, follow-up requests on 8/29/23 and 9/29/23 and exhibits received around 10/18/23, but digital recording unplayable. Followed-up on 3/25/24 and 5/31/24. Office tech team determined videos were incomplete. Follow-up discussions resulted in complete video provided in 9/25/24

VI. Onondaga County

The provider in Onondaga County lacked the technical capability to provide average wait times and, instead, provided the following narrative:

We are not experiencing any appreciable delays in obtaining either transcripts or papers from the county clerk. In my experience, as well as that of our law assistants, we usually receive most of the transcripts within three months of the date we are assigned. Any longer delays can be attributed to remittal or other unusual circumstances. Requests for clerk papers (indictment, motions, certificates of conviction, etc.) are typically fulfilled within a week.

We are instructed to request pre-sentence reports from the judge's file, and the timeliness of those responses vary. One judge does have fifteen such requests outstanding, but he eventually complies, and I do not recollect any situation where that has prevented us from filing the brief. One complication is that the PSR's we receive no longer contain rap sheets, as we have been told by clerks and prosecutors that their contract with DCJS does not provide for that.

In our county, exhibits are returned to the parties at the end of the trial. That means that we never received them from the clerk, and usually obtain the bulk of them via a later request to the District Attorney. Defense exhibits are dependent upon provision of the lower court attorney files. That is probably our most problematic area, as a significant number of defense lawyers have been less than cooperative in sharing their files.

LEGAL AID SOCIETY OF NASSAU COUNTY, NEW YORK

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MEMORANDUM

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Staff Attorneys

To: Committee on Courts of Appellate Jurisdiction
Indigent Criminal Appeals Subcommittee

From: Tammy Feman, Appeals Bureau Chief

Date: February 25, 2026

Re: Update of anecdotal information for dates of receipt of transcripts, exhibits, and probation reports

I. Update on Snapshot of Legal Aid Society of Nassau County Appellate Practice

Appellate Term, Second Department

This is an update to our Memorandum dated October 9, 2024. Since our last report, our office reached out to the Hon. Norman St. George, First Deputy Chief Administrative Judge, and the Office of Court Administration. We are working closely with Toni Ann Figueroa, Statewide Coordinator - Office of Record Production, Office of Court Administration to help alleviate the extensive delays in transcripts from Nassau County District Court for Appellate Term appeals. Ms. Figueroa has been instrumental in helping us obtain transcripts that were outstanding for more than a year in several cases. Although we continue to face delays, there is now a mechanism in place for our office to contact District Court supervisors and the Office of Court Administration when transcripts are delayed past 90 days. We have also met with counsel for the Hon. Joseph A. Zayas, Chief Administrative Judge to discuss current difficulties in appellate practice and possible improvements.

A large part of our appellate practice involves misdemeanor appeals to the Appellate Term, Second Department. For our Appellate Term practice there are unique issues. Electronic transcripts would alleviate a large portion

of transcript delays.

Transcripts

There are no electronic transcripts available for Appellate Term appeals. The appeals clerk in District Court tries his best to impress upon the court reporters to timely provide us with the hard copies of the transcripts but the delays for both full trial and guilty plea appeals average approximately 10.4 months. Many times by the time we receive the transcripts, the client has completed their sentence. We currently have Appellate Term appeals with outstanding transcript delays ranging between 4 months and 1.7 years. At the date of the last report we had numerous cases with transcript delays more than a year.

Once we receive the transcripts, we have to scan them, and send them to the District Attorney for settlement. The District Attorney's Office typically sends the transcripts to the trial assistant for a line by line check of the transcripts which causes additional delays. Recently, an Assistant District Attorney in the District Attorney's Office Appeals Bureau informed us that the settlement was delayed because she had to contact 19 different Assistant District Attorneys who stood up on the case. We do not settle the records on felony appeals. When an error is discovered in the record on a felony appeal, the error is later addressed by the appellate attorney in a footnote in the brief or by motion. It is similarly unnecessary to settle the records on misdemeanor appeals.

Access to electronic transcripts would alleviate delays. Changing the requirements for settling the record on misdemeanor appeals would also alleviate delays.

Court File Access

Once the record is settled, the appeals clerk has to send the file to Brooklyn. The appeals clerk tries to contact us before the file is sent to Brooklyn. However, sometimes the court file is sent to Brooklyn before we have the chance to review the file. For People's appeals, which are much more prevalent with the change in the discovery laws, the files are sent to Brooklyn before we can review them in the local court. We then have to go to the Appellate Term in Brooklyn with our own scanner to scan the documents that we need. There is no place to review and scan the file in Brooklyn so the

assigned attorney has to review and scan the file in the public hallway. At a recent trip to scan the file at the Appellate Term, Wi-Fi access was so limited that the attorney had to use their personal cell phone to take photographs of each document.

The file is still sent to Brooklyn with a runner. We were informed that the runner can take several weeks or more to go from Nassau County to Brooklyn because the runner makes several other pickups at other courthouses before going to Brooklyn. This also delays the availability of the court file and prevents litigants from making any initial motions in the Appellate Term until the file has arrived.

Electronic court files would alleviate all of these difficulties.

Exhibits

We still have a difficult time obtaining exhibits from cases that did not originate in our office. The 18-b trial attorneys are typically unresponsive or promise access to their trial file and exhibits but fail to follow through. On average it takes several months or more to obtain exhibits from other attorneys. The Appellate Term, Second Department has an internal (non-published) rule that requires the litigants to send the exhibits entered as evidence to the Appellate Term before the brief is filed. If exhibits are missing the court will reject the brief.

Electronic court files would also alleviate all of these difficulties. The exhibits would be scanned at the trial court and would remain accessible to appellate attorneys.

Probation Reports

Counsel for the Nassau County Department of Probation routinely provides us with timely access to probation reports. Occasionally, for misdemeanor appeals, there is a delay because probation reports are not always written for misdemeanor cases, and it takes time to research if a report was made.

Appellate Division, Second Department

Transcripts

In Nassau County, it still remains that electronic transcripts are not available for assigned appeals from County Court to the Appellate Division, Second Department. We are required to wait for the court reporters to print hard copies of the transcripts and file them with the Clerk of the County. We then have to wait for the County Clerk to notify us that the transcripts are ready for pickup. The delays take place when we have to obtain hard copies from the County Clerk's Office. Hard copies of transcripts range between 5 months and 1 year. The average time for a full trial transcript is 5 months.

The Associate Court Clerk who handles the County Court appeals files in Nassau County recognizes the difficulties and delays with not having electronic transcripts and occasionally sends us scanned copies of very short guilty plea transcripts and on some shorter SORA transcripts. When the transcripts are electronic, the transcripts range from 5 days to 4 months. The average time for electronic guilty plea transcripts is 3.2 months. Electronic transcripts shorten the time significantly.

In our last report, we noted that in one full trial appeal our office purchased the transcripts for a CPL 330.30 motion and still had to wait four months for the official hard copy of the transcripts for the appeal when we already had an electronic copy of the transcripts that we had paid for independently.

Exhibits

Currently our office is only assigned by the Appellate Division, Second Department to handle cases originating out of our office in the trial court.¹ We

¹

The assigned counsel clerk of the Appellate Division, Second Department has implemented a policy whereby our office is currently generally only assigned to appeals of cases that originated out of our office. This is contrary to

rarely have trouble obtaining exhibits on cases from our own office. In the past when we were assigned to cases that did not originate from our office, we had difficulties obtaining files and exhibits from the assigned trial counsel. As indicated in our last report, when we were recently assigned to handle a CPL 330.30 motion on a case handled by another office, we were unable to obtain any exhibits from the original trial attorney. We managed to file the appeal without the exhibits by relying on the transcript references which was far from ideal.

Probation Reports

Counsel for the Nassau County Department of Probation routinely provides us with timely access to probation reports. Occasionally, the reports are delayed by several months, but when we follow up they are provided.

Court File Access

We do not have any problems with access to the County Court file. We contact the Associate Court Clerk in charge of appeals and she immediately provides us with file access.

(Continued on next page.)

assignments made to every other institutional provider of other counties within the Second Department. It is for this reason that the other offices experience significant delays in obtaining exhibits from cases that did not originate in their office.

II. Sample of Cases Including 2024 and 2025

Appellate Term, Second Department

Full Trial

County: Nassau

Date of Conviction: 07/21/25

Order of Assignment: 10/08/25

Hard Copy Transcripts Received: Not yet received

Trial Court File Received: 09/05/25

Probation Report Received: Not yet received

Exhibits Received: 09/05/25

County: Nassau

Date of Conviction: 02/16/25

Order of Assignment: 05/20/25

Hard Copy Transcripts Received: Not yet received

Trial Court File Received: 04/29/25

Probation Report Received: 03/31/25

Exhibits Received: 05/20/25

County: Nassau

Date of Conviction: 11/27/24

Order of Assignment: 1/28/25

Hard Copy Transcripts Received: 11/25/25

Trial Court File Received: 02/05/26

Probation Report Received: N/A

Exhibits Received: 02/05/26

County: Nassau

Date of Conviction: 11/25/24

Order of Assignment: 01/23/25

Hard Copy Transcripts Received: 01/09/26

Trial Court File Received: 12/19/24

Probation Report Received: 02/11/25

Exhibits Received: 12/15/24

Appellate Term, Second Department

Full Trial

County: Nassau

Date of Conviction: 02/15/24

Order of Assignment: 10/04/24

Hard Copy Transcripts Received: 10/23/25

Trial Court File Received: 06/4/24

Probation Report Received: N/A

Exhibits Received: 06/04/24

County: Nassau

Date of Conviction: 12/06/23

Order of Assignment: 04/24/24

Hard Copy Transcripts Received: 03/14/25

Trial Court File Received: 04/28/25

Probation Report Received: N/A

Exhibits Received: 12/15/23

County: Nassau

Date of Conviction: 05/22/23

Order of Assignment: 01/24/24

Hard Copy Transcripts Received: 03/11/25

Trial Court File Received: 03/31/25 (incomplete)

Probation Report Received: N/A

Exhibits Received: 03/31/25

County: Nassau

Date of Conviction: 5/17/23

Order of Assignment: 9/19/23

Hard Copy Transcripts Received: 8/26/24

Trial Court File Received: Unavailable in Nassau County/File in Brooklyn

Probation Report Received: 9/22/23

Exhibits Received: Date not recorded- missing discovery exhibit obtained from Brooklyn court file

(Continued on next page.)

Appellate Term, Second Department

Full Trial

County: Nassau

Date of Conviction: 03/15/23

Order of Assignment: 04/24/24

Hard Copy Transcripts Received: 12/20/25

Trial Court File Received: TBD requested from 18-b attorney 01/14/26, 2/17/26

Probation Report Received: 02/28/25

Exhibits Received: TBD

County: Nassau

Date of Conviction: 03/08/23

Order of Assignment: 09/22/23

Hard Copy Transcripts Received: 09/26/24, additional 01/21/25

Trial Court File Received: 11/06/24

Probation Report Received: 09/22/23

Exhibits Received: 11/06/24

County: Nassau

Date of Conviction: 11/18/22

Order of Assignment: 5/25/23

Hard Copy Transcripts Received: 9/21/23

Trial Court File Received: 9/22/23

Probation Report Received: 6/26/23

Exhibits Received: N/A (our file had copies)

County: Nassau

Date of Conviction: 8/12/22

Order of Assignment: 2/21/23

Hard Copy Transcripts Received: 8/1/23

Trial Court File Received: 5/13/24

Probation Report Received: 6/26/23

Exhibits Received: N/A (our file had copies)

(Continued on next page.)

Appellate Term, Second Department

Guilty Plea

County: Nassau
Date of Conviction: 06/23/25
Order of Assignment: 10/21/25
Hard Copy Transcripts Received: 01/9/26
Trial Court File Received: 07/21/25
Probation Report Received: N/A
Exhibits Received: N/A

County: Nassau
Date of Conviction: 06/07/24
Order of Assignment: 07/23/24
Hard Copy Transcripts Received: 11/6/25
Trial Court File Received: 06/28/24
Probation Report Received: 07/29/24
Exhibits Received: 06/28/24

County: Nassau
Date of Conviction: 06/06/24
Order of Assignment: 07/23/24
Hard Copy Transcripts Received: 11/06/24
Trial Court File Received: 06/28/24
Probation Report Received: 07/29/24
Exhibits Received: 06/28/24

County: Nassau
Date of Conviction: 03/29/24
Order of Assignment: 05/28/24
Hard Copy Transcripts Received: 03/28/25
Trial Court File Received: 03/29/24
Probation Report Received: N/A
Exhibits Received: N/A

County: Nassau
Date of Conviction: 03/29/24
Order of Assignment: 10/04/24
Hard Copy Transcripts Received: 03/28/25
Trial Court File Received: 03/29/24
Probation Report Received: N/A
Exhibits Received: N/A

Appellate Division, Second Department

Full Trial

County: Nassau

Date of Conviction: 11/04/24

Order of Assignment: 01/27/25

Hard Copy Transcripts Received: 04/11/25

Trial Court File Received: 12/23/24

Probation Report Received: N/A

Exhibits Received: N/A

County: Nassau

Date of Conviction: 5/1/23

Order of Assignment: 7/7/23

Hard Copy Transcripts Received: 8/1/23

Trial Court File Received: No delay

Probation Report Received: 9/19/23

Exhibits Received: Never received -filed without exhibits

(Continued on next page.)

Appellate Division, Second Department

Guilty Plea

County: Nassau

Date of Conviction: 06/07/25

Order of Assignment: 08/13/25

Transcripts Received: 10/22/25 (electronic copy from Appeals Clerk)

Trial Court File Received: 06/27/25

Probation Report Received: 09/02/25

Exhibits Received: N/A

County: Nassau

Date of Conviction: 05/8/25

Order of Assignment: 07/02/25

Transcripts Received: 09/03/25 (electronic copy from Appeals Clerk)

Trial Court File Received: No delay

Probation Report Received: 07/18/25

Exhibits Received: N/A

County: Nassau

Date of Conviction: 05/6/25

Order of Assignment: 06/3/25

Transcripts Received: 10/22/25 (electronic copy from Appeals Clerk)

Trial Court File Received: 06/26/25

Probation Report Received: 10/23/25

Exhibits Received: N/A

County: Nassau

Date of Conviction: 05/09/24

Order of Assignment: 03/12/25

Transcripts Received: 03/17/25 (electronic copy from Appeals Clerk)

Trial Court File Received: 10/25/24

Probation Report Received: N/A

Exhibits Received: N/A

(Continued on next page.)

Appellate Division, Second Department

Guilty Plea

County: Nassau

Date of Conviction: 01/22/24

Order of Assignment: 12/02/24

Transcripts Received: 01/15/25 (electronic copy from Appeals Clerk)

Trial Court File Received: 10/15/24

Probation Report Received: N/A

Exhibits Received: N/A

County: Nassau

Date of Conviction: 6/6/23

Order of Assignment: 8/2/23

Transcripts Received: 8/17/23 (electronic copy from Appeals Clerk)

Trial Court File Received: No delay

Probation Report Received: 9/19/23

Exhibits Received: N/A

County: Nassau

Date of Conviction: 01/24/23

Order of Assignment: 01/29/24

Transcripts Received: 7/30/24

Trial Court File Received: No delay

Probation Report Received: 07/01/24

Exhibits Received: N/A

County: Nassau

Date of Conviction: 12/26/21

Order of Assignment: 1/10/22

Transcripts Received: 11/23/22

Trial Court File Received: No delay

Probation Report Received: 6/22/22

Exhibits Received: N/A

(Continued on next page.)

Appellate Division, Second Department

Guilty Plea

County: Nassau

Date of Conviction: 12/21/21

Order of Assignment: 2/2/22

Transcripts Received: 2/24/23 (electronic copy from Appeals Clerk)

Trial Court File Received: No delay

Probation Report Received: 5/8/23

Exhibits Received: N/A

County: Nassau

Date of Conviction: 7/7/21

Order of Assignment: 7/28/21

Transcripts Received: 9/16/21 (electronic copy from Appeals Clerk)

Trial Court File Received: No delay

Probation Report Received: 7/28/22

Exhibits Received: N/A

President
Stephen C. Lessard

President-Elect
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Vice President
Adrienne B. Koch

Secretary
Jai K. Chandrasekhar

Treasurer
Richard B. Swanson

January 25, 2021

MEMORANDUM

TO: Mr. Jeffrey Carucci
Statewide Coordinator for Electronic Filing
Office of Court Administration
25 Beaver Street
New York, New York 10004
efilingcomments@nycourts.gov
Via E-Mail

FROM: Appellate Courts Committee, New York County Lawyers Association

RE: Comments on Electronic Filing

This memorandum, submitted by the Appellate Courts Committee of the New York County Lawyers Association, offers comments for inclusion in the Office of Court Administration's ("OCA's") annual report to the Legislature, the Governor, and the Chief Judge evaluating our State's electronic filing system, including the New York State Electronic Filing System ("NYSCEF"). We appreciate the opportunity to offer input.¹

In December 2017, all four departments of the Appellate Division adopted uniform rules on electronic filing (the "Rules"). *See* 22 NYCRR § 1245 et. seq. And in 2020, the Appellate Divisions First and Second Departments went "all digital," no longer requiring paper filing of any documents. Instead, in the First Department, papers are

¹ These comments have been approved by NYCLA's Appellate Courts Committee and approved for submission by NYCLA's President. They have not been reviewed by NYCLA's Executive Committee and do not necessarily represent the views of its Board.

filed on NYSCEF and in the Second Department papers are filed on either NYSCEF or a portal.

The Appellate Courts Committee of the New York County Lawyers Association applauds the Unified Court System's efforts to expand electronic filing. Electronic filing drastically enhances the efficiency of the court system and prevents the wasteful process of travelling to a courthouse to file paper. Still, the current e-filing system can be improved. These comments propose several simple e-filing reforms that could drastically improve the efficiency of our appellate system.

In proposing these reforms, we do not operate on a blank slate. Many of the reforms proposed below have already been previously proposed, in one form or another, in bar-association letters and reports.² Now is the time to adopt them.

A. Compilation of the Record on Appeal

The current system for providing the record to assigned counsel is inefficient, costly, and delays cases by years. Digital reform can fix this problem.

In First Department cases where counsel is assigned (a vast majority of criminal cases and a significant number of civil cases in that Department), the record that the court provides to assigned counsel is often incomplete, thus forcing assigned counsel to spend considerable resources compiling a complete record.³ Relevant transcripts are often not provided. Papers filed with the trial court are often absent from the record, meaning that counsel must dig through the paper court file to assemble a complete record. And hearing and trial exhibits are, as a matter of established practice, *never* part of the provided record and are instead only provided upon a request to the party who introduced them, which often takes months to fulfill. Even worse, these exhibit requests are fulfilled at the taxpayer's expense as the prosecution

² See Exhibit A, which attaches the following materials: NYCLA Statement, *Electronic Filing and Service During the Current Pandemic* (March 25, 2020); New York City Bar Association, Criminal Justice Operations Committee, Criminal Advocacy Committee, and Criminal Courts Committee, Letter to O.C.A. and Presiding Justices of the First and Second Departments, *Delays Associated with Compiling the Record on Appeal in Criminal Cases* (March 5, 2020); NYCLA, Appellate Courts Committee, Letter to the Presiding Justices of the Appellate Courts, *Proposals for Reform of Appellate Procedures in the First and Second Departments* (July 3, 2018); NYCLA, Appellate Courts Committee, Letter to the Clerk of the Court of Appeals, *Electronic Service of Applications for Leave to Appeal in Criminal and Civil Appeals* (July 13, 2018).

³ The situation is even worse in the Second Department. There, the record is not provided at all; instead, assigned counsel must compile the record from scratch on his/her own.

and other state agencies must spend resources scouring old files for exhibits that were admitted years earlier.

Once the record is complete, it still takes years after judgment is imposed for the court system to provide it. It often takes at least a year for counsel to be assigned post-judgment. At that point, the court orders the provision of the transcripts/record to assigned counsel, a process that routinely takes another year. So, for instance, appellate counsel may not receive a viable record on appeal from a May 2014 judgment until May 2016 or even later. This delay hurts individuals seeking appellate relief. And it hurts the government's interests because, if a judgment is reversed, new proceedings must take place many years after the initial proceeding, thus injecting the risk of absent witnesses, stale memories, and outright loss of evidence.

To improve this inefficient system, OCA should enact a rule requiring the following simple changes:

- the OCA CRIMS record sheet, which lists all of the court appearances in criminal cases, must be filed on NYSCEF so appellate counsel can have easy access to information that will allow for a determination of the record's completeness;
- transcripts should be uploaded onto NYSCEF so the parties can have easy access to them;
- all materials filed in the trial court and/or contained in the court file must be filed on NYSCEF, including jury notes, *in limine* motions, and substantive email correspondence with the trial court (such as requests to charge, with are often done through email); and
- a copy of each exhibit must be made part of the record and placed on the NYSCEF file.

These reforms will do a lot of good. They should be adopted.

B. The Court of Appeals Should Go All Virtual

Although the Appellate Divisions have gone virtual during the Pandemic, the Court of Appeals has unfortunately not done so. Briefs and records, often collectively consisting of a thousands of pages, must still be filed in paper copy, as must motions for leave to appeal. Fortunately, the Court has recently (effective January 2021) created a new e-filing portal which allows for parties to file electronic copies of motions for leave to appeal in criminal and civil cases. But while the Court has abandoned the cumbersome requirement that copies of the Appellate Division

briefing must be filed in paper, it still requires paper copies of the motion papers and letters.

The Court of Appeals should nullify any paper-filing requirements as doing so will enhance efficiency and save the taxpayer millions of dollars over a decade on the costs associated with printing/shipping of millions of pages of paper (when papers are filed and served by assigned or government counsel). In turn, the Court of Appeals should join the NYSCEF filing system so papers can be filed there.

At a minimum, the Court of Appeals should amend all of its rules to render a paper timely filed if the digital copy is uploaded by or on a deadline. The Court's current rules pin the filing date to the date the paper copy is received by the Court in Albany. This rather arbitrary rule puts the parties at the mercy of the mail. Justice should not be pinned to factors outside the party's control. Nor should attorneys have to endure anxiety and time tracking packages, contacting postal services to determine the status of packages, and contacting the court to confirm that a paper has been received. Instead, as in virtually every other court system of which we are aware, a paper should be deemed filed when it is electronically submitted.

C. The Second Department's Technical Citation Requirements

E-filing works wonders for busy attorneys. But the imposition of hypertechnical and time-consuming e-filing rules wastes precious time. The Second Department's cumbersome citation rules for e-filed cases is wasteful and should be modified.

In the Second Department, filings must comply with a set of "Technical Guidelines." Among them are requirements that authorities cited within filings must be "Bookmarked" or "Hyperlinked." Under the Technical Guidelines, litigants who opt for bookmarking must: (1) compile all of the authorities cited into pdf files, (2) merge those files into one compendium, (3) annex that compendium to the filing, and (4) manually bookmark each cited authority. Those who opt for hyperlinking must, for each citation in the filing, manually create a hyperlink to the website where the source is located. For an average-length appellate brief, we have found that both methods require between two and a half to three hours to complete.

This requirement comes at a tremendous cost for appellate practitioners and produces little benefit. For one, appellate counsel must purchase expensive pdf-writing software. Worse, counsel must spend valuable time complying with the intricacies of the Technical Guidelines rather than tending to clients' needs. Indigent clients represented by institutional providers suffer the most. Purchasing the required software licenses creates budgetary headaches for providers. Additionally, since many institutional providers have limited support staffs, formatting responsibilities fall onto attorneys who must divert time and energy away from legal work and client communication in order to bookmark and hyperlink their filings.

In sum, there should not be any technical citation requirements. Instead, a table of authorities suffices.

D. Improving Access to Transcripts

Ready access to electronic copies of transcripts is essential to good lawyering and the fair administration of trial-level and appellate justice. Nevertheless, in assigned-counsel cases, transcripts are still routinely delivered in paper copy to the courts and the parties. This is senseless and wasteful. Transcripts should be provided in electronic copy because doing so is cheaper and far more efficient than printing out hundreds (and at times thousands) of pages and transporting those pages to the recipients. And once the court system receives a transcript for an appeal, it should immediately upload that transcript onto the NYSCEF system so it will be available to all parties. This change will speed up the appellate process by many months.

Further, the court system should ensure that there are no price distinctions between PDF and paper copies of transcripts. PDF copies should never cost more than paper.

E. Rejected E-Filings

Courts routinely reject e-filings that do not comply with formatting and e-filing requirements. The manner in which they do so is often unhelpful. Often, the courts provide neither an explanation of where in the filing the defects appear nor a person to contact regarding their rectification. This can lead to practitioners spending valuable time trying to obtain guidance on how to fix (often minor formatting) errors. OCA should require courts to provide contact information for the person(s) who deem filings defective and eliminate the waste of time and resources current conventions produce.

Respectfully Submitted,

Appellate Courts Committee,
New York County Lawyers Association

EXHIBIT A

STATEMENT OF THE NEW YORK COUNTY LAWYERS ASSOCIATION

Electronic Filing and Service During the Current Pandemic

In response to the current pandemic, some, but not all, New York courts have relaxed the rules governing the filing and service of legal papers by permitting electronic filing and service. And as of March 22, 2020, the Administrative Order of the Chief Administrative Judge of the Courts prohibits filings except in certain enumerated matters and those matters deemed “essential.”¹

To ensure the safety of the thousands of individuals involved in the filing, service, and review of legal documents, we recommend that New York appellate and trial courts, in both civil and criminal cases, quickly enact a rule that requires electronic service/filing of all legal documents and prohibits paper service/filing. *See* C.P.L.R. § 2103(b)(7) (authorizing the chief administrator to create rules governing e-service). This proposed rule would not require the establishment of any new e-filing systems but would instead merely require courts and litigants to make e-mail addresses available for electronic filing. This rule will facilitate filings in those cases where filing is currently permitted under the March 22nd Order and will continue to facilitate filings once that order is lifted some time in the future.

An exception to this proposed electronic-filing rule should be made for (1) incarcerated individuals and (2) *pro se* litigants who, due to financial, technological, or other hardship, cannot file documents electronically. This rule would be temporary in light of current circumstances and should remain in effect until subsequent rule modification.

This rule should not require consent of the parties and should simply require that courts and litigants make all reasonable efforts to provide an avenue for electronic service and filing. In virtually all pending cases, these avenues are already in place as parties already have access to court and party e-mail addresses. And if e-mail addresses are not currently available to accommodate this simple method, arrangements can easily be made to facilitate electronic filing and service. We are confident that attorneys and courts can, with ease, quickly adapt to this simple change.

We further recommend that the court system continue to make efforts to permit oral argument *via* video or telephone conference during this difficult period.²

¹ <https://www.nycourts.gov/whatsnew/pdf/AO-78-2020.pdf>

² The New York County Lawyers Association was founded in 1908 as one of the first major bar associations in the country that admitted members without regard to race, ethnicity, religion or gender. Since its inception, it has pioneered some of the most far-reaching and tangible reforms in American jurisprudence, including through the work of its many committees that provide in-depth analysis and insight into legal practice areas. A version of this statement was approved by the Committee on Appellate Courts on March 22, 2020. The Executive Committee approved this statement as a Statement of the New York County Lawyers Association at its regular meeting on March 25, 2020.



**COMMITTEE ON CRIMINAL
JUSTICE OPERATIONS**

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March 5, 2020

Chief Administrative Judge Lawrence K. Marks
Office of Court Administration
25 Beaver Street
New York, New York 10004

Presiding Justice Rolando T. Acosta
New York State Supreme Court
Appellate Division, First Department
27 Madison Avenue
New York, New York 10010

Presiding Justice Alan D. Scheinkman
New York State Supreme Court
Appellate Division, Second Department
45 Monroe Place
Brooklyn, New York 11201

Re: Delays Associated with Compiling the Record on Appeal in Criminal Cases

Dear Judges Marks, Acosta, and Scheinkman:

We are writing to you as members of the New York City Bar Association's Criminal Justice Operations Committee, Criminal Advocacy Committee, and Criminal Courts Committee. Over the past few months, through interviews with District Attorney's offices and Appellate Defenders, we have identified impediments that cause delay in compiling the record on appeal for criminal appeals, which ultimately delay their resolution. Thinking about the ways in which the appellate process can be made more efficient is consistent with the goals of OCA's "Excellence Initiative," which, just three years after its implementation, has improved disposition rates and reduced backlog in the trial courts. We are optimistic about the potential for similar improvements at the appellate level.

In general, appellate providers noted that simply compiling the documents and transcripts necessary to complete the record on appeal can take anywhere from two months to two years,

which is the primary reason why resolving a criminal appeal is a lengthy endeavor.¹ Below, we identify some common problems appellate attorneys face in compiling the record on appeal and offer some procedural solutions to address these concerns.

I. COURT FILES

a. Attorneys Often Do Not Receive All Parts Of The Court File They Need To Handle The Appeal.

In the counties covered by the First Department, the Appeals Bureau of each Supreme Court provides the Appellate Division with only those documents from the court file that they believe are relevant to handling the appeal. In other words, an employee of the Appeals Bureau includes only those documents that he/she personally believes an appellate attorney needs for the case. However, their judgment may not reflect the judgment of assigned counsel. For example, in previous years, appellate offices did not receive copies of jury notes as part of the court file. But in order to determine whether an O’Rama error exists, an attorney would need the notes to see if the court read them verbatim into the record.² Similarly, appellate defender offices are not provided with copies of their clients’ “rap sheets” because at least one of the Appeals Bureaus views them as confidential. Appellate defenders in the Second Department do not have the same problem, as those offices are given access to copy the court file themselves.

b. Because Of Incomplete Recordkeeping, Attorneys Have Difficulty Determining What Documents Are Missing From The Court File.

Another difficulty is determining which documents are missing from the court file. Unless the event — for example, a hearing; a pro se submission; an oral application for new counsel, release from custody on speedy trial grounds, or to waive the assistance of counsel and proceed pro se; or the resolution of a discovery dispute, which seem likely to proliferate as the new criminal justice reforms take effect — is noted on the clerk’s worksheet or is otherwise referenced in the transcripts provided, attorneys cannot know what is missing. This problem stems primarily from the worksheet, which the court clerk fills out for every case. There is no space on that form for the clerk to indicate that certain motions — for example, Sandoval motions — happened on a date before jury selection began, thus leaving attorneys unaware of certain events except in circumstances where they fortuitously happen to be mentioned in other parts of the record on appeal. Similarly, since appellate offices are not notified that sealed documents exist, such as Article 730 examination reports, they cannot know to request them or ask that they be unsealed. And in at least one county (Richmond), the county clerk refuses to provide Article 730 reports at all.

¹ Those who provided information for this report include Bureau Chief Leonard Joblove, Brooklyn District Attorney Appeals Bureau; Bureau Chief Johnette Trail, Queens District Attorney Appeals Bureau; Attorney-in-Charge Paul Skip Laisure, Appellate Advocates; Managing Attorney David Klem, Center for Appellate Litigation; and Attorney-in-Charge Christina Swarns, Office of the Appellate Defender. We are grateful for their assistance and we have incorporated their responses into this report.

² People v. O’Rama, 78 N.Y.2d 270 (1991) requires courts to follow a specific procedure when there is a note from the jury during a trial. A court must, in part, read the jury note into the record word-for-word, and failure to do so constitutes reversible error on appeal.

This particular issue may be of greater concern to First Department practitioners, since some Second Department attorneys reported that they routinely make a complete copy of the Supreme Court file and do not rely on a record assembled by the court clerk.

II. TRANSCRIPTS

a. Attorneys Often Wait For Months To Receive Transcripts Due To Delays By The Appeals Bureau, Court Reporters, And The Appellate Division.

The first step in the process of creating and delivering a transcript to appellate attorneys requires the Appeals Bureau to issue an order to the court reporter to transcribe the relevant record. In the past, these orders were issued within weeks of the assignment. However, in recent years, it has taken the New York County Appeals Bureau upwards of four to five months after appellate counsel is assigned simply to issue such an order. The speed at which orders are issued seems to have fluctuated based, in part, on personnel shifts within the office.

Next, court reporters must transcribe their notes from the requested proceedings. However, while the Supreme Court Appeals Bureau orders court reporters to provide transcripts of the requested proceedings within 90 days, the court reporters frequently do not adhere to these orders. If the reporter does not produce a transcript within 90 days, it appears that the Appeals Bureau in the First Department often does not follow up (the Appeals Bureau in the Second Department generally does, but without any better results). It then falls on assigned counsel to determine why they have not received the record in a timely manner, and then follow up with the court reporter until it is done. Multiple appellate offices identified court reporters as the most critical point of transcript delay, as court reporters almost never file the transcripts within 90 days. As a result, delays are extensive at this stage in the process.

Another source of delay arises even after the Appeals Bureau receives the transcripts. The Appellate Division logs in and scans the transcripts (and court files) before providing them to assigned counsel. Appellate offices have observed substantial scanning delays of up to six months in the Appellate Division.

b. Attorneys Often Do Not Initially Receive All Of The Transcripts They Need To Handle The Appeal.

This problem is similar to that described in the “Court File” section. Because the clerk’s worksheet does not have a space to indicate that certain motions occurred on a date prior to jury selection, the Appeals Bureau may not know that it has to request certain minutes. Moreover, the Appeals Bureau only requests transcripts that it believes are relevant. Thus, attorneys almost never receive transcripts of arraignments, adjournments, or what the Appeals Bureau considers “non-substantive” events. This creates a situation where necessary minutes are often missing from the package that appellate attorneys receive from the court.

c. When Attorneys Identify Additional Transcripts They Need To Handle The Appeal, The Process Of Then Obtaining Those Minutes Is Lengthy And/Or Costly.

If, once an attorney receives all of the transcripts ordered by the Appellate Division, she determines that she needs to order additional transcripts to handle the appeal, she will first attempt to order those minutes through the Appellate Division. However, the Appellate Division must then request that the Appeals Bureau order a transcript from the court reporter, and that process can take six months or more.

Sometimes, the Appellate Division balks at ordering the additional minutes (for example, all the adjourn dates in order to evaluate a speedy trial claim). In those cases, the appellate provider must make a formal motion to the court to request them. That process, which includes time for the DA's response and the court's consideration and decision, may take an additional several months.

Because of how long it takes to get additional minutes through the court, appellate providers often end up spending office funds to pay-order transcripts directly from the court reporter, a process which usually ensures that transcripts are provided within a reasonable amount of time. However, this means that appellate offices frequently spend money to pay-order minutes that should have been provided to them without cost as assigned counsel.

III. EXHIBITS

a. Exhibits Are Not Provided In A Timely Manner To Attorneys

Once exhibits are introduced into evidence, they become part of the record on appeal. However, rather than storing them in a centralized location, such as the court, the court returns them to the respective parties who introduced them, leading to a piecemeal storage system whereby exhibits are frequently lost or require a time- and labor-intensive process to locate.

Appellate defender offices typically request the People's exhibits in every case, which means that any delay in receiving exhibits leads to a delay in the resolution of the appeal. In order to obtain the People's exhibits, assigned counsel submits a formal request to the exhibits paralegal in the appropriate DA's office, including the exhibit list showing the admission of the requested exhibit. These paralegals are tasked with locating and supplying the exhibits to assigned counsel. However, the DA's office lacks personnel to handle the volume of these exhibit requests. Additionally, the DA's offices archive some of their trial materials off-site, and those materials are controlled by the NYC Department of Records and Information Services, from which they must be retrieved, causing additional delay. Thus, it can take anywhere from two months to more than six months for defense counsel to receive the People's exhibits. Moreover, in a substantial percentage of cases, the DA's office is unable to locate the exhibits at all, leading to defense counsel filing a brief without the relevant exhibits.

Obtaining defense exhibits requires the cooperation of trial counsel. If trial counsel is not cooperative, or if they have not engaged in orderly record-keeping, the assigned appellate attorney may never receive the defense exhibits.

b. Proposed Procedural Solutions

We propose the following solutions to address common delays in compiling the transcript on appeal.

- The Appeals Bureau should provide a copy of the entire court file to the Appellate Division, eliminating the need for attorneys to attempt to figure out whether any important document is missing from the court file and then retrieve that document.
- Trial courts could revise the clerk's worksheet, providing a space on the form to document proceedings that occur prior to jury selection, thus creating a more complete record of events that the Appeals Bureau will rely on when determining what transcripts need to be ordered.
- The 90-day time requirement for court reporters to file transcripts should be strictly enforced by the court. To that end, OCA might consider developing a system to monitor whether court reporters are generally meeting the 90-day deadline, and if they are not, then considering what can be done to address this issue.
- Filing transcripts could be done in a digital format, which would minimize the delays inherent in passing transcripts from the court reporter to the Appeals Bureau to the Appellate Division and then, finally, to the assigned attorneys.
- We suggest that the court institute a procedure, at the time of trial, for creating digital copies of all exhibits from both parties and then storing those digital copies with the court, in order to ensure that exhibits are preserved in a centralized location and are easily accessible to appellate attorneys down the line.

Finally, we would welcome a meeting with Judge Marks, Justice Acosta, Justice Scheinkman, and representatives from the New York City district attorneys and appellate provider offices, for an opportunity to discuss the issues identified in this letter and identify concrete solutions to ensure the timely resolution of criminal appeals. We feel that the time is especially ripe for change given the pilot e-filing program being implemented in New York Superior Criminal Court.

Thank you for your consideration.

Respectfully,

Criminal Justice Operations Committee
Sarah J. Berger, Chair
Christina Wong
Benjamin Wiener
Eric Washer

Criminal Courts Committee
Terri S. Rosenblatt, Chair

Criminal Advocacy Committee
Brian A. Jacobs, Chair

cc:

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Past President**
Carol A. Sigmond

July 13, 2018

RE: Electronic Service of Applications for
Leave to Appeal in Criminal and Civil
Appeals

Honorable John P. Asiello
Clerk of the Court
New York Court of Appeals
20 Eagle Street
Albany, New York 12207

Your Honor:

The New York County Lawyer's Association *Appellate Courts Committee* analyzes the state and federal appellate court system with an eye towards reform. We write with a proposal for reform of the rules governing the service of materials submitted in support of leave applications: the Court of Appeals should permit electronic service in lieu of mail service.

As Chief Judge DiFiore recently explained, "The benefits of going all-digital are obvious and significant. It streamlines the commencement of cases, resulting in substantial cost savings for all litigants."¹ Replacing the current system with an e-service system would significantly enhance the efficiency of the leave-application process, promote environmental responsibility, and save money.

From 2012 through 2016 alone, the Court of Appeals disposed of more than 10,000 criminal-leave applications and nearly 5,000 civil motions for leave to appeal. In the typical application, numerous documents must be filed. In a criminal case, Appellant must file an opening letter (attaching the Appellate Division briefs and decisions) and

¹ Chief Judge Janet DiFiore, *Going Paperless: The New York City Family Court*, 90(3) The New York State Bar Association Journal 10-12 (March/April 2018).

often files a substantive follow-up letter (once a Judge is assigned to the application). In turn, the Respondent files a letter in opposition.

In civil cases, the party seeking permission to appeal must file even more materials:

- an original and six copies of consolidated motion papers including, among other things, a notice of motion, statement of case history, a jurisdictional showing, statement of the questions presented, a showing of leaveworthiness, and a copy of the order/judgment sought to be appealed;
- a copy of the record or appendix in the court below;
- copies of each party's briefs below.

The opposing party may then file six copies of papers in opposition, setting forth reasons for dismissal or denial of the application.

The end result is that each year, hundreds of thousands of pages are copied/printed, mailed, filed, and stored. It is also likely that at least \$100,000 per year is spent on the mailing and printing of documents—a tab that is often picked up by the taxpayer, as most leave applications are filed and opposed by tax-payer funded agencies/firms.

An e-service system would facilitate the work of the Court and the parties. Parties could electronically file the papers on an internal court database² or the parties could simply email the papers to designated email addresses.³ For instance, the Court could designate an email address for opening criminal leave applications and for each Judge, and also designate a centralized email address for civil leave applications. Each email address could, upon receipt, send confirmation to the parties that the papers have been received and filed.

Given the significant benefits of an e-filing system, and its likely attractiveness to litigants, the Court should amend its rules to make e-service an option for litigants seeking permission to appeal.

² The database need not be publically available.

³ The Appellate Division, First Department, for instance, designates an email address for the receipt of electronic copies of briefs. First Department Rules of Procedure § 600.11(b)-(c).

We welcome the opportunity to discuss this proposal with you further.⁴

Very truly yours,

The image shows two handwritten signatures in blue ink. The signature on the left is 'Matthew Bova' written in a cursive style. The signature on the right is 'Scott Danner', also in cursive, with a stylized 'S' and 'D'.

Matthew Bova and Scott Danner,
Co-Chairs, Appellate Courts Committee

⁴ The New York County Lawyers Association was founded in 1908 as one of the first major bar associations in the country that admitted members without regard to race, ethnicity, religion or gender. Since its inception, it has pioneered some of the most far-reaching and tangible reforms in American jurisprudence, including through the work of its many committees that provide in-depth analysis and insight into legal practice areas. The views expressed are those of the Appellate Courts Committee only and approved for dissemination by the President; these views have not been approved by the New York County Lawyers Association Board of Directors, and do not necessarily represent the views of the Board.

BY MAIL

July 3, 2018

Hon. Rolando T. Acosta
Presiding Justice
Appellate Division, First Department

RE: Proposals for Reform of Appellate
Procedures in the First and Second
Departments

Hon. Alan D. Scheinkman
Presiding Justice
Appellate Division, Second Department

Hon. Martin Shulman
Presiding Justice
Appellate Term, First Department

Hon. Michael L. Pesce
Presiding Justice
Appellate Term, Second Department
(2d, 11th, 13th Jud. Dist.)

Hon. Anthony F. Marano
Presiding Justice
Appellate Term, Second Department
(9th, 10th Jud. Dist.)

Your Honors:

The New York County Lawyers Association Committee on Appellate Courts respectfully requests that the Appellate Divisions and Appellate Terms of the First and Second Departments consider three new rules which would improve the efficiency of the appellate process and facilitate the court's ability to resolve appeals:

- A. The appellate courts should ensure that in assigned-counsel cases, the judgment roll includes the *entire* trial-court file, not merely portions of the file selected by the Appeals Bureau;
- B. The appellate courts should permit parties to reproduce exhibits in the body of the brief or, at a minimum, attach exhibits to a brief; and
- C. The appellate courts should permit the parties in assigned-counsel cases to provide an electronic, paginated appendix.

Further, as discussed in section D below, we would welcome a dialogue with the appellate courts regarding improving access to exhibits entered into evidence at the trial/plea level for use on appeal.

A.

Access to the Complete Court File

Under current procedures, the appellate courts do not provide assigned counsel with a complete copy of every document filed in the lower court. Instead, in the First Department and in Richmond County of the Second Department, the Appeals Bureau parses the file to determine which papers should be made part of the judgment roll. For instance, under current First Department practice, assigned counsel does not receive a copy of pre-sentence memoranda or competency reports filed with the court.¹

The appellate courts should provide the parties with a complete record containing every document in the court file. Ensuring complete access to the record would benefit the courts and the parties. Appeals Bureau staff would be relieved of the obligation of analyzing the court file to determine which papers should be provided, while the parties would have complete access to all potentially relevant materials.

B.

Reproduction of Exhibits in Briefs

The Committee recommends that the courts modify current court rules that bar parties from reproducing photographic exhibits in the body of the brief or appending them to the brief (*e.g.*, a lineup or a street map).² This minor amendment would facilitate appellate review, as it would prevent the courts and the parties from having to search the record for key exhibits while reviewing a brief.

The federal rules provide a good model for reform. Under Federal Rule of Appellate Procedure 32(a)(1)(C), “[p]hotographs, illustrations, and tables may be reproduced [in the brief] by any method that results in a good copy of the original.” We recommend that the appellate courts adopt this rule.³ Of course, the rules applicable to the reproduction of exhibits in the record or appendix (*e.g.*, images must be accurately reproduced) would apply equally to reproduction of exhibits in (or attached to) the brief.

¹ In the Second Department, the court does not provide the parties with the judgment roll. Instead, assigned counsel must copy the court file.

² See Appellate Division First Department Rule 600.10(d)(1)(iii) (“Unless authorized by the court, briefs to which are added or appended any matter, other than specifically authorized by this rule, shall not be accepted for filing.”); Appellate Division Second Department Rule 670.10.3(h)(2); Appellate Term First Department Rule 640.5(e). The Appellate Term Second Department’s rules are silent on this issue. See Rule 731.2

³ The United States Supreme Court similarly allows demonstratives/exhibits to be included in the body of the brief. See *Petitioner’s Br., Foster v. Chatman*, 578 U.S. ___, 136 S.Ct. 1737 (2016) at 16.

C.

Submission of an Electronic Appendix in Assigned-Counsel Cases

The Committee also recommends that the appellate courts allow parties in assigned-counsel cases to electronically submit an appendix.

In retained-counsel cases, the parties often file numerous copies of a paginated appendix. Assigned attorneys, on the other hand, proceed on the “original record.” Under this procedure, the court collects and retains a copy of the judgment roll and transcripts. In turn, assigned counsel refers to the testimony and file papers by date, witness name, nature of the document, etc. Upon receipt of the briefs, the parties and the court must search the file papers and transcript for the referenced material. And in cases where the transcripts/file papers are voluminous, this can be a particularly difficult enterprise.

Instead of this cumbersome procedure, the appellate courts should permit the appellant and respondent in assigned-counsel cases to electronically supply a paginated appendix which contains a complete copy of the transcript and file papers.⁴ This system would be *identical* to the current system governing assigned-counsel appeals, except that the court would—in addition to the materials it already retains in assigned-counsel appeals—also receive an electronic, paginated appendix for easy reference. This reform will reduce confusion and save time for the parties and the courts.

D.

Access to Exhibits

Finally, we would welcome the opportunity to discuss appellate counsel’s access to exhibits.

Unfortunately, assigned counsel in criminal and civil cases routinely struggle to access exhibits introduced during pretrial and trial proceedings. Although paper, photographic, and audio/video exhibits are often critical to an appeal, those exhibits are not part of the judgment roll that is provided to assigned counsel. Indeed, assigned counsel does not receive any exhibits as a matter of course. Instead, after receiving the transcripts and court file, assigned counsel must request exhibits from the parties that introduced the exhibit below. In turn, that party must access the trial file (either from storage or from trial counsel’s file) and locate every exhibit (often a difficult task, especially when counsel does not meticulously organize the

⁴ This paginated submission would only be electronic—assigned counsel would not also be required to supply written copies of a paginated appendix.

exhibits). The party must then reproduce the exhibits and provide a copy to assigned counsel. Often, exhibits consist of audio/video CDs, which can be difficult to reproduce. In the end, it can take anywhere from a month to six months for assigned counsel to access the exhibits, thus delaying the appeal.

We believe that this system can be improved and have several concrete proposals. We would welcome a dialogue with the appellate courts regarding possible reforms.

* * *

The reforms discussed above would enhance the efficiency of the appellate process. Please let us know if we can arrange a meeting to discuss these reforms in person.⁵

Very truly yours,

Matthew Bova and Scott Danner
Co-Chairs, Committee on Appellate Courts

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Second Report of the Working Group on Appellate Practice



**Produced by the Appellate Practice Working Group of the
Commission to Reimagine the Future of New York's Courts
November 2021**

Commission to Reimagine the Future of New York’s Courts

Working Group on Appellate Practice

Second Report

Table of Contents

I.	Executive Summary	2
II.	Discussion and Recommendations	3
A.	Leverage Technology to Increase Efficiency and Reduce Time and Expense of the Appellate Process	3
1.	Create a comprehensive, integrated e-filing system that extends from the inception of a case through the appellate process.	3
2.	Transition to complete e-filing in all case types at the appellate level, with submission of a minimal number of hard copies of the briefs and record on appeal.	5
3.	Develop a user-friendly, uniform way to access appellate dockets and receive notifications about case-status (e.g., when oral arguments are scheduled).....	6
4.	Continue to employ virtual court proceedings, but not as the default format.	6
5.	Permit or require hyperlinking and bookmarking in briefs.	7
6.	Develop a uniform policy for the Appellate Division regarding which category of cases (civil and/or criminal) are to be heard on submission only.....	8
7.	Consider fast-tracking certain interlocutory appeals.	8
B.	Issues Particular to Criminal Appellate Practice	9
C.	Issues Particular to Family Appellate Practice	12
D.	Consider Increasing Staffing, Training, and Oversight of Court Reporters.....	15
E.	Update on Technological Goals.....	20
III.	Conclusion	22
IV.	Acknowledgements	23
V.	Composition of Appellate Practice Working Group	24

I. Executive Summary

In its Initial Report, the Working Group on Appellate Practice established “goals for technological development at the appellate level” and set out to explore “substantive changes to appellate practice [that] would benefit the courts, practitioners, and the public” (Commission to Reimagine the Future of New York’s Courts, Initial Report of the Working Group on Appellate Practice at 8 [Dec. 2020] [hereinafter Initial Report]). To that end, the Working Group has since heard from several experts, including civil and criminal appellate practitioners, the manager of the UCS Office of Record Production, Family Court administrators, and appellate printers.

These discussions provided valuable insight into several issues affecting appellate practitioners, litigants, and the courts themselves. A refrain frequently heard from practitioners is that appellate courts should increase efficiency and reduce delays. Particularly with regard to criminal appeals, we have heard reports of significant delays in assigning appellate counsel and compiling the appellate record, which can result in an appellant needlessly spending additional time incarcerated. As set forth in the Working Group’s Initial Report, technology can and should be leveraged to improve coordination among the courts (from the trial level to the appellate level), increase efficiency, and reduce or eliminate delays wherever possible. Additional changes, such as increasing uniformity among the Departments of the Appellate Division, would do much to reduce inconvenience and, in general, make the appellate process less burdensome for practitioners and litigants.

Following those discussions, and with the perspective that the court system is ultimately to be of service to the public, the Working Group makes the recommendations presented below.

II. Discussion and Recommendations

A. Leverage Technology to Increase Efficiency and Reduce Time and Expense of the Appellate Process

As discussed in our Initial Report, technology has become increasingly vital to the functioning of the court system over the last few decades. That is why we concluded that “creating a robust and (to the extent possible) uniform technological infrastructure . . . is of primary importance” (Initial Report at 3). Updates on our initial technological goals may be found in Section II.E of this report.

Technology has also become a significant component of modern life. Thus, as some of the presenters pointed out in our hearings, the courts should focus on utilizing technology to reduce inconvenience and improve the “appellate experience” of practitioners and litigants, as well as to enhance the efficiency of the courts themselves.

In the Initial Report, the Working Group “envision[ed] a modern public-facing technological infrastructure (e.g., website, e-filing portal) that is more consistent throughout the State” (Initial Report at 2). Several practitioners with whom we met requested the same.

Accordingly, we make the following recommendations (with explanations of our reasoning following each).

1. Create a comprehensive, integrated e-filing system that extends from the inception of a case through the appellate process.

One of the presenters described using four separate e-filing systems in New York. Those systems are not integrated, and some are merely “filing systems,” not “docketing systems,” meaning that attorneys and litigants can only file items rather than view and retrieve the items they or other parties have already filed.

Ideally, the Working Group envisions an e-filing and docketing system that begins at the trial level, is integrated—or can communicate—with appellate e-filing systems, and permits e-filing of all types of documents (e.g., transcripts, emails to/from a court, charging documents, exhibits; for physical pieces of evidence, photographs that accurately reflect the items could be taken and certified by the courtroom clerks). All documents and evidentiary items should be automatically uploaded to the e-filing system as they are presented in a case, and parties to an action should be able to view and download items that have already been added to the online case file.

If the various trial and appellate systems cannot be fully integrated and, instead, can only be made to communicate with one another through a secure connection (a “digital handshake”), the user interface should be designed so that it appears to the public as a single system. Using that system, perfecting an appeal in the Appellate Division could be made more seamless. An attorney or litigant taking an appeal should be able to simply select, once the appeal is assigned a case number by the trial court, those materials that comprise the record on appeal, and submit them to the appellate court in order to perfect the appeal. One attorney described this as similar to online shopping, with an “add to cart” (or, more appropriately, “add to appellate record”) function that would allow the attorney or litigant to select the items they wish to include before clicking “submit” to file the appeal.

Once the items are selected for submission, they should be consolidated into a single electronic file (e.g., a PDF) as an appellate record or appendix that conforms to court requirements, so that the end product looks essentially the same as current hard-copy submissions. This will likely require a technical solution on the part of the courts,

to ensure that the e-filing system produces a final document in electronic format that comports with court rules.

2. Transition to complete e-filing in all case types at the appellate level, with submission of a minimal number of hard copies of the briefs and record on appeal.

As set forth in the Initial Report, e-filing should be expanded to all case types and made more uniform throughout the state (this has largely been accomplished in some appellate courts). Some practitioners have expressed frustration over having to submit hard copies of the record in cases that require e-filing. At present, to compile the record on appeal, practitioners or litigants must download items from NYSCEF, forward them to the appellate printing company, and pay to have them filed at the Appellate Division. According to the practitioners, the current system can be unnecessarily burdensome and costly.

On the other hand, many judges and court attorneys still prefer to read hard copies, and courts are required to retain copies of filed documents. In addition, as some of the appellate printers noted, hard copies provide a fail-safe option in the event that courts fall victim to cybercrimes, such as ransomware attacks.

Therefore, the Working Group has determined that it is reasonable for appellate courts to require the submission of two hard copies for the time being. To implement this change, and if hard copies are eventually eliminated entirely, court rules and, perhaps, statutes would need to be amended (e.g., pertinent sections of the CPLR and Judiciary Law).

3. Develop a user-friendly, uniform way to access appellate dockets and receive notifications about case-status (e.g., when oral arguments are scheduled).

Several practitioners explained that they typically learn from the appellate printers, not the courts, when their appeals will be heard. Appellate courts should directly advise counsel—ideally, via notifications from the e-filing website—as to which term an appeal is calendared, and the specific date that the appeal will appear on the day calendar. This would improve the appellate experience because counsel would no longer have to rely on a “middle entity” to know when their case is scheduled.

4. Continue to employ virtual court proceedings, but not as the default format.

Virtual oral arguments, despite their shortcomings—for example, as one practitioner described, they have less solemnity and formality than in-person arguments—have served a very useful function during the COVID-19 pandemic and should continue to be used where appropriate, albeit not as a routine substitute for in-person arguments (unless public health concerns so dictate). There is a tradeoff where virtual arguments are concerned: It is often more convenient for clients and lawyers (they need not travel across the state or country to attend arguments), but, as one practitioner put it, it is much harder to assess judges’ body language or their reactions to an argument via video.

Nevertheless, many appellate attorneys routinely appear in all four Departments of the Appellate Division, covering the entire geographic region of New York State. In an effort to minimize the cost and travel time associated with court appearances, attorneys should be given the option to either appear in-person or appear virtually, only if good

cause is shown. If necessary, a court's day calendar could be divided into an in-person segment and a virtual segment.

Whenever virtual arguments are utilized, audio and video should be used, rather than audio-only. To the extent possible, virtual proceedings should replicate in-person proceedings; for example, all parties should be visible during the proceedings and able to see one another and the judge(s). Additionally, the appellate courts should standardize their public-facing virtual courtrooms, so that the livestreamed proceedings appear uniform. Lastly, courts should stand ready to enable hybrid (i.e., simultaneous virtual and in-person) proceedings, to allow one or more of the parties to appear remotely; this would maximize flexibility in the event of weather or public health emergencies and would not compel parties to rest on their papers, or delay the outcome of a matter, if some or all parties are unable to appear in-person.

5. Permit or require hyperlinking and bookmarking in briefs.

Some courts already have rules addressing hyperlinking of cited sources and bookmarking (linking tables of contents to the relevant sections) in electronic documents, as it increases efficiency not only for judges but opposing counsel as well. The Second Department requires bookmarking and hyperlinking, while the First Department currently requires bookmarking and permits hyperlinking to primary authorities on a voluntary basis.

Although some practitioners have described hyperlinking as time-consuming and cumbersome for attorneys assembling briefs, the Working Group's view is that requiring it will result in greater efficiency for the courts and, consequently, for litigants whose appeals may be decided more expeditiously.

6. Develop a uniform policy for the Appellate Division regarding which category of cases (civil and/or criminal) are to be heard on submission only.

At present, each Department of the Appellate Division has local rules on the types of cases that are automatically granted time for oral argument, rather than being decided solely on submission of the briefs and record. For example, Sex Offender Registration Act appeals and criminal appeals arguing that the sentence was excessive are generally granted oral argument time in the First Department, but not in the Fourth Department (*compare* 22 NYCRR § 1250.15(c) [*available at* <https://www.nycourts.gov/courts/AD1/Practice&Procedures/rules.shtml#1250.15>] *with* 22 NYCRR § 1000.15(d)(2) [*available at* <https://www.nycourts.gov/courts/ad4/Clerk/Part1000-LocalPracticeRules.pdf>]).

For practitioners who regularly handle appeals in all four Departments, the disparate rules appear to be arbitrary and, at times, unfair.

7. Consider fast-tracking certain interlocutory appeals.

Interlocutory appeals can significantly delay the outcome of a case; in some cases, they may be used as a dilatory tactic, even when there are no substantive issues to be appealed. Accordingly, at least one presenter suggested that appellate courts “fast track” interlocutory appeals, so that they may be heard and decided swiftly and remitted to the trial courts for further proceedings.

However, interlocutory appeals comprise a substantial percentage of the appellate courts’ calendars; in some courts, interlocutory appeals constitute more than half of the court’s docket. This makes it difficult, from a practical standpoint, to “fast-

track” all interlocutory appeals as doing so would exacerbate the delay of appeals from final orders, many of which the courts are statutorily mandated to prioritize.

In order to address the delays to final disposition in cases where interlocutory appeals are taken, the First Department plans to launch a pilot program in January 2022 in which the perfection timeframe for certain types of interlocutory appeals would be reduced from six to four months. This accelerated perfection timeframe would apply to interlocutory appeals in commercial cases in which the only issues are related to discovery disputes.

B. Issues Particular to Criminal Appellate Practice

The institutional criminal defense providers (the institutional providers) with whom the Working Group met highlighted several issues that affect criminal appellate practice in New York. In some jurisdictions, there are significant delays assigning appellate counsel and obtaining transcripts and other materials necessary to create the record on appeal. Such delays are arguably more harmful in criminal as opposed to civil cases, because a person’s freedom is at stake.¹ The arduous process of gathering the materials needed is, as the institutional providers put it in a letter to the Working Group, “needlessly time-consuming and frustrating . . . and can lead to the appeal being heard on less than the full record.”

The institutional providers identified several key problems, all of which they propose could be addressed by creating a “comprehensive and integrated electronic filing system” that would connect a case, and provide electronic access to all filings, from

¹ Notably, civil practitioners have not complained to the Working Group about difficulties perfecting appeals due to challenges obtaining transcripts.

inception through to the court of last resort. (As noted above in Section II.A.1, the Working Group agrees.)

First, the institutional providers note that there are needless delays in assigning appellate counsel. In some jurisdictions, such as the First and Second Departments, it often takes up to six months after sentencing to assign appellate counsel. This process could be greatly accelerated (at least in the First and Second Departments) if trial lawyers—in cases where their clients have been permitted to proceed as a “poor person” after a finding of indigency—regularly moved the trial court to determine indigency at sentencing; if the trial court grants the motion, the defendant would be assigned appellate counsel without having to make a *de novo* motion at the appellate court for “poor person relief” (*see* CPL § 380.55).²

Another cause of significant delay, according to the institutional providers, is the difficulty assigned appellate counsel have accessing trial-level minutes and transcripts, which are essential to compiling the appellate record. Although court reporters have a standard requiring that they complete production of transcripts within 90 days after receipt of an appellate order to prepare and file the transcripts, that standard is frequently not met. And once the transcripts are completed, they are transferred from

² CPL § 380.55 was enacted in 2016, but it appears that many trial lawyers and judges are either unaware of it or rarely utilize it. More training through Continuing Legal Education courses may be needed. In addition, the Legislature has taken another step to streamline the process with the passage of S1279/A5689, an amendment to CPL § 380.55, which provides that the “appellate court shall presume the defendant eligible for assignment of counsel without further proof of eligibility and, thereby, issue an Order assigning such counsel, if counsel provides a sworn representation that the defendant continues to be eligible for assignment of counsel.” If the bill is signed by the Governor and enacted, the attorney’s representation should become regular practice and incorporated in or attached to the Notice of Appeal so that it is not overlooked. An affirmation by defense counsel should be permitted. The new law will solve the problem of delay in this area only if it is easy for defense counsel to do what it requires.

point to point in hard copy, furthering delays (thankfully, UCS's Division of Technology is already working on a solution to this particular issue).³

As the institutional providers noted in their letter,

Throughout New York City, institutional providers typically do not receive minutes within six months of assignment and not infrequently are still awaiting minutes more than 18 months after assignment Even longer delays may occur due to retirements of court reporters; retired reporters may take their notes with them and may – or may not – cooperate in getting the minutes transcribed. In the First . . . and Second Departments, all of the institutional providers report awaiting records in many cases more than two years after assignment – meaning that we have not yet received a single transcript relevant to the appeal.⁴

Moreover, depending on the jurisdiction, institutional providers must request transcripts from the appeals bureau of Supreme Court, county clerk, or county court clerk, which sends the transcripts to the Appellate Division, which then sends them to assigned counsel. This meandering process is unnecessarily complex and may lead assigned counsel to perfect the appeal on an incomplete record. Compare this to the federal courts' online PACER system, which has been in operation for decades, and through which nearly instantaneous access to transcripts is provided in most criminal

³ Other materials are similarly difficult to obtain. For example, exhibits are kept by the parties once a trial ends, and prosecutors' offices may inadvertently lose or misplace People's exhibits before the appellate process is complete. The institutional providers add that "[g]etting defense exhibits is also often either slow or impossible and depends on accurate record keeping and file retention by trial counsel. Even court exhibits are not always kept as part of the court file." Other court files that are transferred via hard copy are susceptible to misplacement, or may be incomplete because their compilation (i.e., which materials are added to the file) depends on the judgment of court clerks.

⁴ In the Third Department, although assignment of counsel can take longer than in the downstate appellate courts due to a shortage of 18b panel attorneys, the process of obtaining minutes and transcripts is typically much faster (perhaps because staff in the appellate court make efforts to expedite the process if they become aware that it is taking longer than four months for assigned counsel to obtain the necessary materials).

cases (the parties receive the daily copy right away and can obtain the minutes a few weeks later via the PACER system).

The delays described by the institutional providers are unacceptable. The institutional providers reason that (1) an integrated e-filing system, (2) greater oversight and accountability for court reporters, and (3) requiring that minutes, transcripts, and other materials be promptly uploaded to an e-filing system accessible to all parties would do much to ameliorate this situation.

We agree. Accordingly, as noted in Section II.A.1, *supra*, we recommend the creation of a comprehensive and integrated e-filing system to connect cases from inception through the appellate process, and that such a system should permit electronic access to all filings and other materials for all parties in a case. Exceptions could be made for particularly sensitive materials or in sealed matters. Moreover, as discussed in greater detail in Section II.D, *infra*, it is essential that the court system create and enforce reasonable standards for court reporters, providing adequate oversight and accountability.

C. Issues Particular to Family Appellate Practice

Although New York has a long and distinguished tradition of leadership in providing quality legal service to our most vulnerable citizens—our children—there has been an alarming decrease in the number of lawyers choosing to serve on attorneys for children (AFC) panels statewide. For example, in the First Department, the number of panel AFCs has declined more than 22% from 2014 to 2019; in the Second Department, AFCs have declined 5% overall from 2010, the decrease being more severe in the most populous counties, e.g., Nassau County (12%) and Queens County (10%); in the Third

Department, AFCs declined 55% from 2010 to 2018 (and, notably, county panel liaison representatives reported that only one-half of existing panel members in their counties regularly take assignments); and in the Fourth Department, AFCs have declined approximately 10% in the past five years (several rural counties do not have sufficient numbers of AFCs to accept assignments).

This decrease is expected to continue, seriously endangering New York's legacy and affecting the service provided to children in Family Court. The AFC advisory committees have reported that it has become very difficult to recruit new panel members. At the same time, the complexity of the cases in which AFC panel members are involved has increased. Additionally, because the number of experienced AFCs available to accept cases has declined, the remaining AFCs are burdened with excessive caseloads. These excessive and increasingly complex caseloads increase the risk that AFCs will be unable to give sufficient attention to each client. Further attrition of panel attorneys actively taking assigned cases will result in an even greater strain upon the entire assigned counsel system.

Furthermore, the decrease in AFCs affects the administration of justice in Family Court. In some counties, discretionary appointments in custody and visitation cases are simply not made, leaving children unrepresented. In other counties, the Family Court must resort to assignment of out-of-county attorneys, which creates additional travel expense. Given the large geographic size of the many counties in the Third and Fourth Departments, this is often very significant, not only in dollars, but in wasted judicial resources.

Further consequences of the shortage of AFCs include the following:

1. Repeated delays in court appearances and hearings occur, because AFCs are often on trial elsewhere. This compromises the families who must endure longer waiting periods before the administration of justice can run its course. It also complicates the tasks of all attorneys in a case in assuring the presence and cooperation of witnesses.
2. It has become increasingly difficult to secure assigned counsel to staff intake days in the First and Second Departments. This jeopardizes the justice system's ability to comply with legal mandates and makes it more difficult to expedite court review of many cases, including those involving child abuse and neglect, and juveniles held in custody.
3. Petitioners in domestic violence cases in Family Court—in need of immediate relief and unable to wait for the availability of counsel—must proceed *pro se* and make critical decisions, some potentially affecting their safety and their children's safety, without legal advice.
4. There has been an overall reduction in the number of experienced AFCs. This affects not only the outcome of cases but also the length of cases (i.e., cases that would have been settled earlier by more skillful counsel are not, thus requiring consumption of more judicial resources and time before such cases reach disposition).

The Working Group acknowledges pending litigation over the compensation rates for panel attorneys (*New York County Lawyers Association v. State of New York*, Index No. 156916/2021, Supreme Court, New York County) and, accordingly, refrains from opining on the particular issues in that case. Nevertheless, we do recognize that

something must be done to augment the number of competent panel attorneys, particularly those who serve as AFCs.

In addition, the number of court reporters in the New York City Family Court has declined in recent years. As Administrative Judge Anne-Marie Jolly explained in a letter to the Working Group, “[t]he current inadequate number of court reporters requires the Family Court to over-rely on mechanical recording of proceedings (by FTR [For the Record]) which often returns partially inaudible recordings resulting in incomplete transcriptions with missing words and phrases.” This can lead to extraordinary delays in appeals from Family Court; if crucial portions of transcripts are inaudible, the Appellate Division may need to remit the matter to the Family Court for a reconstruction hearing to complete the record. It may be a year or more from the initial Family Court decision to the final disposition at the Appellate Division, and circumstances may have changed significantly (e.g., a child involved in the matter may have reached the age of majority, members of the family may have moved, etc.).

Judge Jolly further noted that “the turnaround time for obtaining transcripts from court reporters is quicker than for obtaining them from FTR recordings.” Accordingly, as set forth in Section II.D below, we recommend increasing court reporters and reducing reliance on FTR in Family Court.

D. Consider Increasing Staffing, Training, and Oversight of Court Reporters

As explained above, accessing minutes and transcripts is one of the major causes of delay, particularly in criminal appeals. This appears to be largely due to inadequate staffing, training, and oversight of court reporters.

Michael DeVito, himself a former court reporter, has managed the UCS Office of Record Production since its creation in 2017. The Office is charged with, *inter alia*, overseeing court reporters and maintaining their staffing levels. He reported to the Working Group that there has been a significant decline in court reporters statewide since 2017; the number of Senior Court Reporters (the title of reporters required in superior courts from which transcripts to the Appellate Division originate) has declined from 600 in 2017, to 595 in 2019, to 510 as of October 18, 2021, a loss of 90 reporters.⁵

According to Mr. DeVito, OCA's past staffing guidelines recommended a "modest surplus ratio" of court reporters to judges; he specified that the ideal ratio of Senior Court Reporters to Supreme and County Court Justices is 1.25:1, to ensure that there are enough reporters to transcribe court proceedings when needed, while accounting for contingencies such as sick leave, vacations, and retirements. However, as of June 16, 2021, the current ratio stands at approximately .85:1 (there are only 510 Senior Court Reporters to 600 superior court judges⁶). This dearth of reporters all but ensures delays in creating and obtaining transcripts.

In addition, Mr. DeVito reported that few court reporters in New York State courts are trained in "real-time transcription," the instantaneous conversion of a reporter's stenotype into English. Most reporters in federal courts have such training. At a hearing or trial, real-time transcription allows the judge and the lawyers to view the transcript as the proceeding is unfolding. That is now the standard in federal courts, but

⁵ The total number of court reporters (including Senior Court Reporters) has declined from approximately 1,100 court reporters prior to 2017 to 801 as of October 2021, a loss of nearly 300 reporters.

⁶ This does not include judges in acting superior court capacity, whose court records also affect the appellate process.

not in New York State courts. Of course, a real-time transcript is not perfect, but it is a serviceable draft. A good real-time reporter can proof a draft and convert it to an official transcript in relatively short order.

Lastly, there appears to be inadequate oversight of court reporters, further contributing to delays. Many court reporters, who are overworked because of the staffing deficit, are unable or simply fail to meet the standard of completing a transcript within 90 days from receipt of an appellate order, but there is little consequence for failing to do so. As Mr. DeVito pointed out, “[w]hile we must be cognizant of budgetary concerns, we must also bear in mind there is a direct correlation between reduction in staff and [transcript] production efficiency.”

In light of the issues raised above, the Working Group recommends the following:

1. The court system should employ enough Senior Court Reporters to reach the ideal ratio of such reporters to superior court judges in New York (1.25:1). This would require hiring nearly 200 additional reporters to total 750 Senior Court Reporters for the approximately 600 Supreme/County Court Justices around the state. At the very least, UCS should hire enough reporters to return to a “modest surplus” of court reporters to judges.
2. Similarly, increase the number of Court Reporters who work in Family Court, where For the Record (FTR) recording equipment—which creates an automated transcript of court proceedings—is used more frequently. While FTR is useful, the transcript quality obtained from electronically recorded proceedings is not near that of a court reporter. As Mr. DeVito proposed, UCS should consider redeploying FTR equipment from the Family Courts to the city civil courts, where

transcript requests number far fewer, and redistributing the court reporters from city civil courts to the Family Courts.

3. Consider training all court reporters in real-time transcription. Perhaps more study is needed to address these questions: Should New York require that all new reporters be real-time trained? Should there be a pay differential to compensate real-time reporters for their greater skill and to incentivize others to become real-time trained? Should appellate lawyers be able to order a real-time transcript (at a lower price than an official transcript) to determine if there is an issue worthy of appeal? Real-time transcription is now state-of-the-art, but it is a skill that few New York State court reporters employ.
4. Require e-filing of all transcripts in NYSCEF. As an alternative to NYSCEF, an Electronic Document Delivery System (EDDS) was piloted in Kings County during the pandemic for e-filing of transcripts. As Mr. DeVito explained to the Working Group, appeals bureaus within the City of New York currently receive and compile completed transcripts for criminal matters. The process of compiling hard-copy transcripts is labor intensive and time consuming. Allowing e-filing of transcripts in criminal appeals would accelerate the process by making the appellate transcript instantly available to all parties.

As Mr. DeVito pointed out, EDDS has been utilized successfully by Kings County for appellate purposes in criminal appeals since the beginning of the pandemic. At the trial court level, court reporters can and have produced electronic transcripts (.pdf format) at the attorney's request, yet no other borough in NYC has had the occasion to utilize e-filing of transcripts for appeals. Kings County's successful experience with EDDS for appellate purposes may be adapted

for use by the remaining boroughs. However, a more ideal method for purposes of uniformity would be to use NYSCEF for all e-filing of transcripts, statewide; the Office of Record Production is currently piloting e-filing of transcripts via NYSCEF in upstate courts. E-filing of transcripts would greatly improve the appellate process and give wider access to all parties associated with an appeal.

5. Consider creating a rule requiring trial judges to order daily copy for all felony trials. Almost all criminal cases result in appeals. At present, some, but not all, trial judges order daily copy from court reporters. (Many trial lawyers also order daily copy of critical portions of the trial.) For a trial judge, the availability of daily copy facilitates prompt review of trial issues and avoids the need to have the court reporter search through their notes if the jury seeks a readback. If the judge has ordered daily copy, the transcript is complete when the trial is concluded. Of course, further study may be needed to determine the cost of implementing such a rule.
6. To further aid court reporters, trial judges should require lawyers to provide court reporters with a list of names and uncommon words that are likely to be said during a proceeding. A court reporter works from a dictionary, and adding new words to the dictionary ahead of time facilitates the production of a transcript.
7. Improve oversight capabilities of the Office of Record Production by creating a deputy position to assist the manager (currently, the agency is staffed solely by the manager, Mr. DeVito) and a modest salary increase for supervisory Principal Court Reporters. As Mr. DeVito reported, the supervision and management of court reporting services is both complex and varied, depending greatly upon local

court needs and structure. He suggested that more efficient utilization of staff and more effective oversight may be achieved by modifying the management structure of court reporter operations to mirror that of other court titles.

Furthermore, the supervising title of Principal Court Reporter is only one pay grade above that of the staff they supervise, and the Office of Record Production lacks a deputy position to assist with the many aspects of overseeing a large and complex operation. As Mr. DeVito indicated, a modification in salary grade structure and the creation of a deputy position would greatly improve the oversight necessary to improve transcript production efficiency and its impact upon the appellate process.

8. Increase accountability for court reporters; create reasonable standards and hold reporters accountable to them.

E. Update on Technological Goals

In the Initial Report, the Working Group outlined several goals for technological enhancement of the appellate courts. An update on some of those goals that had not previously been completed may be found below. Other short- and long-term goals remain ongoing.

1. Short-term Goals

- Update software and applications to ensure uniformity and standardization across the four Departments of the Appellate Division and the Court of Appeals.

- Establish Online System for Attorney Requests of Certificates of Good Standing (to improve efficiency of Committees on Character and Fitness).
 - Status: Completed. Since Feb. 16, 2021, nearly 28,000 Certificates of Good Standing have been issued electronically. All certificates and letters are in a standardized, uniform format and language.

2. Long-term Goals

- Establish a single appellate case-management system for the Court of Appeals and all Departments of the Appellate Division to ensure integrity of data and efficiency for sharing and/or passing along case data.
 - Status: Ongoing. OCA Division of Technology (DoT) will continue to collaborate with all Departments of the Appellate Division and the Court of Appeals to determine the best approach for a uniform system.
- Improve NYSCEF/e-Filing.
 - Status: Ongoing. As outlined in this report, a significant amount of coordination with several departments and multiple teams will be required to implement the suggested changes through all court types. DoT will collaborate with all necessary departments to ensure appellate requirements for the new/enhanced system are met.
- Update court websites using a common interface, providing a cohesive user experience.
 - Status: Ongoing. The National Center for State Courts has been recruited to evaluate UCS's current web presence, provide analysis of website design, provide recommendations on the new design, and conduct surveys. A contract is pending.

III. Conclusion

The recommendations outlined in this report are aimed at enhancing efficiency, improving the appellate experience for practitioners and litigants, and reducing or eliminating unnecessary delays in administering justice in New York's appellate courts. Among the most common legal maxims is that "justice delayed is justice denied." The Working Group has learned that the appellate process is too often delayed, particularly in criminal cases due to the challenges appellate lawyers experience between sentencing and the perfection of a defendant's appeal. Too many defendants languish in jail while their appellate attorneys seek transcripts or exhibits that may prove their clients' innocence or, at least, their entitlement to a new trial.

New Yorkers who do business in our courts deserve an appellate process that is efficient, easy to understand, and inexpensive. The Working Group on Appellate Practice is hopeful that this report has charted a course to better achieve those goals.

IV. Acknowledgements

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 - Madeline Alvarez, Executive Vice President
 - Soroya Brantley, Senior Paralegal
 - Dick Bailey Service, Inc.
 - Lynn Bailly (CEO)
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Second Report of the Working Group on Appellate Practice

Produced by the Appellate Practice Working Group of the Commission to Reimagine the Future of New York's Courts
November 2021

**Supreme Court of the State of New York
Appellate Division: Second Judicial Department**



Practice Rules of the Appellate Division

Practice Rules of the Appellate Division

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

December 12, 2017

(Revised June 29, 2018)

(Effective September 17, 2018)

(As amended November 25, 2019)

TABLE OF CONTENTS

1250.1	General Provisions and Definitions	1
1250.2	Settlement or Withdrawal of Motion, Appeal or Proceeding; Notice of Change in Circumstances	5
1250.3	Initial Filings; Active Management of Causes; Settlement or Mediation Program.....	5
1250.4	Motions	7
1250.5	Methods of Perfecting Causes	11
1250.6	Reproduction of Records, Appendices and Briefs	12
1250.7	Form and Content of Records and Appendices; Exhibits.....	13
1250.8	Form and Content of Briefs	15
1250.9	Time, Number and Manner of Filing of Records, Appendices and Briefs	18
1250.10	Dismissal of a Matter	21
1250.11	Additional Rules Relating to Criminal Appeals	22
1250.12	Transferred Proceedings	25
1250.13	Original Special Proceedings	25
1250.14	Miscellaneous Appeals and Proceedings	27
1250.15	Calendar Preference; Calendar Notice; Oral Argument; Post-Argument Submissions	28
1250.16	Decisions, Orders and Judgments; Costs; Remittitur; Motions for Reargument or Leave to Appeal to the Court of Appeals	29
1250.17	Fees of the Clerk of the Court.....	30

1250.1 General Provisions and Definitions

(a) Unless the context requires otherwise, as used in this Part:

(1) The word “cause” or “matter” includes an appeal, a special proceeding transferred to the Appellate Division pursuant to CPLR 7804 (g), a special proceeding initiated in the Appellate Division, and an action submitted to the Appellate Division pursuant to CPLR 3222 on a case containing an agreed statement of facts upon which the controversy depends.

(2) Any reference to the “court” or the “Appellate Division” means the Appellate Division of the Supreme Court of the State of New York for the Judicial Department having jurisdiction over the cause or matter; any reference to a “justice” means a justice of that court; any reference to the “clerk” means the clerk of that court or a designee, unless the context of usage indicates the clerk of another court.

(3) Wherever reference is made to a “judgment,” “order” or “determination,” it shall also be deemed to include a sentence.

(4) The word “consolidation” refers to the combining of two or more causes arising out of the same action or proceeding in one record or appendix and one brief.

(5) The phrase “cross appeal” refers to an appeal taken by a party whose interests are adverse to a party who previously appealed from the same order or judgment as relates to that appeal and cross appeal.

(6) The word “concurrent,” when used to describe appeals, shall refer to those appeals which have been taken separately from the same order or judgment by parties whose interests are not adverse to one another as relates to those appeals.

(7) The word “appellant” shall refer to the party required to file the initial brief to the court in a cause or matter, including an appellant, a petitioner, an appellant-respondent and similar parties.

(8) The term “NYSCEF” shall mean the New York State Courts Electronic Filing System and the “NYSCEF site” shall mean the New York State Courts Electronic Filing System website located at www.nycourts.gov/efile.

(9) The phrase “filed electronically,” when used to describe submissions to a court, shall refer to documents that have been filed by electronic means through the NYSCEF site.

(10) The phrase “electronic means” shall mean any method of transmission of information between computers or other machines, other than facsimile machines.

(11) The phrase “hard copy” shall mean a document in paper format.

(12) The phrase “digital copy” shall mean a document in text-searchable portable document format and otherwise compliant with the technical requirements established by the court.

(b) Number of Justices. When a cause is argued or submitted to the court with four justices present, it shall, whenever necessary, be deemed submitted also to any other duly qualified justice of the court, unless objection is noted at the time of argument or submission.

(c) Filing and Service; Weekends and Holidays.

(1) Filing

(i) Electronic filing. For the purpose of meeting deadlines imposed by court rule, order, or statute, all records on appeal, briefs, appendices, motions, affirmations and other submissions filed electronically will be deemed filed as of the time copies of the submissions are transmitted to the NYSCEF site. The filing of additional hard copies of such electronic filings pursuant to court rules shall not affect the timeliness of the filing.

(ii) Hard copy filing. For the purpose of meeting deadlines imposed by court rule, order or statute, all records on appeal, briefs, appendices, motions, affirmations and other submissions not filed electronically will be deemed filed as of the time hard copies of the submissions are received and stamped by the office of the clerk.

(iii) A document deemed filed for purposes of timeliness under this rule may thereafter be reviewed and rejected by the clerk for failure to comply with any applicable statute, rule or order.

(2) Proof of Service. All hard copy filings shall be accompanied by proof of service upon all necessary parties pursuant to CPLR 2103.

(3) Service by Mail and Overnight Mail. If a period of time prescribed by this Part is measured from the service of a record, brief or other submission and service is by mail, five days shall be added to the prescribed period. If service is by overnight delivery, one day shall be added to the prescribed period.

(4) Service by Electronic Mail Upon Consent. Unless otherwise directed by the court, parties in matters not subject to e-filing may agree, in writing, to service of submissions by electronic mail. A copy of any such agreement shall be filed with the court with the affidavit of service.

(5) Weekends and Holidays. If a period of time prescribed by this Part for the performance of an act ends on a Saturday, Sunday or court holiday, the act will be deemed timely if performed before the close of business on the next business day.

(d) Signing of documents. The original of every hard copy document submitted for filing in the office of the clerk of the court shall be signed in ink in accordance with the provisions of section

130-1.1-a (a) of this Title. Copies of the signed original shall be served upon all parties to the matter and shall be filed in the office of the clerk whenever multiple copies of a submission are required to be served and filed in accordance with the provisions of this Part. Documents filed electronically shall be signed in accordance with the provisions of the Appellate Division Rules for Electronic Filing.

(e) Confidentiality and Sealing.

(1) Records, briefs and other submissions filed in matters deemed confidential by law shall not be available to the public except as provided by statute or rule.

(2) Appeals and proceedings that are confidential by law include, but are not limited to:

(i) Matters arising pursuant to the Family Court Act (Family Court Act § 166).

(ii) Matrimonial actions and proceedings (Domestic Relations Law § 235; CPLR 105 [p]).

(iii) Adoption proceedings (Domestic Relations Law § 114).

(iv) Youthful offender adjudications (CPL 720.35 [2]; 725.15).

(v) Proceedings pursuant to article 6 of the Social Services Law (Social Services Law § 422 [4] [a]).

(vi) In criminal matters not otherwise confidential, records of grand jury proceedings (CPL 190.25 [4]), grand jury reports (CPL 190.85) and presentence reports and memoranda (CPL 390.50).

(vii) Proceedings pursuant to Civil Rights Law § 50-b.

(viii) Proceedings pursuant to Judiciary Law § 90 (10).

(3) Applications for sealing and unsealing court records shall be made by motion, upon good cause shown.

(4) In a civil cause, documents that are subject to an existing sealing order from another court shall remain subject to such order, except as otherwise ordered by the Appellate Division.

(f) Appellate Division Numbers. All documents filed with the court shall prominently display the name of the court of original instance, the index number or indictment number of the case in such court, if any, and any number assigned by the Appellate Division.

(g) Rejection for Noncompliance. The clerk may reject any submission that does not comply with this Part, is incomplete, is untimely, is not legible, or fails to comply with any applicable

statute, rule or order. The court may waive compliance by any party with any provision of this Part.

(h) Sanctions. An attorney or party who fails to comply with a rule or order of the court or who engages in frivolous conduct shall be subject to such sanction as the court may impose. The imposition of sanctions and costs may be made upon motion or upon the court's own initiative, after a reasonable opportunity to be heard. The court may impose sanctions and/or costs upon a written decision setting forth the conduct on which the imposition is made.

(i) Electronic Filing Rules. The rules of this Part shall be read in conjunction with the Electronic Filing Rules of the Appellate Division (22 NYCRR Part 1245). Where there is a conflict between this Part and Part 1245 in an appellate e-filed matter, Part 1245 shall control.

1250.2 Settlement or Withdrawal of Motion, Appeal or Proceeding; Notice of Change in Circumstances

(a) **Withdrawal of Motion.** A moving party may file a written request to withdraw a motion at any time prior to its determination.

(b) **Withdrawal or Discontinuance of Appeal or Proceeding.**

(1) Unperfected appeals, or proceedings where issue has not been joined, may be withdrawn and discontinued by letter application to the court, with service on all parties.

(2) An appeal that has been perfected or a proceeding where issue has been joined may be withdrawn and discontinued by leave of the court upon the filing with the court of a written stipulation of discontinuance signed by the parties or their attorneys and, in criminal appeals, by the appellant personally. Absent such a stipulation, an appellant may move for permission to withdraw such an appeal or proceeding. An appeal that has been perfected in the Second Judicial Department and in which no respondent's brief has been filed may be withdrawn by letter application to the court, with service on all parties.

(c) **Notice of Change of Circumstances.** The parties or their attorneys shall immediately notify the court when there is a settlement of a matter or any issue therein or when a matter or any issue therein has been rendered moot. The parties or their attorneys shall likewise immediately notify the court if the cause should not be calendared because of the death of a party, bankruptcy or other appropriate event. Any such notification shall be followed by an application for appropriate relief. Any party or attorney who, without good cause shown, fails to comply with the requirements of this subdivision may be subject to the imposition of sanctions.

1250.3 Initial Filings; Active Management of Causes; Settlement or Mediation Program

(a) **Initial Filings.** Unless the court shall direct otherwise, in all civil matters counsel for the appellant or the petitioner shall file with the clerk of the court of original instance and serve on all parties, together with the notice of appeal or transfer order and the order or judgment appealed from, an initial informational statement on a form approved by the court and in such number as the court may direct. The clerk of the court from which the appeal is taken shall promptly transmit to the Appellate Division the informational statement and a copy of the notice of appeal or order granting leave or transferal and the order or judgment appealed from.

(b) **Active Management.** The court may direct that any matter be actively managed and may set forth a scheduling order specifying the time and manner of expedited briefing.

(c) **Settlement or Mediation Program.**

(1) The court may issue a notice in any settlement or mediation program directing the attorneys for the parties, the parties themselves (unless the court excuses a party's personal presence), and such additional parties in interest as the court may direct to attend a conference before such person as it may designate to consider settlement, the limitation of issues and any

other matter that such person determines may aid in the disposition of the appeal or resolution of the action or proceeding. Attorneys and representatives who appear must be fully familiar with the action or proceeding, and must be authorized to make binding stipulations or commitments on behalf of the party represented.

(2) Counsel to any party may apply to the court by letter at any time requesting such a conference. The application shall include a brief statement indicating why a conference would be appropriate.

(3) Upon the failure of any party, representative or counsel to appear for or participate in a settlement or mediation conference, or to comply with the terms of a stipulation or order entered following such a conference, the party or counsel may be subject to sanctions.

1250.4 Motions

(a) General.

(1) Day and time returnable. Unless otherwise required by statute, rule or order of the court or any justice thereof, every motion and every proceeding initiated in the court shall be made returnable at 10:00 a.m. on any Monday (or, if Monday is a legal holiday, the first business day of the week), and on such other days as the court may direct.

(2) Commencement; filing. All motions initiated by notice of motion shall be filed with the clerk at least one week before the return date. The originals of all such submissions shall be filed, together with proof of service upon all parties entitled to notice. Motions by any other method shall be as directed by the court or a justice thereof.

(3) The submissions in support of every motion made before the appeal is determined shall include a copy of the order, judgment or determination sought to be reviewed, the decision, if any, and the notice of appeal or other document which first invoked the jurisdiction of the court, with proof of filing.

(4) Notice and service of documents. Unless otherwise directed by the court, a motion shall be served with sufficient notice to all parties as set forth in CPLR 2103. In computing the notice period, the date upon which service is made shall not be included.

(5) Answering and reply documents, if any, shall be served within the time prescribed by CPLR 2214 (b) or directed by a justice of the court. The originals thereof with proof of service shall be filed by 4:00 p.m. of the business day preceding the day on which the motion is returnable, unless, for good cause shown, they are permitted to be filed at a later time.

(6) Cross motions. Cross motions shall be made returnable on the same date as the original motion. A cross motion shall be served, either personally, by overnight delivery service or by electronic means, and filed at least three business days before the return date.

(7) Motions shall be deemed submitted on the return date, and no further documents shall be accepted for filing without leave of the court upon written application.

(8) Oral argument. Oral argument of motions is not permitted.

(9) One adjournment, for a period of 7 or 14 days, shall be permitted upon written consent of the parties to the appeal, filed no later than 10:00 a.m. on the return date.

(b) Motions or Applications Which Include Requests for Interim Relief.

(1) An application or order to show cause presented for signature that includes a request for a temporary stay or other interim relief pending determination of a motion, or an application pursuant to CPLR 5704, shall be presented in person unless the court excuses such appearance, and shall state, among other things:

(i) the nature of the motion or proceeding;

(ii) the specific relief sought; and

(iii) the names, addresses, telephone numbers and (where known) email addresses of the attorneys and counsel for all parties in support of and in opposition to the motion or proceeding.

(2) Notice. The party seeking relief as provided in this subdivision shall give reasonable notice to his or her adversary of the day and time when, and the location where, the application or order to show cause will be presented and the relief (including interim relief) being requested. The application or order to show cause shall be accompanied by an affidavit or affirmation stating the time, place and manner of such notification; by whom such notification was given; if applicable, reasons for the non-appearance of any party; and, to the extent known, the position taken by the opposing party.

(3) Response. Unless otherwise ordered by the court, all submissions in opposition to any motion or proceeding initiated by an application or order to show cause shall be filed with the clerk at or before 10:00 a.m. on the return date, and shall be served by a method calculated to place the movant and other parties to the motion in receipt thereof on or before that time. The originals of all such submissions shall be filed with the court. On the return date the motion or proceeding will be deemed submitted to the court without oral argument.

(4) Reply. Reply submissions shall be permitted only by leave of the court.

(c) Permission to Appeal to the Appellate Division in a Civil Matter.

(1) When Addressed to a Justice.

(i) An application to a justice of the court for permission to appeal pursuant to CPLR 5701 (c) shall be made within the time prescribed by CPLR 5513.

(ii) The submissions upon which such an application is made shall state whether any previous application has been made and, if so, to whom and the reason given, if any, for any denial of leave or refusal to entertain the application.

(2) When Addressed to the Court.

(i) Where leave of the court is required for an appeal to be taken to it, the application for such leave shall be made in the manner and within the time prescribed by CPLR 5513 and 5516.

(ii) The submissions upon which an application for leave to appeal is made shall include a copy of the order or judgment and decision, if any, of the court below, a concise statement of the grounds of alleged error and a copy of the order of the lower court denying leave to appeal, if any.

(3) Motions for leave to appeal from an order of the Appellate Term.

(i) Where applicable, motions pursuant to CPLR 5703 for leave to appeal from an order of the Appellate Term shall be made only after a denial of a motion for leave to appeal made at the Appellate Term.

(ii) Such motions shall include a copy of the decisions, judgments, and orders of the lower courts, including: a copy of the Appellate Term order denying leave to appeal; a copy of the record in the Appellate Term if such record shall have been printed or otherwise reproduced; and a concise statement of the grounds of alleged error. If the application is to review an Appellate Term order which either granted a new trial or affirmed the trial court's order granting a new trial, the application shall also include the applicant's stipulation consenting to the entry of judgment absolute against him or her in the event that the Appellate Division should affirm the order appealed from.

(d) Poor Person Relief.

(1) All matters. An affidavit in support of a motion for permission to proceed as a poor person, with or without a request for assignment of counsel, shall set forth the amount and sources of the movant's income; that the movant is unable to pay the costs, fees and expenses necessary to prosecute or respond in the matter; whether trial counsel was assigned or retained; whether any other person is beneficially interested in any recovery sought and, if so, whether every such person is unable to pay such costs, fees and expenses; and such other information as the court may require.

(2) Civil Matters.

(i) In a civil appeal or special proceeding, an affidavit in support of a motion for permission to proceed as a poor person shall, in addition to meeting the requirements of section 1250.4(d)(1) of this Part, set forth sufficient facts so that the merit of the contentions can be ascertained (CPLR 1101 [a]). This subdivision has no application to appeals described in Family Court Act §1120(a), SCPA 407(1) and Judiciary Law § 35(1).

(ii) Applicants for poor person relief in civil matters shall comply with the service requirements of CPLR 1101(c).

(3) Family Court Matters

(i) In appeals pursuant to the Family Court Act, in lieu of a motion, an application for either permission to proceed as a poor person or for permission to proceed as a poor person and assignment of counsel may be made by trial counsel assigned pursuant to Family Court Act § 262 by filing with the clerk a certification of continued indigency and continued eligibility for assignment of counsel pursuant to Family Court Act § 1118.

(ii) Counsel shall attach to the certification a copy of the order from which the appeal is taken, together with the decision, if any, and a copy of the notice of appeal with proof of service and filing.

(4) Criminal Matters. In a criminal appeal not otherwise addressed in section 1250.11(a) of this Part, an affidavit in support of a motion for permission to proceed on appeal as a poor person shall, in addition to meeting the requirements of section 1250.4(d)(1), set forth the following: the date and county of conviction; whether the defendant is at liberty or in custody; the name and address of trial counsel; whether trial counsel was appointed or retained and, if retained, the source of the funds for such retention and an explanation as to why similar funds are not available to retain appellate counsel; whether the defendant posted bail during the trial proceedings; and, if bail was posted and the defendant is currently in custody, an explanation as to why the funds used to post such bail are not available to retain appellate counsel.

(e) Admission Pro Hac Vice. An attorney and counselor-at-law or the equivalent may apply for permission to appear pro hac vice with respect to a particular matter pending before the court pursuant to 22 NYCRR 520.11 by providing an affidavit stating that the applicant is a member in good standing in all the jurisdictions in which the applicant is admitted to practice and that the applicant is associated with a member in good standing of the New York bar, which member shall be the attorney of record in the matter. The applicant shall attach to the affidavit an original certificate of good standing from the court or other body responsible for regulating admission to the practice of law in the state in which the applicant maintains his or her principal office for the practice of law. The New York attorney of record in the matter shall provide an affirmation in support of the application.

(f) Leave to File Amicus Curiae Brief. A person or entity who is not a party to an appeal or proceeding may make a motion to serve and file an amicus curiae brief. An affidavit or affirmation in support of the motion shall briefly set forth the issues to be briefed and the movant's interest in the issues, and shall include such number of copies of the proposed brief as the court requires. The proposed brief may not duplicate arguments made by a party to the appeal or proceeding. Unless permitted by the court, a person or entity granted permission to file an amicus curiae brief shall not be entitled to oral argument.

1250.5 Methods of Perfecting Causes

(a) Unless the court directs that a cause be perfected in a particular manner, an appellant may elect to perfect a cause by the reproduced full record method (CPLR 5528 [a] [5]); by the appendix method (CPLR 5528 [a] [5]); by the agreed statement in lieu of record method (CPLR 5527); or, where authorized by statute or this Part or order of the court, on the original record.

(b) Reproduced Full Record Method. If the appellant elects to proceed on a reproduced full record on appeal, the record shall be printed or otherwise reproduced as provided in sections 1250.6 and 1250.7 of this Part.

(c) Appendix Method. If the appellant elects to proceed by the appendix method, the appendix shall be printed or otherwise reproduced as provided in sections 1250.6 and 1250.7 of this Part.

(d) Agreed Statement in Lieu of Record Method. If the appellant elects to proceed by the agreed statement in lieu of record method, the statement shall be reproduced as a joint appendix as provided in sections 1250.6 and 1250.7 of this Part. The statement required by CPLR 5531 shall be appended.

(e) Original Record. In the First, Second and Fourth Judicial Departments, the following causes may be perfected upon the original record, including a properly settled transcript of the trial or hearing, if any:

- (1) appeals from the Family Court;
- (2) appeals under the Election Law;
- (3) appeals under the Human Rights Law (Executive Law § 298);
- (4) proceedings transferred to the court pursuant to CPLR 7804 (g)
- (5) appeals where the sole issue is compensation of a judicial appointee;
- (6) appeals under Correction Law §§ 168-d (3) and 168-n (3);
- (7) appeals of criminal causes;
- (8) appeals from the Appellate Term, where the matter was perfected on an original record at the Appellate Term;
- (9) other causes where an original record is authorized by statute; and
- (10) causes where permission to proceed upon the original record has been authorized by the court.

1250.6 Reproduction of Records, Appendices and Briefs

(a) Compliance with the CPLR. Briefs, appendices and reproduced full records shall comply with the requirements of CPLR 5528 and 5529, and reproduced full records shall, in addition, comply with the requirements of CPLR 5526.

(b) Method of Reproduction. Briefs, records and appendices shall be reproduced by any method that produces a permanent, legible, black image on white paper or its digital equivalent. Use of recycled paper and reproduction on both sides of the paper is encouraged for hard copy filings and submissions.

(c) Paper Quality, Size and Binding. Paper shall be of a quality approved by the chief administrator of the courts and shall be opaque, unglazed, white in color and measure 11 inches along the bound edge by 8½ inches. Records, appendices and briefs shall be bound on the left side in a manner that shall keep all the pages securely together; however, binding by use of any metal fastener or similar hard material that protrudes or presents a bulky surface or sharp edge is prohibited. Records and appendices shall be divided into volumes not to exceed two inches in thickness.

(d) Designation of Parties. The parties to all appeals shall be designated in the record and briefs by adding the word "Appellant," "Respondent," etc., as the case may be, following the party's name, e.g., "Plaintiff-Respondent," "Defendant-Appellant," "Petitioner-Appellant," "Respondent-Respondent," etc. Parties who have not appealed and against whom the appeal has not been taken shall be listed separately and designated as they were in the trial court, e.g., "Plaintiff," "Defendant," "Petitioner," "Respondent." In appeals from the Surrogate's Court or from judgments on trust accountings, the caption shall contain the title used in the trial court including the name of the decedent or grantor, followed by a listing of all parties to the appeal, properly designated. In causes originating in the Appellate Division, the parties shall be designated "Petitioner" and "Respondent" or "Plaintiff" and "Defendant."

(e) Docket Number. The cover of all records, briefs and appendices shall display the appellate division docket number assigned to the cause, or such other identifying number as the court shall direct, in the upper right-hand portion opposite the title.

1250.7 Form and Content of Records and Appendices; Exhibits

(a) Format. Records and appendices shall be consecutively paginated and shall include accurate reproductions of the submissions made to the court of original instance, formatted in accordance with the practice in that court. Reproductions may be slightly reduced in size to fit the page and to accommodate the page headings required by CPLR 5529 (c), provided, however, that such reduction does not significantly impair readability.

(b) Reproduced Full Record. The reproduced full record shall be bound separately from the brief, shall include the items set forth in CPLR 5526, and shall include in the following order so much of the following items as shall be applicable to the particular cause:

(1) A cover which shall contain the title of the cause on the upper portion, and, on the lower portion, the names, addresses, telephone numbers and email addresses of the attorneys, the county clerk's index or file number, the docket or other identifying number or numbers used in the court from which the appeal is taken, and the superior court information or indictment number;

(2) The statement required by CPLR 5531;

(3) A table of contents which shall list and briefly describe each document included in the record. The part of the table relating to the transcript of testimony shall separately list each witness and the page at which direct, cross, redirect and re-cross examinations begin. The part of the table relating to exhibits shall concisely indicate the nature or contents of each exhibit and the page in the record where it is reproduced and where it is admitted into evidence;

(4) The notice of appeal or order of transfer, judgment or order appealed from, judgment roll, corrected transcript or statement in lieu thereof, exhibits, and any opinion or decision in the cause;

(5) An affirmation, certification, stipulation or order, settling the transcript pursuant to CPLR 5525;

(6) A stipulation or order dispensing with reproducing exhibits, as provided in subdivision (c).

(7) The appropriate certification, stipulation, or settlement order pursuant to subdivision (g).

(c) Exhibits. The parties may stipulate to dispense with reproduction of exhibits in the full reproduced record on grounds that (1) the exhibits are not relevant or necessary to the determination of an appeal, and will not be cited in the parties' submissions; or (2) the exhibits, though relevant and necessary, are of a bulky or dangerous nature, and will be kept in readiness and delivered to the court on telephone notice.

(d) Appendix.

(1) The appendix shall include those portions of the record necessary to permit the court to fully consider the issues which will be raised by the appellant and the respondent including, where applicable, at least the following:

- (i) notice of appeal or order of transfer;
- (ii) judgment, decree or order appealed from;
- (iii) decision and opinion of the court or agency, and report of a referee, if any;
- (iv) pleadings, and in a criminal case, the indictment or superior court information;
- (v) material excerpts from transcripts of testimony or from documents in connection with a motion. Such excerpts shall include all the testimony or averments upon which the appellant relies and upon which it may be reasonably assumed the respondent will rely. Such excerpts shall not be misleading or unintelligible by reason of incompleteness or lack of surrounding context;
- (vi) copies of relevant exhibits, including photographs, to the extent practicable;
- (vii) if pertinent, a statement identifying bulky, oversized or dangerous exhibits relevant to the appeal, as well as identifying the party in custody and control of each exhibit; and
- (viii) the appropriate certification, stipulation or settlement order pursuant to subdivision (g).

(2) The appendix shall have a cover complying with subdivision (b)(1) and shall include the statement required by CPLR 5531 and a table of contents.

(3) The court may require such other contents in an appendix in a criminal cause as it deems appropriate.

(4) If a settled transcript of the stenographic minutes, or an approved statement in lieu of such transcript, is not included in the submissions, the appellant shall cause a digital copy of such transcript or statement to be filed together with the brief.

(e) Condensed Format of Transcripts Prohibited. No record or appendix may include a transcript of testimony given at a trial, hearing or deposition that is reproduced in condensed format such that two or more pages of transcript in standard format appear on one page, unless the transcript was submitted in that format to the court from which the appeal is taken.

(f) Settlement of Transcript or Statement. Regardless of the method used to prosecute any civil cause, if the record includes a transcript of the stenographic minutes of the proceedings or a statement in lieu of such transcript, such transcript or statement shall first be either stipulated as correct by the parties or their attorneys or settled pursuant to CPLR 5525.

(g) Certification of Record or Appendix. A reproduced full record or an appendix shall be certified either by: (1) a certificate of the appellant's attorney pursuant to CPLR 2105; (2) a certificate of the proper clerk; or (3) a stipulation in lieu of certification pursuant to CPLR 5532 or, if the parties are unable to stipulate, an order settling the record. The reproduced copy

containing the signed certification or stipulation shall be marked "Original." A party may move to waive certification pursuant to this rule for good cause shown, and shall include with the motion a copy of the proposed record or appendix.

1250.8 Form and Content of Briefs

(a) Cover. The cover shall set forth the title of the action or proceeding. The upper right-hand section shall contain a notation stating: whether the cause is to be argued or submitted; if it is to be argued, the time actually required for the argument; and the name of the attorney who will argue. The lower right-hand section shall contain the name, address, telephone number and email address of the attorney filing the brief and shall indicate whom the attorney represents.

(b) Appellant's Brief. The appellant's brief shall include, in the following order:

(1) a table of contents, which shall include (i) a list of point headings and (ii) the contents of the appendix, if it is not bound separately, with references to the initial page of each document included and of the direct, cross and redirect examination of each witness;

(2) a table of cases (alphabetically arranged), statutes and other authorities, indicating the pages of the brief where they are cited;

(3) a concise statement, not exceeding two pages, of the questions involved, set forth separately and followed immediately by the answer, if any, of the court from which the appeal is taken;

(4) a concise statement of the nature of the case and of the facts which should be known to determine the questions involved, with appropriate citations to the reproduced record, appendix, original record or agreed statement in lieu of record;

(5) the argument for the appellant, which shall be divided into points by appropriate headings distinctively printed;

(6) a statement certifying compliance with printing requirements under this Part, on a form approved by the court, as set forth in subdivision (j);

(7) in the First and Second Judicial Departments, the appellant's brief shall include as an addendum the statement required by CPLR 5531;

(8) in the First and Second Judicial Departments, in any civil cause permitted to be heard on the original record, the appellant's brief shall include:

(i) a copy of the order or judgment appealed from and the decision, if any;

(ii) a copy of the opinion and findings, if any, of a hearing officer and the determination and decision of any administrative department, board or agency; and

(iii) a copy of the notice of appeal or order transferring the proceeding to this court.

(c) Respondent's Brief. The respondent's brief shall conform to the requirements of subdivision (b), except that a counterstatement of the questions involved or a counterstatement of the nature and facts of the case shall be included only if the respondent disagrees with the statement of the appellant.

(d) Reply Brief. Any reply brief of the appellant or cross appellant shall conform to the requirements of subdivision (b), without repetition. An appellant's reply in a cross appeal shall include the points of argument in response to the cross appeal.

(e) Sur-reply Brief. Absent leave of the court, sur-reply briefs shall not be permitted.

(f) Computer-generated briefs.

(1) Briefs prepared on a computer shall be printed in either a serified, proportionally spaced typeface such as Times Roman, or a serified, monospaced typeface such as Courier. Narrow or condensed typefaces and/or condensed font spacing may not be used. Except in headings and in quotations of language that appears in such type in the original source, words may not be in bold type or type consisting of all capital letters.

(i) Briefs set in a proportionally spaced typeface. The body of a brief utilizing a proportionally spaced typeface shall be printed in 14-point type, but footnotes may be printed in type of no less than 12 points.

(ii) Briefs set in a monospaced typeface. The body of a brief utilizing a monospaced typeface shall be printed in 12-point type containing no more than 10½ characters per inch, but footnotes may be printed in type of no less than 10 points.

(2) Computer-generated appellants' and respondents' briefs shall not exceed 14,000 words, and reply and amicus curiae briefs shall not exceed 7,000 words, inclusive of point headings and footnotes and exclusive of signature blocks and pages including the table of contents, table of citations, proof of service, certificate of compliance, or any addendum authorized pursuant to subdivision (k).

(g) Typewritten briefs.

(1) Typewritten briefs shall be neatly prepared in clear type of no less than elite in size and in a pitch of no more than 12 characters per inch. The original of the brief shall be signed and filed as one of the number of copies required by section 1250.9 of this Part.

(2) Typewritten appellants' and respondents' briefs shall not exceed 50 pages and reply briefs and amicus curiae briefs shall not exceed 25 pages, exclusive of pages containing the table of contents, table of citations, proof of service, certificate of compliance, or any addendum authorized pursuant to subdivision (k).

(h) Margins, line spacing and page numbering of computer-generated and typewritten briefs. Computer-generated and typewritten briefs shall have margins of one inch on all sides of the page. Text shall be double-spaced, but quotations more than two lines long may be indented and single-spaced. Headings and footnotes may be single-spaced. Pages shall be numbered consecutively.

(i) Handwritten briefs.

(1) Self-represented litigants and persons filing pro se supplemental briefs may serve and file handwritten briefs. Such briefs shall be neatly prepared in cursive script or hand printing in black or blue ink.

(2) Handwritten appellants' and respondents' briefs shall not exceed 50 pages and reply briefs and amicus curiae briefs shall not exceed 25 pages, exclusive of pages containing the table of contents, table of citations, proof of service, certificate of compliance or any addendum authorized pursuant to subdivision (k). Pages shall be numbered consecutively. The submission of handwritten briefs is not encouraged. If illegible, handwritten briefs may be rejected for filing by the clerk.

(j) Printing Specifications Statement. Every brief, except those that are handwritten, shall have at the end thereof a printing specifications statement, stating that the brief was prepared either on a typewriter, a computer or by some other specified means. If the brief was typewritten, the statement shall further specify the size and pitch of the type and the line spacing used. If the brief was prepared on a computer, the statement shall further specify the name of the typeface, point size, line spacing and word count. A party preparing the statement may rely on the word count of the processing system used to prepare the brief. The signing of the brief in accordance with section 130-1.1-a (a) of this Title shall also be deemed the signer's representation of the accuracy of the statement.

(k) Briefs may include addenda that are composed exclusively of decisions, statutes, ordinances, rules, regulations, local laws, or other similar matter cited therein that were not published or that are not otherwise readily available.

1250.9 Time, Number and Manner of Filing of Records, Appendices and Briefs

(a) Appellant's Filing. Except where the court has directed that an appeal be perfected by a particular time, an appellant shall file with the clerk within six months of the date of the notice of appeal or order granting leave to appeal:

(1) if employing the reproduced full record method, an original and five hard copies of a reproduced full record, an original and five hard copies of appellant's brief, and one digital copy of the record and brief, with proof of service of one hard copy of the record and brief upon each other party to the appeal; or

(2) if employing the appendix method, an original, five hard copies and one digital copy of appellant's brief and appendix, with proof of service of one hard copy of the brief and appendix upon each other party to the appeal, and either:

(i) in the First and Second Judicial Departments, proof of service of a subpoena upon the clerk of the court of original instance requiring all documents constituting the record on appeal to be filed with the clerk of the Appellate Division, or

(ii) in the Third and Fourth Judicial Departments, a digital copy of the complete record.

(3) if employing the agreed statement in lieu of record method, an original and five hard copies of the agreed statement in lieu of record as provided in CPLR 5527, an original and five hard copies of appellant's brief, and one digital copy of the agreed statement and the brief, with proof of service of one hard copy of the agreed statement and brief upon each other party to the appeal; or

(4) if perfecting on the original record, an original and five hard copies and one digital copy of appellant's brief, with proof of service of one hard copy of the brief upon each other party to the appeal and either:

(i) in the First and Second Judicial Departments, proof of service of a subpoena upon the clerk of the court of original instance requiring all documents constituting the record on appeal to be filed with the clerk of the Appellate Division, or

(ii) in the Fourth Judicial Department, a hard copy of the complete record.

(5) In the First and Second Judicial Departments, where a subpoena is required to be served upon the clerk of the court of original instance pursuant to sections 1250.9(a)(2)(i) and 1250.9(a)(4)(i) of this Part, the clerk from whom the papers are subpoenaed shall compile the original papers constituting the record on appeal and cause them to be transmitted to the clerk of the court, together with a certificate listing the papers constituting the record on appeal and stating whether all such papers are included in the papers transmitted.

(b) Extension of time to perfect appeal. Except where the court has directed that the appeal be perfected by a particular time, the parties may stipulate, or in the alternative an appellant may

apply by letter, on notice to all parties, to extend the time to perfect an appeal up to 60 days. Any such stipulation shall be filed with the court. The appellant may thereafter apply by letter, on notice to all parties, to extend the time to perfect by up to an additional 30 days. Any further application for an extension of time to perfect the appeal shall be made by motion.

(c) Respondent's Filing. The respondent on an appeal shall file with the clerk within 30 days of the date of service of the appellant's submissions or, in the First Judicial Department, in accordance with the court's published terms calendar:

(1) under the full record method, the agreed statement in lieu of record method, or when perfecting on the original record, an original and five hard copies and one digital copy of the respondent's brief, with proof of service of one hard copy of the brief upon each party to the appeal; or

(2) under the appendix method, an original and five hard copies and one digital copy of the respondent's brief and appendix, if any, with proof of service of one hard copy of the brief and appendix, if any, upon each party to the appeal.

(d) Appellant's Reply. The appellant shall file with the clerk an original, five hard copies and one digital copy of the appellant's reply brief, with proof of service of one hard copy of the brief upon each party to the matter, within 10 days of the date of service of the respondent's submissions or, in the First Judicial Department, in accordance with the court's published terms calendar.

(e) Pro se or unrepresented parties shall be exempt from the requirement of the filing of a digital copy of any brief or other document.

(f) Cross Appeals; Concurrent Appeals from Single Order or Judgment; Consolidation of Appeals from Multiple Orders or Judgments.

(1) Cross appeals. In a cross appeal:

(i) The appealing parties shall consult and make best efforts to stipulate to a briefing schedule. In the First Judicial Department, if the parties fail to stipulate to an alternative briefing schedule, the cause shall be perfected in accordance with the court's published terms calendar, and shall not be governed by the time parameters set forth in subsections (iv) through (vi).

(ii) The appealing parties shall file a joint record or joint appendix certified as provided in section 1250.7(g) of this Part and shall share equally the cost of that record or appendix;

(iii) The party that first perfects the appeal shall be denominated the appellant-respondent;

(iv) A respondent-appellant's answering brief shall include the points of argument on the cross appeal and, unless the parties have stipulated otherwise, shall be filed and served within 30 days after service of the first appeal brief;

(v) An appellant-respondent's reply brief shall include the points of argument in response to the cross-appeal and, unless the parties have stipulated otherwise, shall be filed and served within 30 days after service of the answering brief;

(vi) Unless the parties have stipulated otherwise, a respondent-appellant's reply brief, if any, shall be served within 10 days after service of appellant's reply brief.

(2) Concurrent appeals from a single order or judgment. In concurrent appeals, the appellants shall perfect the appeals together, without motion, in the period measured from the date of the latest notice of appeal. The appellants shall file a joint record or joint appendix certified as provided in section 1250.7(g) of this Part and shall share equally the cost of that record or appendix.

(3) Appeals from multiple orders or judgments. When an appellant takes appeals from multiple orders and judgments arising out of the same action or proceeding, the appellant may perfect the appeals together, without motion and upon a single record or appendix, provided that each appeal is perfected in a timely manner pursuant to this Part.

(4) Absent an order of the court, appeals from orders or judgments in separate actions or proceedings cannot be consolidated but may, upon written request of a party, be scheduled by the court to be heard together on the same day.

(g) Extensions of Time to File and Serve Responsive Briefs. Except where the court has directed that answering or reply briefs be served and filed by a particular time, an extension of time to serve and file such briefs may be obtained as follows:

(1) By initial stipulation or application. The parties may stipulate or a party may apply by letter on notice to all parties to extend the time to file and serve an answering brief by up to 30 days, and to file a reply brief by up to 10 days. Not more than two such stipulations or applications shall be permitted. A stipulation shall not be effective unless promptly filed with the court. Any further application shall be made by motion. In the First Judicial Department, extensions by stipulation shall be filed by a date set forth in the court's published terms calendar, and shall put a matter over to any later term other than the June Term.

(2) By motion. A party may move to extend the time to file and serve a brief.

(h) Leave to File Oversized Brief. An application for permission to file an oversized brief shall be made to the clerk by letter stating the number of words or pages by which the brief exceeds the limits set forth in this section and the reasons why submission of an oversized brief is necessary. The letter shall be accompanied by a copy of the proposed brief and printing specifications statement.

(i) Constitutionality of State Statute. Where the constitutionality of a statute of the State is involved in a matter in which the State is not a party, the party raising the issue shall serve a copy of the brief upon the Attorney General of the State of New York, and file proof of service with the court. The Attorney General may thereupon intervene in the appeal.

1250.10 Dismissal of a Matter

(a) Civil Matters. In the event that an appellant fails to perfect a civil matter within six months of the date of the notice of appeal, the order of transfer, or the order granting leave to appeal, as extended pursuant to section 1250.9(b) of this Part, the matter shall be deemed dismissed without further order.

(b) Criminal Matters. The court upon its own motion or the motion of a respondent may dismiss a criminal appeal pursuant to CPL 470.60.

(c) Motion to Vacate Dismissal. When an appeal or proceeding has been deemed dismissed pursuant to subdivision (a) or by order of the court for failure to perfect, a motion to vacate the dismissal may be made within one year of the date of the dismissal. In support of the motion, the movant shall submit an affidavit setting forth good cause for vacatur of the dismissal, an intent to perfect the appeal or proceeding within a reasonable time, and sufficient facts to demonstrate a meritorious appeal or proceeding.

1250.11 Additional Rules Relating to Criminal Appeals

(a) Poor Person Relief and Assigned Counsel.

(1) Continuation of eligibility for assigned counsel on appeal. Where a sentencing court has granted a defendant's application for poor person relief on appeal pursuant to CPL 380.55, the Appellate Division may, upon receipt of a properly filed notice of appeal and a copy of the order, assign appellate counsel or provide other relief without the need for further motion or application.

(2) Continuation of assigned counsel in People's appeal. Unless otherwise ordered by the court, a defendant represented in the superior court by assigned counsel shall continue to be represented by that counsel on an appeal taken by the People.

(b) Application for Certificate Granting Leave to Appeal in a Criminal Matter.

(1) An application for a certificate granting leave to appeal to the Appellate Division shall

(i) be made, in writing, within 30 days after service of the order upon the applicant;

(ii) provide 15 days' notice to the District Attorney;

(iii) be filed with proof of service; and

(iv) be submitted without oral argument.

(2) The moving papers for a certificate granting leave to appeal shall be addressed to the court for assignment to a justice, shall state that no prior application for such certificate has been made, and shall set forth:

(i) the return date;

(ii) the name and address of the party seeking leave to appeal and the name of the District Attorney;

(iii) the indictment number; and

(iv) the questions of law or fact which ought to be reviewed.

(3) The moving papers shall include:

(i) a copy of the order sought to be reviewed;

(ii) a copy of the decision of the court below or a statement that there was none;
and

(iii) a copy of all submissions filed with the trial court.

(4) Answering submissions or a statement that there is no opposition to the application shall be served and filed not later than one business day before the return date stated in the application.

(c) Exhibits. If required by the court in a criminal appeal, in lieu of submitting original physical exhibits (e.g., weapons or contraband) to the court, the appellant may file a stipulation of the parties identifying the particular exhibits, identifying the party in custody and control of each exhibit and providing that each exhibit shall be made available to the court upon the request of the clerk.

(d) Briefs.

(1) There shall be included at the beginning of the main brief submitted by an appellant in any criminal cause a statement setting forth the order or judgment appealed from; the sentence imposed, if any; whether an application for a stay of execution of judgment pending determination of the appeal was made and, if so, the date of such application; whether an order issued pursuant to CPL 460.50 is outstanding, the date of such order, the name of the judge who issued it and whether the defendant is free on bail or on his or her own recognizance; and whether there were codefendants in the trial court, the disposition with respect to such codefendants, and the status of any appeals taken by such codefendants.

(2) Briefs in criminal appeals shall otherwise conform to the requirements of section 1250.8 of this Part.

(3) Assigned counsel shall file proof of mailing of a copy of briefs filed on behalf of a defendant to the defendant at his or her last known address.

(e) Expedited appeal of an order reducing an indictment or dismissing an indictment and directing the filing of a prosecutor's information.

(1) At the request of either party, the court shall give preference to the hearing of an appeal from an order reducing an indictment or dismissing an indictment and directing the filing of a prosecutor's information (CPL 210.20 (6) (c); 450.20 (1-a); 450.55), and shall determine the appeal as expeditiously as possible.

(2) The appellant's brief in such an appeal shall include an appendix containing a copy of the notice of appeal, the indictment, the order appealed from and any underlying decision. The respondent's brief may also include an appendix, if necessary. The appellant shall file, separate from the appendix, one copy of the grand jury minutes under seal.

(f) Application for Withdrawal of Assigned Appellate Counsel Pursuant to *Anders v California* (386 US 738 [1967]). When assigned appellate counsel files a brief pursuant to *Anders v California*, counsel shall additionally either

(1) file proof that the following were mailed to the defendant at his or her last known address: (i) a copy of the brief, and (ii) a copy of a letter to the defendant advising that he or she may file a pro se supplemental brief and, if he or she wishes to file such a brief, that he or she must notify the court no later than 30 days after the date of mailing of counsel's letter of the intention to do so; or

(2) in the Fourth Judicial Department, move to be relieved as counsel pursuant to *People v. Crawford*, 71 A.D.2d 38 (4th Dept. 1979).

(g) Pro Se Supplemental Briefs in Criminal Appeals Involving Assigned Counsel. When assigned appellate counsel does not file a brief pursuant to *Anders v California*, a defendant wishing to file a pro se supplemental brief shall

(1) in the First and Second Judicial Departments, move for permission to do so not later than 45 days after the date of mailing to the defendant of a copy of the brief filed by counsel; the affidavit in support of the motion shall briefly set forth the points that the defendant intends to raise in the supplemental brief; or

(2) in the Third and Fourth Judicial Departments, file the pro se supplemental brief not later than 45 days after the date of mailing to the defendant of a copy of the brief filed by counsel.

(h) Appeal from an Order Concerning a Grand Jury Report.

(1) The mode, time and manner for perfecting an appeal from an order accepting a report of a grand jury pursuant to CPL 190.85 (1) (a), or from an order sealing a report of a grand jury pursuant to CPL 190.85 (5), shall be in accordance with the provisions of this Part governing appeals in criminal cases.

(2) An appeal from such an order shall be a preferred cause.

(3) The record, briefs and other documents on such an appeal shall be sealed and not be available for public inspection except as permitted by CPL 190.85 (3).

(i) Review of certain protective orders issued pursuant to CPL 245.70

Expedited review pursuant to CPL 245.70 (6) of a protective order "relating to the name, address, contact information or statements of a person" (CPL 245.70 [6][a]) shall be sought by application made by order to show cause in accordance with section 1250.4 (b) of these rules and within two business days of the adverse or partially adverse ruling.

1250.12 Transferred Proceedings

(a) Transferred CPLR Article 78 Proceedings. Unless otherwise directed by the court, a proceeding commenced pursuant to CPLR article 78 and transferred to the Appellate Division pursuant to CPLR 7804(g) shall be governed in the same manner as an appeal under this Part, with the time to file the petitioner's brief measured from the date of the order of transfer.

(b) Transferred Human Rights Law Proceedings (Executive Law § 298).

(1) A proceeding under the Human Rights Law which is transferred to the Appellate Division for disposition shall be prosecuted upon the original record, which shall include:

- (i) copies of all submissions filed in the Supreme Court;
- (ii) the decision of the Supreme Court, or a statement that no decision was rendered;
- (iii) the order of transfer; and
- (iv) the original record before the State Division of Human Rights, including a copy of the transcript of the public hearing.

(2) In all other respects every proceeding so transferred shall be governed by this Part in the same manner as an appeal, with the time to perfect measured from the date of the order of transfer.

(3) In the event that the original record that was before the State Division of Human Rights was not previously submitted to the Supreme Court, the Division shall file the original record with the Appellate Division within 45 days after entry of, or service upon it of a copy of the order of transfer.

1250.13 Original Special Proceedings

(a) Return date. Unless otherwise required by statute or court directive, original special proceedings commenced in the Appellate Division, including original proceedings pursuant to CPLR article 78, shall be made returnable at 10:00 a.m. on any Monday or on such other days as the court may direct, with a return date not less than 20 days after service of the notice of verified petition and petition on each respondent.

(b) Necessary documents.

(1) Unless otherwise required by statute, a petitioner shall file the original and a digital copy of the notice of petition or order to show cause, the petition and the filing fee as required by CPLR 8022.

(2) Proof of service of a hard copy of the notice of petition (or order to show cause) and the petition on each respondent shall be filed not later than 15 days after the applicable statute of limitations has expired (see CPLR 306-b).

(3) Each respondent shall serve a hard copy, and shall file a hard copy and a digital copy, of an answer or other lawful response, the record before the respondent, the transcript of the hearing, if any, and the determination and findings of the respondent.

(c) Briefing and Original Record in Original Special Proceedings.

(1) In the following original special proceedings commenced in the First and Second Judicial Departments, the petitioner shall file an original, five copies and a digital copy of a brief, with proof of service of one hard copy of the brief upon each other party to the proceeding, within six months of the date of service of the answer:

- (i) Eminent Domain Procedure Law § 207;
- (ii) Public Service Law §§ 128 or 170;
- (iii) Labor Law §§ 220 or 220-b;
- (iv) Public Officers Law § 36; and
- (v) Real Property Tax Law § 1218.

In all other special proceedings commenced in the First and Second Judicial Departments, further briefing shall not be required, and the court shall determine the matter on the original submissions.

(2) In all original special proceedings filed in the Third and Fourth Judicial Departments, the petitioner shall file an original, five hard copies and one digital copy of the petitioner's brief, with proof of service of one hard copy of the brief upon each other party to the proceeding within six months of the date of service of the answer, or pursuant to such briefing schedule that the court may issue.

(3) In original special proceedings where briefing is required, the respondent to the petition shall file within 30 days of the date of service of the petitioner's brief, or, in the First Judicial Department, in accordance with the court's published terms calendar, an original, five hard copies and one digital copy of the respondent's brief, with proof of service of one hard copy of the brief upon each other party to the proceeding. Not more than ten days after service of the respondent's brief, or, in the First Judicial Department, in accordance with the court's published terms calendar, the petitioner may file an original, five hard copies and one digital copy of the petitioner's reply brief, if any.

(4) In original special proceedings where briefing is required, the period of time within which to file the petitioner's brief or respondent's brief may be extended in the manner provided for the extension of time to perfect and appeal or to file and serve responsive briefs set forth in sections 1250.9(b) and 1250.9(g) of this Part.

(5) All original special proceedings will be heard upon the original record, which shall include: (A) the notice of petition or order to show cause and petition; (B) the original record before the respondent, including a copy of the transcript of the hearing, if any; and (C) the determination and findings of the respondents.

1250.14 Miscellaneous Appeals and Proceedings

(a) Annexation Proceedings. Annexation proceedings shall be prosecuted as set forth in General Municipal Law article 17.

(b) Election Appeals. Appeals in proceedings brought pursuant to any provision of the Election Law shall be prosecuted upon the original record, pursuant to a scheduling directive of the court or clerk, with the filing and service of briefs in such number and manner as the court shall direct.

(c) Appeals from the Workers' Compensation Board and Unemployment Insurance Appeal Board. Appeals from decisions of the Workers' Compensation Board and the Unemployment Insurance Appeal Board shall be prosecuted exclusively before the Appellate Division, Third Judicial Department, in accordance with the rules established by that court.

(d) Original Proceedings under the Education Law, Public Health Law and Tax Law. Proceedings seeking review of determinations pursuant to Education Law § 6510, Public Health Law § 230-c or Tax Law § 2016 shall be prosecuted exclusively before the Appellate Division, Third Judicial Department, in accordance with the rules established by that court.

(e) Appeals of Compensation Awards to Judicial Appointees. If the sole issue sought to be reviewed on appeal is the amount of compensation awarded to a judicial appointee (i.e., referee, arbitrator, guardian, guardian ad litem, conservator, committee of the person or a committee of the property of an incompetent or patient, receiver, person designated to perform services for a receiver, such as but not limited to an agent, accountant, attorney, auctioneer or appraiser, person designated to accept service), the cause may be prosecuted by motion or as an appeal. In such event, the review may be had on the original record, and briefs may be filed at the option of the parties.

(f) Appeals from the Appellate Term. When the court has made an order granting leave to appeal from an order of the Appellate Term, the appellant shall file with the clerk of the Appellate Term a copy of the order. Thereafter the appeal may be brought on for argument by the filing of briefs in the same manner as any other cause.

(g) Submitted facts (CPLR 3222). An original agreed statement of facts in an action submitted to the court pursuant to CPLR 3222 shall be filed in the office of the county clerk, and a copy shall be appended to appellant's brief together with a statement required by CPLR 5531. Briefs shall be served and filed in the manner and in accordance with the time requirements prescribed by section 1250.9 of this Part.

1250.15 Calendar Preference; Calendar Notice; Oral Argument; Post-Argument Submissions

(a) Calendar Preference.

(1) By letter. A party seeking and entitled by law to a preference in the hearing of an appeal shall provide prompt notice by letter to the court setting forth the basis for such preference.

(2) By motion. A party not entitled to a preference by law may move for a calendar preference for good cause shown.

(b) Calendar Notice. Notification that a cause has been placed on the calendar shall be published on the court's website. The court may also arrange for publication of such notice in a daily law journal or other newspaper or periodical regularly published within the Judicial Department.

(c) Oral Argument.

(1) Oral Argument Generally. Oral argument shall be permitted unless proscribed by court rule or, in a particular cause, by the court in its discretion. Parties who do not file a brief on appeal shall not be permitted to argue a cause.

(2) Oral Argument by Permission. Where oral argument is proscribed by rule, a party may seek leave of the court therefor by filing of a letter application, on notice to all parties, or by motion where required by the court, within 7 days of the filing of the respondent's brief. The application or motion shall specify the reasons why oral argument is appropriate and the amount of time requested.

(3) Failure to Request Oral Argument. In the event that any party's main brief shall fail to set forth the appropriate notations indicating that the cause is to be argued and the time required for argument, the cause will be deemed to have been submitted without oral argument by that party.

(4) Failure to Appear for Oral Argument. Where counsel or a self-represented litigant fails to appear timely for oral argument, the matter shall be deemed to have been submitted without oral argument by that party.

(5) Rebuttal. Prior to beginning argument, the appellant may orally request permission to reserve a specific number of minutes for rebuttal in the First and Third Judicial Departments. The time reserved shall be subtracted from the total time assigned to the appellant. The respondent may not request permission to reserve time for sur-rebuttal.

(d) Post-Argument Submissions. Post-argument submissions are discouraged, and may be made only with leave of the court.

1250.16 Decisions, Orders and Judgments; Costs; Remittitur; Motions for Reargument or Leave to Appeal to the Court of Appeals

(a) Decisions, Orders and Judgments. A decision, order or judgment of the court on a cause shall be deemed entered on the date upon which it was issued. Unless otherwise directed by the court, copies of the court's decisions, orders and judgments shall be posted on the court's website.

(b) Costs. Costs upon an appeal under CPLR 8107 shall be allowed only as directed by the court in each case. In the absence of a contrary direction, the award by the court of costs in any matter shall be deemed to include disbursements in accordance with CPLR 8301(a).

(c) Remittitur. Unless otherwise ordered by the court, an order determining an appeal shall be remitted, together with the record on appeal, to the clerk of the court of original instance.

(d) Motion for Reargument or Leave to Appeal to the Court of Appeals.

(1) Time of motion. A motion for reargument of or leave to appeal to the Court of Appeals from an order of the court shall be made within 30 days after service of the order of the court with notice of entry.

(2) Reargument. An affidavit or affirmation in support of a motion for reargument shall briefly set forth the points alleged to have been overlooked or misapprehended by the court.

(3) Leave to appeal to the Court of Appeals.

(i) An affidavit or affirmation in support of a motion for leave to appeal to the Court of Appeals shall briefly set forth the questions of law sought to be reviewed by the Court of Appeals and the reasons that the questions should be reviewed by the Court of Appeals.

(ii) In a civil matter, a motion for leave to appeal to the Court of Appeals shall, to the extent practicable, be determined by the panel of justices that determined the appeal.

(iii) In a criminal matter, a motion for leave to appeal to the Court of Appeals may be submitted to any member of the panel of justices that determined the appeal. The affidavit or affirmation in support of the motion shall state that no other application for leave to appeal to the Court of Appeals has been made. Service of a copy of an order on an appellant as required by CPL 460.10 (5) (a) shall be made pursuant to CPLR 2103.

1250.17 Fees of the Clerk of the Court

(a) Fees. The clerk of the court shall be entitled to the following fees, which shall be payable in advance:

(1) upon the filing of a record on a civil appeal or statement in lieu of record on a civil appeal and upon the filing of a notice of petition or order to show cause commencing a special proceeding, \$315.

(2) upon the filing of each motion or cross motion with respect to a civil appeal or special proceeding, \$45, except that no fee shall be imposed for a motion or cross motion which seeks leave to appeal as a poor person pursuant to CPLR 1101 (a).

(3) such other fees as the court shall direct.

(b) Exemptions. Notwithstanding the foregoing, no party shall be required to pay a filing fee hereunder where such party demonstrates entitlement to an exemption from the payment of such fee under statute or other authority.

Rules of Practice of the Appellate Division, First Judicial Department

Part 600

600.1 General Provisions and Definitions

(a) Practice Rules of the Appellate Division

This Part serves as a supplement to, and should be read in conjunction with, the Practice Rules of the Appellate Division (22 NYCRR) Part 1250 and the Electronic Filing Rules of the Appellate Division (22 NYCRR) Part 1245. Where there is a conflict between this Part and Parts 1250 and 1245, this Part controls when practicing within the First Judicial Department.

(b) Sessions of the Court

The court will convene at 2:00 o'clock in the afternoon during the appointed terms of the court for the hearing of appeals except on Fridays when the court will convene at 10:00 o'clock in the forenoon. Special sessions of the court may be scheduled for such time or such purposes as the court may direct.

600.2 [Reserved]

600.3 Initial Filings; Active Management of Causes; Settlement or Mediation Program

(a) Pre-argument Conference Program

(1) By order of the court, counsel and the parties, and any additional parties in interest, may be directed to attend a pre-argument conference before a special master or such other person as may be designated by the Appellate Division.

(2) Within 10 days after an order directing a pre-argument conference, counsel for respondent shall file a counterstatement, together with proof of service, setting forth:

- (i) the issues proposed to be raised on the appeal, if respondent disagrees with the issues identified by appellant in the informational statement filed pursuant to (22 NYCRR) § 1250.3;
- (ii) the extent to which respondent challenges the assertions made in the informational statement; and
- (iii) an explanation of the grounds for granting the relief sought by respondent.

(3) Upon the conclusion of the conference, if the parties have entered into a stipulation the court shall file an order of approval.

600.4 Motions

(a) Electronically Filed Motions. One hard copy of electronically filed motion papers shall be filed with the clerk in accordance with section 1245.6(a) of the Electronic Filing Rules of the Appellate Division ([22 NYCRR] Part 1245).

(b) Leave to File Amicus Curiae Brief. A motion to serve and file an amicus curiae brief shall include six copies of the proposed brief.

600.5 [Reserved]

600.6 [Reserved]

600.7 [Reserved]

600.8 [Reserved]

600.9 Time, Number and Manner of Filing of Records, Appendices and Briefs

(a) Filing and Service of Digital Copies of Record, Appendices and Briefs

(1) Digital copies of the records, appendices and briefs filed pursuant to (22 NYCRR) § 1250.9(a), (c) and (d) shall comply with the technical specifications for electronically filed documents set forth in Attachment A to Electronic Rules of the Appellate Division ([22 NYCRR] Part 1245) and shall be filed and served by e-mail. Emails to the court shall be directed as follows:

- (i) In civil matters – AD1copy-civil@nycourts.gov
- (ii) In criminal matters – AD1copy-criminal@nycourts.gov
- (iii) In Family Court matters – AD1copy-family@nycourts.gov

(2) Records, appendices and briefs filed electronically through NYCSEF shall satisfy the digital copy requirements of (22 NYCRR) § 1250(a), (c) and (d).

600.10 [Reserved]

600.11 Additional Rules Relating to Criminal Appeals

(a) Transcript of Proceedings. Where an appeal in a criminal matter is prosecuted on the original record or by the appendix method, the appellant shall serve a copy of the transcript of the proceedings upon the respondent together with the brief and appendix, and cause a copy to be filed with the court.

600.12 [Reserved]

600.13 [Reserved]

600.14 [Reserved]

600.15 Calendar Preferences; Calendar Notice; Oral Argument; Post-Argument Submissions

(a) Calendar Notice

All appeals or causes shall be noticed for a term of the court as enumerated or non-enumerated.

The following appeals are to be noticed as enumerated:

- (1) Appeals from final orders and judgments of the Supreme Court, other than those dismissing a cause for failure to prosecute, for failure to serve a complaint or for failure to obey an order of disclosure or to stay or compel arbitration.
- (2) Appeals from decrees or orders of the Surrogate's Court finally determining a special proceeding.
- (3) Appeals from orders granting or denying motions for a new trial.
- (4) Appeals from orders granting or denying motions for summary judgment.
- (5) Appeals from orders granting or denying motions to dismiss a complaint, a cause of action, a counterclaim or an answer in point of law.
- (6) Appeals from orders of the Appellate Term.
- (7) Appeals from judgments or orders in criminal proceedings.
- (8) Special proceedings transferred to this court for disposition.
- (9) Controversies on agreed statement of facts.
- (10) Appeals from orders of the Family Court finally determining a special proceeding.
- (11) Appeals from orders granting or denying custody of minors after a hearing.
- (12) Special proceedings challenging determination of the New York City tax appeals tribunal.
- (13) Such other appeals as the court or a justice thereof may designate as enumerated.

(b) All other types of appeals not set forth in subdivision (a) of this section shall be noticed as non-enumerated.

(c) How Placed on the Calendar; filing time

(1) Appellant's Filing. An appeal or cause shall be placed on the calendar, by the appellant or moving party filing with the clerk, at least 57 days before the first day of the term for which the matter shall have been noticed, the record on appeal or appendix and brief, in the manner and number required by (22 NYCRR) § 1250.9(a), and a note of issue, with proof of service, stating the term for which noticed, the date of the notice of appeal, the date the judgment or order was entered, the name of the justice who made the decision, the nature of the appeal or cause, and the index or indictment number and the Appellate Division number.

(2) Respondent's Filing. At least 27 days before the first day of the term for which the appeal or cause shall have been noticed, the respondent or opposing party shall file the answering brief and appendix, if any, in the manner and number required by (22 NYCRR) § 1250.9(c).

(3) Reply Brief. Within nine days after service of the respondent's brief, the appellant or moving party may file a reply brief, in the manner and number required by (22 NYCRR) § 1250.9(d).

(d) Cross Appeals

(1) If the parties to the appeal do not stipulate to a briefing schedule pursuant to (22 NYCRR) § 1250.9(f)(1)(i), respondent-appellant shall file his or her answering brief pursuant to the schedule for a respondent for that specific term. Appellant shall have nine days thereafter to file its reply brief, and thereafter, respondent-appellant shall have nine days to file his or her reply brief.

(e) Time Permitted for Argument

(1) On the argument of an enumerated appeal, not more than 15 minutes shall be permitted on either side. Any party may for good cause request additional argument time by written application before the day of argument.

(2) Oral argument shall not be allowed in non-enumerated appeals, except by permission of the Court upon application pursuant to (22 NYCRR) § 1250.15(c)(2).

(3) Only one counsel on each side shall be heard except by permission of the Court.

600.16 [Reserved]

600.17 Fees of the Clerk of the Court

(a) In addition to the fees provided for in (22 NYCRR) § 1250.17, pursuant to Judiciary Law § 265, the clerk of the court is entitled to receive in advance the following fees on behalf of the State of New York:

(1) For an embossed and engraved certificate of admission as an attorney and counselor at law, twenty-five dollars;

(2) For a certificate of good standing, ten dollars;

(3) For furnishing a hard or digital copy, certified or uncertified, of an opinion, decision, order, record, or other paper in his or her custody, one dollar for the first page and 50 cents for each additional page; and

(4) No charge shall be made for furnishing a copy of the order, opinion or decision of the court to any party to an appeal or proceeding pending in the court.

Supreme Court of the State of New York
Appellate Division: Second Judicial Department



RULES OF PRACTICE

22 NYCRR Part 670

Effective September 18, 2018

Rules of Practice

22 NYCRR Part 670

Effective September 18, 2018

As amended September 26, 2018

As amended November 28, 2018

As amended March 4, 2019

As amended March 27, 2019

As amended June 12, 2019

As amended October 16, 2019

As amended November 25, 2019

As amended July 1, 2020

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

Part 670. Rules of Practice

Section:	Page
670.1 General Provisions and Definitions.....	1
670.2 Settlement or Withdrawal of Motion, Appeal or Proceeding; Notice of Change in Circumstances.	2
670.3 Initial Filings; Active Management of Causes; Settlement or Mediation Program.....	2
670.4 Motions	5
Section 670.5 [Reserved]	6
Section 670.6 [Reserved]	6
670.7 Form and Content of Records and Appendices; Exhibits.....	6
Section 670.8 [Reserved]	7
670.9 Time, Number and Manner of Filing of Records, Appendices and Briefs.....	7
Section 670.10 [Reserved]	7
670.11 Additional Rules Relating to Criminal Appeals.....	7
Section 670.12 [Reserved]	8
Section 670.13 [Reserved]	8
Section 670.14 [Reserved]	8
670.15 Calendar Preference; Calendar Notice; Oral Argument; Post-Argument Submissions	8
Section 670.16 [Reserved]	9
670.17 Fees of the Clerk of the Court	9

670.1 General Provisions and Definitions

(a) Practice Rules of the Appellate Division

This Part serves as a supplement to, and should be read in conjunction with, the Practice Rules of the Appellate Division (22 NYCRR Part 1250) and the Electronic Filing Rules of the Appellate Division (22 NYCRR Part 1245). Where there is a conflict between this Part and Parts 1250 and 1245, this Part controls when practicing within the Second Judicial Department.

(b) Sessions of the Court

Unless otherwise ordered, the court will convene at 10 o'clock in the forenoon on Monday, Tuesday, Thursday, and Friday. Special sessions of the court may be held at such times and for such purposes as the court from time to time may direct.

(c) Appearance of Counsel

(1) Counsel who has filed a notice of appeal on behalf of a party shall be regarded as counsel of record for that party in this court, except where

(A) the notice of appeal contains a statement indicating that counsel has not been retained for purposes of appeal, or

(B) counsel who filed the notice of appeal was assigned in the court of original instance, and that assignment has not been extended to the appeal by statute, order or rule.

(2) In any cause or matter in which counsel files a document in this court on behalf of a party who is not otherwise represented by counsel of record in this court, filing counsel shall be regarded as counsel of record for that party in this court.

(3) Unless the Court directs otherwise, there shall be only one counsel of record for a party in connection with any cause or matter pending in this Court.

(4) Counsel of record may be changed by:

(A) The filing of a consent to change attorney or substitution of counsel in this Court which is on notice to all parties, executed by both counsel of record and incoming counsel, if there is one, and signed and acknowledged by the affected party; or

(B) By successfully moving this Court for permission to withdraw as counsel.

(5) Upon the filing of a notice of appearance on notice to all parties in a cause or matter, counsel shall be regarded as counsel of record for a party who is not otherwise represented in this court in connection with the cause or matter.

(6) Counsel who is retained by counsel of record to serve as appellate counsel may inform the court as to that status by filing a writing indicating same on notice to all parties. All records, appendices and briefs filed by appellate counsel must bear the name, address, telephone number

and e-mail address of counsel of record, along with that of appellate counsel, and must indicate appellate counsel's status as such.

670.2 Settlement or Withdrawal of Motion, Appeal or Proceeding; Notice of Change in Circumstances

(a) Withdrawal of an appeal which has been placed on the court's calendar

(1) A stipulation withdrawing an appeal or proceeding which has been placed on the Court's calendar must be filed with the court prior to the calendar date. Absent such a stipulation, an appellant may, prior to the calendar date, move for permission to withdraw such an appeal or proceeding.

(2) An appeal which has been placed on the court's calendar cannot subsequently be withdrawn based upon a settlement which occurred prior to the calendar date, except upon a showing of good cause.

(3) An application for permission to withdraw an appeal subsequent to the calendar date must be supported by (i) a stipulation withdrawing the appeal, (ii) documentation which establishes when the event upon which the withdrawal is based occurred, and (iii) where appropriate, an explanation regarding why there was a delay in notifying the court of that event. Such applications shall be granted only in limited circumstances and upon a showing of good cause.

(b) Notice of Change of Circumstances. For the purposes of section 1250.2(c) of the Practice Rules of the Appellate Division (22 NYCRR § 1250.2[c]), settlement includes, but is not limited to, any oral or written agreement or understanding which may, once memorialized, render a determination of the cause unnecessary.

670.3 Initial Filings; Active Management of Causes; Settlement or Mediation Program

(a) Initial Filings

(1) In all civil matters, counsel for the appellant or the petitioner shall file the original plus one copy, and serve one copy, of the papers referred to in section 1250.3(a) of the Practice Rules of the Appellate Division (22 NYCRR §1250.3[a]).

(2) Where an appeal is taken in a criminal matter, the clerk of the court of original instance shall execute an initial information statement on a form approved by the court and shall transmit it together with a copy of the notice of appeal and the order of sentence and commitment, if any, to the clerk of this court.

(3) An initial informational statement relating to attorney matters shall be filed in connection with attorney disciplinary proceedings instituted in this court and applications made to this court pursuant to sections 690.17 and 690.19 of the rules of this court.

(4) In all other actions or proceedings instituted in this court, and applications pursuant to CPLR 5704, an initial informational statement shall be filed.

(5) Where the appeal is taken from an order or judgment issued in an action commenced under the provisions of CPLR 214-g, counsel for the appellant shall so indicate in the “Case Type” section of the informational statement. The clerk of the court from which the appeal is taken shall notify this Court when transmitting such an informational statement to this Court pursuant to section 1250.3(a) of the Practice Rules of the Appellate Division (22 NYCRR 1250.3[a]).

(b) Active Management.

(1) The following appeals shall be actively managed:

(a) All appeals from orders of the Family Court, and any other proceedings in which the welfare, custody or parental access of children is at issue; and

(b) All appeals from orders and judgments issued in actions commenced under CPLR 214-g.

(2) In all actively managed matters, the clerk shall issue a scheduling order or orders directing the parties to take specified action to expedite the prosecution thereof, including but not limited to the ordering of the transcript of the proceedings and the filing of proof of payment therefor, the making of motions, the perfection of the cause, and the filing of briefs. Notwithstanding any of the time limitations set forth in this part or Part 1250 (22 NYCRR 1250), a scheduling order shall set forth the date or dates on or before which such specified action shall be taken.

(3) If any party shall establish good cause why there cannot be compliance with the provisions of a scheduling order, the clerk may amend the same consistent with the objective of insuring expedited prosecution of the cause. An application to amend a scheduling order shall be made by letter, addressed to the clerk, with a copy to the other parties to the cause. The determination of the clerk in amending or declining to amend a scheduling order shall be reviewable by motion to the court on notice pursuant to section 1250.4 of the Practice Rules of the Appellate Division (22 NYCRR § 1250.4).

(4) Upon the default of any party in complying with the provisions of a scheduling order, the clerk shall issue an order to show cause, on notice, why the cause should not be dismissed or such other sanction be imposed as the court may deem appropriate.

(c) Pre-Perfection Civil Appeals Management Program

(1) The court, in those cases in which it deems it appropriate, shall issue a notice directing the attorneys for the parties and/or the parties themselves, as well as any other individual whose attendance the court may require, to attend a pre-perfection conference before a Justice of this court or such other person as it may designate, to consider the possibility of settlement, the limitation of the issues, and any other matters which the designated Justice or other person determines may aid in the disposition of the appeal or proceeding.

(2) Requests for adjournments shall be addressed to the Pre-Perfection Civil Appeals Management Program Administrator. Such requests shall be determined by the Administrator or Special Referee designated to conduct the conference, whose determination shall be final. Absent unusual circumstances, no adjournment shall be granted unless requested at least three business days prior to the scheduled date.

(3) Pre-perfection conferences shall be deemed appearances before this court. Any attorney or party who, without good cause shown, fails to appear for a regularly scheduled pre-perfection conference, or who fails to comply with the terms of a stipulation or order entered following a pre-argument conference, shall be subject to the imposition of such costs and/or sanctions as the court may direct. Pre-perfection conferences shall constitute actual engagements before this court for the purposes of Part 125 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 125).

(d) Mandatory Civil Appeals Mediation Program

(1) Establishment, Purpose and Scope of Program

The Appellate Division, Second Department hereby establishes a Mandatory Civil Appeal Mediation Program (the Program). Appeals from orders of the Family Court are excluded from this requirement, provided, however, that counsel and the parties to perfected Family Court appeals involving the custody of, or access to, children may jointly request, by letter application to the Clerk of the Court, that the particular appeal be designated for mediation.

(2) Mandatory Mediation; Notice of Reference

(i) The Clerk of the Court shall cause civil appeals which have been perfected to be designated for mandatory mediation.

(ii) Upon such designation, the Clerk of the Court, shall cause to be issued a Notice of Reference, which shall direct the parties to the appeal and their counsel, as well as any other individual whose attendance the court may require, to attend an initial, ninety-minute session, without charge, before a designated Special Master identified in that Notice. The Notice of Reference shall set forth the date, time, and place of the initial mediation session. Counsel with knowledge of the matter on appeal and who is prepared to engage in meaningful settlement discussions and parties who are natural persons are required to attend the mediation in person. In the event that a party is not a natural person but a legal entity, such as a corporation or limited liability company, such entity is required to have present at the mediation a representative of the entity who has the authority to make binding decisions on behalf of the entity.

(iii) Parties and counsel who wish to continue mediation beyond the initial ninety-minute session may continue that session or schedule additional sessions as agreed upon with the Special Master. Special Masters shall be entitled to receive such compensation from the parties for such continued or additional sessions as may be agreed upon in writing, provided that the initial session shall remain free-of-charge. At the conclusion of the mediation the Special Master shall not serve in any other capacity relative to the litigation that was the subject of the mediation without the consent of the parties.

(iv) Requests for adjournments shall be addressed by e-mail to the Special Master, with copies sent simultaneously to all counsel or unrepresented parties. Such requests shall be determined by the Special Master, whose determination shall be final. Absent unusual circumstances, no adjournment shall be granted unless requested at least three business days prior to the scheduled date. In no event may the initial mediation be adjourned more than three (3) times or for a total of more than 30 days.

(v) Mediation sessions shall be deemed appearances before this court. Failure of the parties to the appeal and/or their counsel with knowledge of the matter on appeal who

is prepared to engage in meaningful settlement discussions to appear or to appear on time may result in the imposition of sanctions pursuant to Part 130 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 130). The initial mediation session shall constitute an actual engagement before this court for the purposes of Part 125 of the Rules of the Chief Administrator of the Courts (22 NYCRR Part 125).

(vi) At least five (5) business days prior to the initial session, counsel to the parties, or a self-represented party, shall provide the Special Master with copies of the order or judgment appealed from, the decision of the trial court, the briefs or memoranda submitted by the parties to the trial court, the briefs, if any, filed with this court, and any other information necessary for the effective negotiation and resolution of the issues involved. The Special Master may request a conference call with both counsel regarding any preliminary matters.

(vii) Within five (5) business days after the conclusion of the mediation sessions, the Special Master shall send a Report (“Report of the Special Master”) to the Clerk of the Court and to counsel for the parties stating the date of the initial session and whether each party and counsel appeared at the initial session, the dates of any subsequent scheduled sessions, whether the parties reached partial, complete, or no agreement on the issues, and whether a stipulation of withdrawal of the appeal has been executed. The Special Master shall not disclose any other information discussed during the Mediation to the court, and the use of any such information is subject to CPLR § 4547

(3) The Role of the Court

The Program is conducted under court auspices and pursuant to these rules. The pendency of mediation will not affect, or delay, the progress of the appeal on the court’s calendar. Unless an agreement is reached in mediation and the appeal is wholly or partially withdrawn, the appeal will proceed in accordance with the regular processes of the Court and will be heard and determined.

(4) The Roster of Special Masters

The Clerk of the Court shall maintain a list of approved Special Masters. It shall consist of individuals who the Presiding Justice of this court has concluded possess the requisite training and experience as well as the appropriate temperament, character, and discretion. Approved Special Masters may be add to and removed from the Roster of Special Masters at the discretion of the Presiding Justice.

(5) Immunity

Special Masters serving in this Program shall be immune from suit as a result of any conduct or omission during the performance of duties in that capacity to the extent permissible by law.

670.4 Motions

(a) Motions Which Include Requests for Interim Relief

(1) Notice. To the extent practicable, the notice required by section 1250.4(b)(2) of the Practice Rules of the Appellate Division (22 NYCRR § 1250.4[b][2]) shall be accompanied by a

copy of the papers the party seeking relief intends to present to the court for filing. The affidavit or affirmation of notice required by section 1250.4(b)(2) of the Practice Rules of the Appellate Division (22 NYCRR § 1250.4[b][2]) shall state the manner in which the proposed filing was served. If notice has not been given, and/or a copy of the papers the party seeking relief intends to present to the court for filing has not been served, the affidavit or affirmation shall state whether the applicant has made an attempt to give notice and/or make such service and the reasons for the lack of success. If the applicant is unwilling to give notice and/or to make the required service, the affidavit or affirmation shall state the reasons for such unwillingness.

(2) Oral argument. Where the notice required by subdivision (1) has been given, the party seeking relief and/or the party opposing the relief sought may request the opportunity to present argument to the justice to whom the application will be presented, which request shall be determined in the discretion of that justice.

(b) Permission to Appeal to the Appellate Division in a Civil Matter. A motion for permission to appeal to the Appellate Division pursuant to CPLR 5701(c) and Family Court Act § 1112 shall be addressed to the court.

(c) Leave to File Amicus Curiae Brief. A motion for leave to file an amicus brief shall be made in accordance with section 1250.4(f) of the Practice Rules of the Appellate Division (22 NYCRR §1250.4[f]), and shall include one copy of the proposed brief.

(d) Digital Copies of Motion Papers. Except as otherwise provided, the papers filed in relation to every motion and every proceeding initiated in the Court shall be submitted in digital format, shall comply with the technical requirements for electronically filed documents (22 NYCRR Part 1245, Appendix A), shall be served on all parties in digital format, and shall be filed by uploading through the digital portal located on the home page of the Court's website with proof of service. In such circumstances, as well as in matters in which electronic filing is mandated and that filing is effectuated pursuant to the Electronic Filing Rules of the Appellate Division (22 NYCRR Part 1245), no hard copy submission shall be made unless requested by the Court. Exempt attorneys and exempt litigants, as defined in 22 NYCRR 1245.4, are exempt from the digital filing requirement and must file original papers in hard copy in accordance with 22 NYCRR 1250.4(a) and be served in hard copy.

Section 670.5 [Reserved]

Section 670.6 [Reserved]

670.7 Form and Content of Records and Appendices; Exhibits

(a) Supplemental Record. A supplemental record shall only be accepted for filing in the following circumstances:

(i) where directed or permitted by order of the court; or

(ii) where accompanied by a stipulation in which it is agreed that the contents of the supplemental record are properly part of the Record on Appeal as that term is defined in CPLR

5526 and section 1250.7(b) of the Practice Rules of the Appellate Division (22 NYCRR § 1250.7[b]) but were inadvertently omitted from the Record on Appeal previously filed with the court.

Section 670.8 [Reserved]

670.9 Time, Number and Manner of Filing of Records, Appendices and Briefs

(a) Digital Copies of Records, Appendices and Briefs. The digital copies of the records, appendices and briefs required to be filed with the Court pursuant to §§ 1250.9[a], [c] and [d] of the Rules of Practice of the Appellate Division (22 NYCRR §§ 1250.9[a], [c], [d]) shall comply with the technical requirements and guideline for electronically filed documents (22 NYCRR Part 1245, Appendix A), and shall be filed by uploading through a digital portal. Please consult the court's website for details.

(b) Extensions of time to perfect an appeal or to file and serve a brief. Motions to extend the time to perfect an appeal or to file and serve a brief shall be granted only in limited circumstances and upon a showing of good cause.

Section 670.10 [Reserved]

670.11 Additional Rules Relating to Criminal Appeals

(a) Transcript of Proceedings. Where an appeal in a criminal matter is prosecuted on the original record or by the appendix method, the appellant shall serve a copy of the transcript of the proceedings upon the respondent together with the brief and appendix, and cause a copy to be filed with the court.

(b) Appeal from Sentence. Where the only issue to be raised on appeal concerns the legality, propriety, or excessiveness of sentence, the appeal may be prosecuted by submitting a concise statement setting forth the reasons urged in support of the reversal or modification of sentence. Such statement shall contain the information required by CPLR 5531 and by section 1250.8(b)(3) of the Practice Rules of the Appellate Division (22 NYCRR § 1250.8[b][3]) and shall contain a statement by counsel for the appellant that no other issues are asserted.

(1) Such appeals may be brought on as though they were motions made in accordance with the provisions of section 1250.4 of the Practice Rules of the Appellate Division (22 NYCRR § 1250.4) and shall be placed upon a special calendar for appeals submitted in accordance with this subdivision. The respondent shall serve and file papers in opposition within 14 days after service of the motion papers.

(2) The appellant shall submit the transcript of the sentence proceeding and of the underlying plea or trial. The parties shall file an original and one digital copy of their respective papers, including the necessary transcripts.

Section 670.12 [Reserved]**Section 670.13 [Reserved]****Section 670.14 [Reserved]****670.15 Calendar Preference; Calendar Notice; Oral Argument; Post-Argument Submissions**

(a) Oral Argument. A maximum of 15 minutes shall be allowed for argument to each attorney who has filed a brief, except as set forth in subdivision (b).

(b) Argument Proscribed. Argument is not permitted on issues involving maintenance; spousal support; child support; counsel fees; the legality, propriety or excessiveness of sentences; determinations made pursuant to the sex offender registration act; grand jury reports; and calendar and practice matters including but not limited to preferences, bills of particulars, correction of pleadings, examinations before trial, physical examinations, discovery of records, interrogatories, change of venue, and transfers of actions to and from the Supreme Court.

(c) Who May Argue. Not more than one attorney shall be heard for each brief filed unless, upon application made in writing at least seven days before the matter appears on the court's calendar, the court shall have granted permission to allow more than one attorney to argue.

(d) Adjournment of Oral Argument. After filing a brief and until a matter has been placed on the court's calendar, counsel shall advise the court, in writing and on a continuing basis, of commitments that will interfere with counsel's ability to appear on a particular date. Requests for leave to adjourn oral argument of an appeal or proceeding which appears on the court's calendar are strongly disfavored. Such requests may be granted only where unusual circumstances are present, as explained in a writing in which counsel indicates why he or she cannot appear for oral argument, why no other attorney can appear in his or her place, and why oral argument is necessary. Requests for leave to adjourn oral argument of an appeal or proceeding are within the discretion of the court.

(e) Submission. A party who originally elected to argue may notify the clerk of the intention to submit the cause without argument and need not appear at the call of the calendar.

(f) Rebuttal. Rebuttal argument shall not be permitted, except with leave of the court given at the time of argument.

(g) Citations to Recent Authority. After a cause has been placed on the calendar and prior to argument or submission of that cause, any party who previously submitted a brief may inform the court by letter, a copy of which is contemporaneously provided to the other parties to the appeal, of the citation to any decisions, statutes, ordinances, rules, regulations, or other similar matter not previously cited in that party's brief which arose subsequent to the filing thereof, without additional argument. Except for good cause shown, the court will not accept precedent at the call of the calendar where a copy thereof has not previously been given to the other parties.

Section 670.16 [Reserved]**670.17 Fees of the Clerk of the Court**

(a) Fees. In addition to the fees provided for in section 1250.17 of the Practice Rules of the Appellate Division (22 NYCRR § 1250.17), pursuant to Judiciary Law § 265 the clerk of the court is directed to charge and is entitled to receive in advance the following fees on behalf of the State:

(1) For making a photocopy or providing a digital copy of an order, decision, opinion, or other filed paper or record, \$1 for the first page and 50 cents for each additional page.

(2) For comparing the copy of a prepared order, decision, opinion, or other paper or record with the original on file, \$1 for the first page and 50 cents for each additional page, with a minimum fee of \$2.

(3) For certifying the copy of an order, decision, record, or other paper on file or for affixing the seal of the court, \$1; and for authenticating the same, an additional \$5.

(4) For certifying in any form that a search of any records in his custody has been made and giving the result of such search, \$1.

(5) For an engraved parchment diploma attesting to admission as an attorney and counselor at law, \$25.

**Appellate Division, Third Judicial Department
Rules of Practice**

Effective September 17, 2018

As Amended Effective
February 1, 2025

Third Department Rules of Practice
Part 850

- 850.1 [General Provisions and Definitions](#)
- 820.2 [Reserved]
- 850.3 Initial Filings; Active Management of Causes; Settlement or Mediation Program
- 850.4 [Motions](#)
- 850.5 [Methods of Perfecting Causes](#)
- 850.6 [Reserved]
- 850.7 [Form and Content of Records and Appendices; Exhibits](#)
- 850.8 [Reserved]
- 850.9 [Time, Number and Manner of Filing of Records, Appendices and Briefs](#)
- 850.10 Dismissal of a Matter
- 850.11 [Additional Rules Relating to Criminal Appeals](#)
- 850.12 [Reserved]
- 850.13 Original Special Proceedings
- 850.14 [Miscellaneous Appeals and Proceedings](#)
- 850.15 [Calendar Preference; Calendar Notice; Oral Argument; Post-Argument Submissions](#)
- 850.16 [Decisions, Orders and Judgments; Costs; Remittitur; Motions for Reargument or Leave to Appeal to the Court of Appeals](#)
- 850.17 [Fees of the Clerk of the Court](#)

Part 850 RULES OF PRACTICE

850.1 General Provisions and Definitions

(a) The Practice Rules of the Appellate Division

The Practice Rules of the Appellate Division are embodied in Part 1250 of the New York Rules of Court (22 NYCRR Part 1250) and the Electronic Filing Rules of the Appellate Division are embodied in Part 1245 (22 NYCRR Part 1245). The Rules of Practice of the Appellate Division, Third Judicial Department are intended to supplement the Practice Rules of the Appellate Division. Where there is a conflict between this Part and Parts 1250 and 1245, this part controls when practicing within the Third Judicial Department.

(b) Definitions

All of the definitions contained in section 1250.1 of the Practice Rules of the Appellate Division are incorporated herein unless otherwise indicated.

(c) Court Sessions

Unless otherwise directed by the court, court sessions shall commence at 1:00 p.m., except on Friday and the last session day of a term, when they shall commence at 9:30 a.m. A term of court shall be deemed to continue until the day on which the next term convenes, and the court may reconvene at any time during recess.

850.2 [Reserved]

850.3 Initial Filings; Active Management of Causes; Settlement or Mediation Program

Initial Filings. The initial filings required in civil appeals pursuant to section 1250.3 (a) of the Practice Rules of the Appellate Division shall not apply to transferred CPLR article 78 proceedings or appeals from the Unemployment Insurance Appeal Board or the Workers' Compensation Board.

850.4 Motions

(a) Hard Copies and Digital Submissions Required. Except as otherwise provided, all papers filed in relation to a motion or application shall be submitted both in hard copy and in digital format. In all matters not subject to mandatory e-filing, the digital copy of such papers shall be uploaded through the Court's digital portal (<http://www.nycourts.gov/ad3/Clerk/Index.html>). The digital copy of such papers must comply with the technical requirements for electronically filed documents (22 NYCRR Part 1245, Appendix A.). Exempt attorneys and exempt litigants, as defined in section 1245.4 of the Rules of the Appellate Division on Electronic Filing, are exempt from the digital filing requirements.

(b) Motions or Applications Which Include Requests for Interim Relief.

(1) Notice. A party seeking relief as provided in section 1250.4 (b) (1) of the Practice Rules of the Appellate Division shall, in addition to the notice required by section 1250.4 (b) (2), provide advance notice to the court of its intention to present the application or order to show cause. To the extent practicable, the notice required by section 1250.4 (b) (2) and by this section shall be accompanied by a copy of the papers the party seeking relief intends to present to the court for filing. The affidavit or affirmation of notice required by section 1250.4 (b) (2) shall state the manner in which the proposed filing was served.

(2) Oral argument. Where the notice required by subdivision (1) has been given, the party seeking relief and/or the party opposing the relief sought may request the opportunity to present argument to the justice to whom the application or order to show cause will be presented, which request shall be determined in the discretion of that justice.

(c) Admission Pro Hac Vice. An application for admission pro hac vice, pursuant to 1250.4 (e) of the Practice Rules of the Appellate Division, shall be made in the form of a motion.

(d) Leave to File Amicus Curiae Brief.

(1) A motion for permission to serve and file an amicus curiae brief, made pursuant to 1250.4 (f) of the Practice Rules of the Appellate Division, shall include one original, **five two** hard copies and one digital copy of the

proposed brief with proof of service of one hard copy of the brief upon each other party to the appeal or proceeding.

(2) Unless otherwise directed by the Court, a motion for permission to serve and file an amicus curiae brief shall be noticed for a return date no later than 45 days prior to the first day of the term of Court on which the argument or submission of the cause is scheduled.

850.5 Methods of Perfecting Causes

(1) Where perfection of a cause by the original record method has been authorized by statute or order of the court, the appellant's brief shall contain an appendix which shall be printed or otherwise reproduced as provided in sections 1250.6 and 1250.7 of the Practice Rules of the Appellate Division.

(2) All causes in the Third Department are subject to mandatory e-filing in the New York State Courts Electronic Filing System (NYSCEF) and shall be subject to the Electronic Filing Rules of the Appellate Division (22 NYCRR Part 1245) except for: a cause in which the appellant or the petitioner perfecting the proceeding is exempt from e-filing pursuant to Rule 1245.4 (a) and matters concerning the legal profession (22 NYCRR Part 1240 matters).

(3) In any matter perfected by the original record method that is subject to mandatory e-filing and where the entire record on appeal has been e-filed, no appendix shall be necessary and in such matter where no appendix is filed, the briefs shall include citations to the record on appeal.

850.6 [Reserved]

850.7 Form and Content of Records and Appendices; Exhibits

(a) Exhibits. Exhibits under a respondent's control or under the control of a third person shall be filed either pursuant to a five-day written demand served by the appellant upon a respondent or pursuant to a subpoena duces tecum issued in accordance with CPLR article 23. The appellant shall also file with the brief proof

of service of such a demand or subpoena together with a list of all relevant exhibits.

(b) Certification of Record

(1) Reproduced Full Record. A reproduced full record shall be certified as provided in section 1250.7 (g) of the Practice Rules of the Appellate Division. Any dispute concerning the certification of the record or the contents of a record so certified shall be directed to the court from which the appeal is taken.

(2) Single Copy of the Record. When the appendix method is used, in addition to the requirements of section 1250.9 (a) (2) of the Practice Rules of the Appellate Division, the appellant is directed to file with the clerk of this court, with proof of service of a copy upon each party to the appeal, one hard copy of the complete record, accompanied by: (1) a stipulation in lieu of certification pursuant to CPLR 5532; (2) a certificate of the appellant's or petitioner's attorney, pursuant to CPLR 2105, after giving each other party 20 days' notice and not having received any objections or proposed amendments to the record, together with an attorney affirmation certifying compliance with the requirements of this section; or (3) if the record is incapable of being certified by either of those methods, an order settling the record by the court from which the appeal is taken.

850.8 [Reserved]

850.9 Time, Number and Manner of Filing of Records, Appendices and Briefs

(a) Appellant's Filing. An appellant employing the appendix method pursuant to section 1250.9 (a) (2) of the Practice Rules of the Appellate Division shall, in addition to the digital copy required by section 1250.9 (a) (2) (ii), file with the Court a hard copy of the complete record.

(b) Digital Submissions.

(1) Any document required to be digitally filed pursuant to section 1250.9 of the Practice Rules of the Appellate Division shall comply with the technical specifications for electronically filed documents set forth in Attachment A to

the Electronic Filing Rules of the Appellate Division (22 NYCRR 1245) and shall be uploaded in a manner provided on this Court's website located at www.nycourts.gov/ad3.

(2) Documents filed electronically through NYSCEF shall satisfy the digital filing requirements of section 1250.9 of the Practice Rules of the Appellate Division.

(3) Where a litigant or an attorney is exempt from the digital filing requirement pursuant to section 1250.9 (e) of the Practice Rules of the Appellate Division, such litigant or attorney shall be required to file an additional unbound hard copy of any document filed pursuant to sections 1250.9 (a), (c) or (d).

(c) Extension of time to perfect appeal. Where a motion for an extension of time to perfect an appeal or proceeding is required by section 1250.9 (b) of the Practice Rules of the Appellate Division, such motion shall be supported by an affidavit setting forth a reasonable excuse for the delay and an intent to perfect the appeal or proceeding within a reasonable time.

(d) Extensions of time to file and serve responsive briefs. Where a motion for an extension of time to file and serve a responsive brief is required by section 1250.9 (g) (1) of the Practice Rules of the Appellate Division, or is permitted by 1250.9 (g) (2) of the Practice Rules of the Appellate Division, such motion shall be supported by an affidavit setting forth a reasonable excuse for the delay and an intent to file and serve the brief within a reasonable time.

(e) Hard copies of briefs, records and appendices: The hard copy filing requirement in 22 NYCRR 1245.6 (a) and 1250.9 (a), (c) and (d) shall be satisfied by the filing of an original and two hard copies of the record, brief and/or appendix.

(f) Filing of documents by facsimile or email is not permitted.

850.10 Dismissal of a Matter

Civil Matters. In addition to those circumstances set forth in section 1250.10 (a) of the Practice Rules of the Appellate Division, in the event that a petitioner fails to perfect an original special proceeding within six months of the date of the service of the answer by complying with the requirements of section 1250.13 (c) (2) of the

Practice Rules of the Appellate Division, the matter shall be deemed dismissed without further order.

850.11 Additional Rules Relating to Criminal Appeals

(a) Transcript of Proceedings. Where ~~poor person status~~ a waiver of costs, fees and expenses has been granted by this court, the clerk of the court from which the appeal is taken, after service upon the clerk of a copy of the decision of this court, shall furnish without charge to a person ~~granted permission to proceed as a poor person~~ who has been granted a waiver of costs, fees and expenses one copy of the transcript of all proceedings in the matter and one copy of any other paper or document on file which is material and relevant to the appeal, and shall forward another copy of the transcript to the clerk of this court, who shall attach it to the single copy of the record upon which the appeal shall be prosecuted.

(b) Where a court has directed that the appeal be perfected by a particular date, the appellant may apply by letter, on notice to all parties, to extend the time to perfect the appeal. Where counsel has been assigned, any request for an extension of time to perfect the appeal made more than one year after the assignment date shall be made by motion. Any application or motion shall state the following: the date of the judgment of conviction; whether the conviction was by trial or plea; whether defendant is free on bail; the date the notice of appeal was filed; the date the transcript and other record documents were ordered; whether the transcript and other record documents have been received; the reason for the request; and the anticipated date that the appeal is expected to be perfected. All extension applications and motions must be accompanied by proof of service upon the District Attorney and the defendant.

(c) Respondent's Filing. Absent court order directing otherwise, the respondent on a criminal appeal shall file a respondent's brief and appendix with the clerk within 30 days of the date of the acceptance of the appellant's submissions.

(d) Notwithstanding the provisions of sections 1250.9 (a) and 1250.10 (a) and (b) of the Practice Rules of the Appellate Division, an appeal authorized by the Criminal Procedure Law shall be deemed to have been abandoned where the appellant shall fail to ~~apply for permission to proceed as a poor person~~ move to waive costs, fees and expenses and/or for assignment of counsel or shall fail to perfect the appeal within twenty-four months after the date of the notice of appeal; and the clerk of this court shall not accept for filing any record, brief or appendix

beyond the twenty-four-month period unless directed to do so by order of the court. Such an order shall be granted only pursuant to a motion on notice supported by an affidavit setting forth a reasonable excuse for the delay, in addition to any information required by 850.11 (b).

(e) In addition to the items specified in 1250.7 (d), an appendix in a criminal cause shall contain a copy of the indictment and a complete transcript of the sentencing minutes.

(f) Where only sentence in issue. When the sole question raised on appeal concerns the legality, propriety or excessiveness of the sentence imposed, the appeal may be heard upon a shortened record on appeal consisting of the notice of appeal, sentencing minutes and minutes of the plea, if appellant pleaded guilty. The record, which shall be clearly labeled "Record on Appeal from Sentence," shall contain a statement pursuant to CPLR 5531 and shall be stipulated to or settled in the manner provided in section 850.7 (b) of these rules. A copy of the presentence report shall be filed with the clerk.

850.12 [Reserved]

850.13 Original Special Proceedings

(1) In review proceedings under Education Law § 6510, Labor Law § 220 or § 220-b, Public Health Law § 230-c and Tax Law § 2016, and unless otherwise directed by the Court, the petitioner shall file (1) an original, **five two** copies and a digital copy of a reproduced full record on review, or (2) one single copy of the record, and an original, **five two** copies and a digital copy of an appendix. The record shall be stipulated to by the parties and shall otherwise comply with section 1250.13 of the Practice Rules of the Appellate Division.

(2) All other special proceedings shall be heard upon the original record before the respondent and shall otherwise comply with section 1250.13 (c) (2) of the Practice Rules of the Appellate Division.

850.14 Miscellaneous Appeals and Proceedings

(a) Unemployment insurance appeals.

(1) An appeal from a decision of the Unemployment Insurance Appeal Board may be prosecuted in accordance with written instructions which are available from the clerk of the court or the Department of Law, Employment Security Bureau. There are no filing fees associated with Unemployment Insurance appeals.

(2) Where an undertaking is required pursuant to Labor Law § 625, said appeal shall not be deemed perfected as set forth in Rule 1250.9 (a) of the Practice Rules of the Appellate Division, without proof that the undertaking has been filed with the Commissioner of Labor.

(b) Workers' compensation appeals. An appeal from a decision of the Workers' Compensation Board shall be prosecuted in accordance with sections 1250.6 and 1250.7 of the Practice Rules of the Appellate Division. In addition, the record shall contain a record list and a copy of each item identified in the record list, including those items the appellant reasonably assumes will be relied upon by a respondent.

(1) Record list.

(i) The appellant shall prepare a list of the papers relevant to those issues intended to be presented for review by the court.

(ii) Unless, within 45 days after service of a notice of appeal, the Workers' Compensation Board shall vacate, modify or rescind the decision which is the subject of the appeal, within 30 days after expiration of said 45 days or, in the event the board sooner determines that it will not vacate, modify or rescind the decision, within 30 days after the board serves a notice of such determination on the appellant, the appellant shall serve a copy of the proposed record list upon the Attorney General and each party affected by the board decision, together with a written stipulation reciting that the papers, testimony and exhibits listed therein constitute all of the papers necessary and relevant to the issues. The appellant shall also serve upon the parties affected a written request to stipulate to the contents of the record list within 20 days. Within 20 days after such service, any party so served may make objections or amendments to the record list and serve them upon the appellant.

(iii) Within 20 days after service of a proposed record list, a party respondent shall serve upon the appellant any proposed objections or amendments thereto. The appellant and the objecting party shall have 20 days thereafter in which to agree upon the objections and amendments to the record list and to stipulate in writing thereto. If they are unable to agree, within 10 days after expiration of said 20 days, the appellant shall make application to the board for settlement of the record list. A copy of the board's decision shall be attached to the record list.

(iv) If a party timely served with a proposed record list shall fail to serve objections or amendments within 20 days, the record list shall be deemed correct as to that party, and the appellant shall affix to the record on appeal an affirmation certifying to the timely service of the proposed record list and request to stipulate and to the failure of one or more parties to comply with the request or to make objections or amendments thereto within the time prescribed.

(v) When filing the record on appeal, the appellant shall file the record list, together with the stipulation, board decision or affirmation.

(vi) A decision of the board upon an application to settle a record list shall be reviewable by motion pursuant to section 1250.4 of the Practice Rules of the Appellate Division. The moving papers shall contain a copy of the board decision and the papers submitted to the board upon the application. Where necessary, the court will obtain the board's file for use on the motion.

(2) Form and content of record. A record on an appeal pursuant to section 23 of Workers' Compensation Law shall comply as to form with sections 1250.6 and 1250.7 of the Practice Rules of the Appellate Division.

(3) Certification of record. The record on appeal shall be certified as true and correct by the secretary or other designee of the Workers' Compensation Board, by a certificate of the appellant's attorney pursuant to CPLR 2105, or by a stipulation in lieu of certification pursuant to CPLR 5532.

(4) Remittitur. Upon entry of an order on the court's decision, the record on appeal shall be remitted to the Attorney General with a copy of the order for filing with the Workers' Compensation Board.

(c) Sex Offender Registration Act (SORA) appeals. An appeal authorized by Correction Law sections 168-d (3) and 168-n (3) shall be prosecuted in accordance with section 1250.11 of the Practice Rules of the Appellate Division and with section 850.11 of this Part.

(d) Original Proceedings under the Education Law and Public Health Law. The Record on Review and briefs filed in proceedings seeking review of determinations pursuant to Education Law § 6510 or Public Health Law § 230-c shall comply with sections 1250.6 and 1250.7 and shall otherwise be prosecuted in accordance with section 1250.13 of the Practice Rules of the Appellate Division and section 850.13 of these rules.

(e) Original proceedings under the Tax Law. The Record on Review and briefs filed in proceedings seeking review of determinations pursuant to Tax Law § 2016 shall comply with sections 1250.6 and 1250.7 and shall otherwise be prosecuted in accordance with 1250.13 of the Practice Rules of the Appellate Division and 850.13 of these rules. The stipulated record shall also include the determination of the administrative law judge, the decision of the tax appeals tribunal, the stenographic transcript of the hearing before the administrative law judge, the transcript of any oral proceedings before the tax appeals tribunal and any exhibit or document submitted into evidence at any proceeding in the division of tax appeals upon which such decision is based.

850.15 Calendar Preference; Calendar Notice; Oral Argument; Post-Argument Submissions

Unless otherwise permitted by the court, oral argument shall not be allowed in the following cases:

- (a) appeals from the Workers' Compensation Board;
- (b) appeals from the Unemployment Insurance Appeal Board;
- (c) appeals from judgments of conviction in criminal cases challenging only the legality, propriety or excessiveness of the sentence imposed;

(d) appeals in or transfers of CPLR article 78 proceedings in which the sole issue raised is whether there is substantial evidence to support the challenged determination; and

(e) any other case in which the court, in its discretion, determines that argument is not warranted.

850.16 Decisions, Orders and Judgments; Costs; Remittitur; Motions for Reargument or Leave to Appeal to the Court of Appeals

(a) The orders, judgments, appointments, assignments and directions of the court shall be signed by a justice of the court, the clerk of the court or a deputy clerk of the court.

(b) Costs in workers' compensation, unemployment insurance appeals and proceedings commenced in this court shall be taxed by the clerk in accordance with CPLR 8403.

850.17 Fees of the Clerk of the Court

In addition to the fees provided for in section 1250.17 of the Practice Rules of the Appellate Division, pursuant to Judiciary Law § 265, the clerk of the court is entitled to receive for and on behalf of the state: for a large, embossed certificate attesting to admission as an attorney and counselor at law, twenty-five dollars (\$25).

Appellate Division, Fourth Judicial Department
22 NYCRR Part 1000. Rules of Practice
As Amended April 7, 2025

1000.1 General Provisions and Definitions

- (a) Practice Rules of the Appellate Division. This Part serves as a supplement to, and should be read in conjunction with, the Practice Rules of the Appellate Division (22 NYCRR Part 1250) and the Electronic Filing Rules of the Appellate Division (22 NYCRR Part 1245). Where there is a conflict between this Part and those rules, this Part controls when practicing within the Fourth Judicial Department.
- (b) Sessions of the Court. The Presiding Justice shall designate by order the terms of Court and the Clerk shall provide notice of designated terms to the Bar. Unless otherwise ordered by the Presiding Justice, the Court shall convene at 10:00 a.m. each day during a designated term.

1000.2 Designation of Case Types Subject to Electronic Filing

Pursuant to 22 NYCRR 1245.2, to the extent not previously designated by the Court for mandatory electronic filing, all appeals filed with the Court in which a notice of appeal is filed on or after April 1, 2021, all matters transferred to the Court by order dated on or after April 1, 2021, and all special proceedings commenced in the Court on or after April 1, 2021 shall be designated for mandatory electronic filing and subject to 22 NYCRR Part 1245 and the Rules of Practice of this Court governing electronic filing.

1000.3 Initial Filings; Active Management of Causes; Settlement or Mediation Program

- (a) The Court does not require the filing of an initial informational statement pursuant 22 NYCRR 1250.3 (a).
- (b) The Court does not have a settlement or mediation program pursuant to 22 NYCRR 1250.3 (c).

1000.4 Motions

- (a) Digital submissions required. In matters not subject to electronic filing, except as otherwise provided, all motion and application papers shall be submitted in digital format through the Court's digital copy portal, and shall be served on all parties electronically to the extent practicable in accordance with 22 NYCRR 1250.1 (c) (4). Digital copies of motions and applications shall comply with the technical specifications for electronically filed documents (Attachment A to 22 NYCRR Part 1245). Where such papers are submitted in digital format, no hard copy submission is required. Exempt attorneys and exempt litigants, as defined in 22 NYCRR 1245.4, are exempt from the digital filing requirement and must file original papers in hard copy in accordance with 22 NYCRR 1250.4 (a).
- (b) Proof of service required. In addition to proof of filing of the notice of appeal as required pursuant to 22 NYCRR 1250.4 (a) (3), a movant shall submit proof or admission of service of the notice of appeal.
- (c) Order to show cause. An application for an order to show cause pursuant to 22 NYCRR 1250.4 (b) shall be directed to a Justice of this Court with chambers in the Judicial District from which the appeal or proceeding arises.
- (d) Family Court Act § 1114 and CPLR 5704 (a). Unless otherwise ordered by a Justice of this Court, an application for a stay pursuant to Family Court Act § 1114 or an application pursuant to CPLR 5704 (a) shall be made by order to show cause pursuant to 22 NYCRR 1250.4 (b). An application to extend a stay granted pursuant to Family Court Act § 1114 shall be made by motion on notice pursuant to 22 NYCRR 1250.4 (a).
- (e) Extension of time to file answering or reply documents. Any request for an extension of time to file answering or reply documents pursuant to 22 NYCRR 1250.4 (a) (5) shall be made by motion, and shall be supported by an affidavit demonstrating with particularity a reasonable excuse for the delay and an intent to file the documents within a reasonable time.

- (f) Leave to file amicus curiae brief. A motion for leave to file an amicus curiae brief shall be made in accordance with 22 NYCRR 1250.4 (f), and only one copy of the proposed brief shall be submitted with the motion. When permission to submit an amicus curiae brief is granted, the person or entity to whom it is granted shall file five hard copies and one digital copy of the brief with proof of service of one hard copy on each party. A person or entity granted permission to appear amicus curiae shall not be entitled to oral argument unless the Court directs otherwise.
- (g) Waiver of costs, fees, and expenses.
 - (1) An affidavit in support of a motion for a waiver of costs, fees, and expenses shall, in addition to the matters listed in 22 NYCRR 1250.4 (d), list
 - (a) the movant's assets with their value; and
 - (b) the number of dependants the movant supports in the movant's present household.
 - (2) A motion for a waiver of costs, fees, and expenses shall, in addition to the matters listed served upon the County Attorney in the county from which the appeal arises.

1000.5 [Reserved]

1000.6 [Reserved]

1000.7 Form and Content of Records and Appendices; Exhibits

- (a) Proof of filing and service of notice of appeal. All records and appendices shall contain the notice of appeal with proof of service and filing.
- (b) Certification of record or appendix. An original record shall be certified either by:
 - (1) a certificate of the appellant's attorney pursuant to CPLR 2105; (2) a certificate of the proper clerk; or (3) a stipulation in lieu of certification pursuant to CPLR 5532 or, if the parties are unable to stipulate, an order settling the record. Any dispute over a certification of the record or appendix pursuant to 22 NYCRR 1250.7 (g) or this subdivision, or the contents of a record or appendix so certified, shall be directed to the court from which the appeal is taken.

- (c) Failure to list document. In a criminal matter, the failure of the parties to list in the stipulation to the record on appeal any transcript, exhibit or other document that constituted a part of the underlying prosecution shall not preclude the Court from considering such transcript, exhibit, or other document in determining the appeal.
- (d) Appendices - criminal appeals. Pursuant to 22 NYCRR 1250.7 (d) (3), in a criminal matter, where a waiver of costs, fees, and expenses has been granted, the appendix to be filed and served by the appellant shall contain, in the following order: the description of the action required by CPLR 5531; a copy of the notice of appeal with proof of service and filing; a copy of the certificate of conviction and the judgment from which the appeal is taken; a copy of the indictment, superior court information or other accusatory instrument; all motion papers, affidavits and, to the extent practicable, written and photographic exhibits relevant and necessary to the determination of the appeal; a copy of any prior order entered by the trial court affecting the appeal, including but not limited to an order that grants a stay; and, pursuant to 22 NYCRR 1250.7 (g), the stipulation of the parties or their attorneys to the correctness of the record, the order settling the record, the certificate of the appellant's attorney pursuant to CPLR 2105, or the certificate of the proper clerk.
- (e) Demand for exhibits. Absent a stipulation of the parties pursuant to 22 NYCRR 1250.7 (c) or 1250.11 (c), all original exhibits shall be submitted to the Court. Upon perfecting an appeal, an appellant shall file the original exhibits or, when the exhibits are in the control of a respondent or a third party, a five-day written demand for the exhibits or a subpoena duces tecum for the exhibits issued in accordance with CPLR article 23, with proof of service thereof. The failure of a respondent to comply with a five-day demand may result in sanctions pursuant to 22 NYCRR 1250.1 (h).

1000.8 Form and Content of Briefs

- (a) Cover color. Except in those appeals where a waiver of costs, fees, and expenses has been granted, the cover of a hard copy brief of an appellant or petitioner shall be blue; the cover of a hard copy brief of a respondent shall be red; the cover of a hard copy reply brief shall be gray; the cover of a hard copy surreply brief shall be yellow; and the cover of a hard copy brief of an intervenor or amicus curiae shall be green. The cover of a hard copy pro se supplemental brief in a criminal appeal shall be white, as shall the cover of a hard copy brief submitted by an Attorney for the Child. Covers of electronically-filed briefs shall likewise be colored to the extent practicable.

1000.9 Time, Number and Manner of Filing of Records, Appendices and Briefs

- (a) Extension of time to perfect. An extension of time to perfect an appeal may be obtained, pursuant to 22 NYCRR 1250.9 (b), by a letter application, stipulation or motion. A stipulation to extend the time to perfect an appeal pursuant to 22 NYCRR 1250.9 (b) shall be filed on or before the date by which the appeal is required to be perfected. A motion for an extension of time to perfect an appeal pursuant to 22 NYCRR 1250.9 (b) shall be supported by an affidavit demonstrating with particularity a reasonable excuse for the delay and an intent to perfect the appeal within a reasonable time.
- (b) Extension of time to file brief. An extension of time to file and serve a responsive brief may be obtained, pursuant to 22 NYCRR 1250.9 (g), by a letter application, stipulation or motion. A stipulation to extend the time to file and serve a responsive brief pursuant to 22 NYCRR 1250.9 (g) (1) shall be filed on or before the date by which the brief was originally required to be filed. In no case shall the parties stipulate to an extension of time to file and serve a responsive brief that would permit the filing and service of the brief within 30 days of the date upon which the matter is scheduled to be heard. A motion for an extension of time to file and serve a responsive brief pursuant to 22 NYCRR 1250.9 (g) (2) shall be supported by an affidavit demonstrating with particularity a reasonable excuse for the delay and an intent to file and serve the brief within a reasonable time. (c)

Hard copies of records and appendices.

- (1) Hard copies of records and appendices in matters perfected upon the reproduced full record method or appendix method. Except where a party is exempt from filing a digital copy of a document pursuant to 22 NYCRR 1245.4 or 1250.9 (e), the hard copy filing requirement in 22 NYCRR 1245.6 (a) and 1250.9 (a) (1) and (a) (2) with respect to records and appendices in matters perfected using the reproduced full record method or appendix method shall be satisfied by the filing of an original and two hard copies of the record or appendix. Parties exempt from filing a digital copy of a document shall file the number of hard copies of records and appendices otherwise provided by the rules.
- (2) Hard copies of records and appendices in matters perfected upon the original record. The hard copy filing requirement in 22 NYCRR 1245.6 (a) with respect to records and appendices in matters perfected upon the original record shall be satisfied by the filing of a hard copy of the complete record, consistent with 22 NYCRR 1250.9 (a) (4) (ii).
- (d) Digital copies. In matters not subject to electronic filing, digital copies of the records, appendices and briefs filed pursuant to 22 NYCRR § 1250.9 (a), (c) and (d) shall comply with the technical specifications for electronically filed documents (Attachment A to 22 NYCRR Part 1245) and shall be filed and served as directed by the Clerk of the Court.
- (e) Service of original record in matters not subject to e-filing. When perfecting on the original record pursuant to 22 NYCRR 1250.9 (a) (4), an appellant shall file a hard copy of the complete record, together with proof of service of one hard copy of the record upon each other party to the appeal.

1000.10 [Reserved]

1000.11 Additional Rules Relating to Criminal Appeals

- (a) Motion to waive costs, fees, and expenses and assign counsel; continuation of eligibility for assigned counsel on appeal. Relief pursuant to 22 NYCRR 1250.11 (a) (1) is contingent upon receipt of a properly filed and served notice of appeal and a copy of the order granting a defendant's application pursuant to CPL 380.55.

- (b) Application for withdrawal of assigned appellate counsel. When counsel who has been assigned to perfect an appeal on behalf of an indigent defendant determines, after conferring with the defendant and trial counsel, that the appeal is frivolous, counsel may move to be relieved of the assignment pursuant to 22 NYCRR 1250.11 (f) (2) (*see People v Crawford*, 71 AD2d 38). The motion must be accompanied by a brief in which counsel states all points that may arguably provide a basis for appeal, with references to the record and citation of legal authorities. A copy of the brief, together with the motion, must be served upon the defendant at least 45 days before the return date of the motion. Together with the original motion papers and brief, counsel shall submit the papers that would constitute the record on appeal. Counsel shall also submit a copy of a letter to the defendant advising that he or she may elect to file a pro se response to the motion and/or a pro se supplemental brief.

A defendant wishing to file a pro se response to such a motion and/or a pro se supplemental brief shall file the original response and/or brief, together with proof of service of one copy on assigned counsel and one copy on the People, by 4:00 p.m. on the business day preceding the day on which the motion is returnable, unless, for good cause shown, they are permitted to be filed at a later time. Any request for an extension to file such a response and/or pro se supplemental brief must be made by motion and supported by an affidavit demonstrating with particularity a reasonable excuse for the delay and an intent to file and serve the response and/or brief within a reasonable time (*see* 22 NYCRR 1250.4 [a] [5]).

- (c) Pro se supplemental briefs where counsel does not seek to withdraw. When assigned counsel does not move to be relieved as counsel, a defendant wishing to file a pro se supplemental brief pursuant to 22 NYCRR 1250.11 (g) (2) shall file an original and five copies of such brief, with proof of service of one copy on assigned counsel and one copy on the People. The People may file an original and

five hard copies and a digital copy of a responding brief, with proof of service of one copy on assigned counsel and one copy on the defendant, no later than 45 days after defendant has served the pro se supplemental brief. A request for an extension of time to file and serve a pro se supplemental brief or a responding brief shall be made by motion and supported by an affidavit demonstrating with particularity a reasonable excuse for the delay and an intent to file and serve the brief within a reasonable time.

1000.12 Transferred Proceedings.

- (a) Original papers. A proceeding transferred to this Court pursuant to CPLR 7804 (g) shall be prosecuted upon the original papers, which shall include the notice of petition or order to show cause and petition, answer, any other transcript or document submitted to Supreme Court, the transcript of any proceedings at Supreme Court, the order of transfer and any other order of Supreme Court. When the proceeding has been transferred prior to the filing and service of an answer, a respondent shall file and serve an answer within 25 days of filing and service of the order of transfer. When a proceeding has been transferred to this Court pursuant to Executive Law § 298, the State Division of Human Rights shall file with the Clerk the record of the proceedings within 45 days of the date of entry of the order of transfer. Pursuant to Rule 1000.2, matters transferred to the Court by order dated on or after April 1, 2021 must be electronically filed pursuant to 22 NYCRR Part 1245.
- (b) Briefs, transcripts and oral argument. Upon receipt of the order of transfer and other documents from the court from which the transfer has been made, the Clerk shall issue a schedule for the filing and service of briefs, if any, the production of necessary transcripts and the calendaring of the proceeding.
 - (1) A petitioner shall file 5 hard copies and one digital copy of a brief, with proof of service of one copy on each respondent, as set forth in the scheduling order. If the brief is not timely filed and served, and no motion to extend the time for filing and service is made, the proceeding shall be deemed dismissed, without the necessity of an order.
 - (2) A respondent shall file 5 hard copies and one digital copy of a brief, with proof of service of one copy on each other party, as set forth in the scheduling order.

1000.13 [Reserved]

1000.14 [Reserved]

1000.15 Calendar Preference or Adjournment; Calendar Notice; Oral Argument; Post-Argument Submissions

- (a) Calendar preference or adjournment. A motion for a calendar preference pursuant to 22 NYCRR 1250.15 (a) (2) shall be supported by an affidavit setting forth with particularity the compelling circumstances justifying the calendar preference. A motion to adjourn the calendaring of an appeal or proceeding shall be supported by an affidavit setting forth with particularity the compelling circumstances justifying an adjournment.
- (b) Scheduling order. After an appeal is perfected or an original or transferred proceeding is filed or received, the Clerk shall, where appropriate, issue a scheduling order, which will specify the term of Court for which the matter has been scheduled and set a deadline for the service and filing of respondents' briefs, if any. A party or a party's attorney shall notify the Clerk in writing within 15 days of the date that the scheduling order was mailed of unavailability for oral argument on a specific date or on specific dates during the term.
- (c) Calendar notice. The Clerk shall prepare calendars for each day of a Court term by designating for argument or submission appeals or proceedings that have been perfected or scheduled. A notice to appear for oral argument will be sent by the Clerk to all parties or their attorneys not less than 20 days prior to the term. Parties or counsel must appear as directed or submit on the brief.
- (d) Oral argument.
 - (1) A party or a party's attorney who is scheduled to argue before the Court shall sign in with the Clerk's Office prior to 10:00 a.m. on the day of the scheduled argument. When oral argument is scheduled to commence at a time other than 10:00 a.m., a party or counsel shall sign in with the Clerk's Office prior to the time designated for the commencement of argument. Not more than one person shall be heard on behalf of a party. In the event that parties submit a joint brief, not more than one person shall be heard in the matter. When a brief has not been filed on behalf of a party, no oral argument shall be permitted except as otherwise ordered by this Court. Requests for oral argument shall be made by indicating on the cover of the brief the amount of time requested. The amount of time allowed shall be within the discretion of the Court.

- (2) Unless otherwise provided by order of this Court, oral argument shall not be permitted in the following cases:
 - (A) an appeal from a judgment of conviction in a criminal case that challenges only the legality or length of the sentence imposed;
 - (B) an appeal from a determination pursuant to the Sex Offender Registration Act;
 - (C) a CPLR article 78 proceeding transferred to this Court in which the sole issue is whether there is substantial evidence to support the challenged determination; and
 - (D) any other cause in which this Court, in its discretion, determines that oral argument is not warranted.
- (3) The Court does not permit rebuttal.
- (e) Post-argument submissions. Any request for leave to file a post-argument submission shall be filed, with proof of service, within five business days of oral argument, and shall be accompanied by an original, five hard copies, and a digital copy of the proposed submission.

1000.16 Orders

- (a) Service of order. The party prevailing in a cause shall serve a copy of the order with notice of entry on all parties.
- (b) Posting of orders. Pursuant to 22 NYCRR 1250.16 (a), a copy of the order of this Court determining a cause shall be posted on the Court's website. This rule does not apply to motion orders.

1000.17 Electronic Filing

- (a) Entry of initial information for electronic filing.
 - (1) Application for assigned counsel. When the appellant seeks the assignment of counsel to prosecute an appeal, the entry of initial information for electronic filing pursuant to 22 NYCRR 1245.3 (a) shall not be required until the Court issues an order with respect to an application for the assignment of counsel. Where the Court issues an order assigning counsel, the entry of initial information, to the extent not previously accomplished, shall be completed within 14 days of the date of the order. Where an application for the assignment of counsel is denied, the appellant shall be deemed exempt from e-filing and the matter shall be perfected in hard copy, unless the appellant chooses to voluntarily participate in e-filing pursuant to 22 NYCRR 1245.4 (d) or engages counsel to prosecute the appeal who is not an exempt attorney.
 - (2) Engagement of counsel. Where the appellant engages counsel to prosecute an appeal who is not an exempt attorney, the entry of initial information for electronic filing pursuant to 22 NYCRR 1245.3 (a), to the extent not previously accomplished, shall be completed within 14 days of the date upon which appellate counsel was engaged.
 - (3) Effect of failure to enter initial information. Except as otherwise provided, no submission will be accepted in a case subject to mandatory e-filing prior to the entry of initial information and service of notification of the docket number pursuant to 22 NYCRR 1245.3.
- (b) Perfecting a criminal appeal.
 - (1) Appendix. The record on an e-filed criminal appeal shall include an appendix as described in 22 NYCRR 1000.7 (d).
 - (2) Perfection upon electronic filing. Unless the filing is deemed incomplete pursuant to subdivision (4) of this section or for other reason, a criminal appeal shall be deemed perfected at the time the appendix and appellant's brief are electronically filed.

- (3) Voluntary filing of digital transcript. When a digital copy of the transcripts upon which the appeal is based is available, the appellant is encouraged to e-file that digital transcript.
- (4) Hard copy filing; transcripts. Hard copies of the appendix, appellant's brief, and the transcripts upon which the appeal is based must be filed with the clerk within two business days of receipt by the appellant of email notification that the clerk has reviewed and approved the electronic filing required in subdivision (2) of this section. The appellant shall submit one hard copy each of the appendix and transcripts, and an original and five hard copies of appellant's brief. A failure to file such additional hard copies

of documents shall cause the filing to be deemed incomplete.

(c) Perfecting a Family Court appeal.

- (1) Service of notice of appellate docket number. With respect to a Family Court appeal, service of notification of the appellate docket number, as required in 22 NYCRR 1245.3 (b), must be made upon both respondent's counsel and respondent individually.
- (2) Appendix. The record on an e-filed Family Court appeal shall include an appendix that contains, in the following order: the description of the action required by CPLR 5531; a copy of the notice of appeal with proof of service and filing; a copy of the order or judgment appealed from and any relevant intermediate orders; all motion papers, affidavits and, to the extent practicable, written and photographic exhibits relevant and necessary to the determination of the appeal; a copy of any prior order entered by the trial court affecting the appeal, including but not limited to an order that grants a stay; and, pursuant to 22 NYCRR 1250.7 (g), the stipulation of the parties or their attorneys to the correctness of the record, the order settling the record, the certificate of the appellant's attorney pursuant to CPLR 2105, or the certificate of the proper clerk.
- (3) Perfection upon electronic filing. Unless the filing is deemed incomplete pursuant to subdivision (4) of this section or for other reason, a Family Court appeal shall be deemed perfected at the time the appendix and appellant's brief are electronically filed.

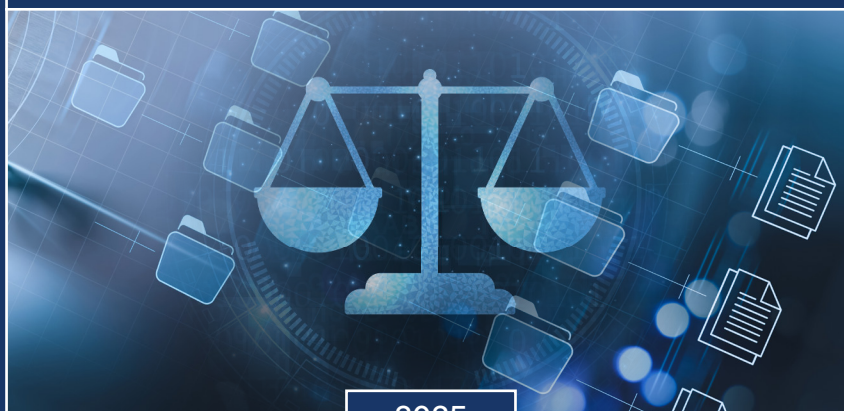
- (4) Voluntary filing of digital transcript. When a digital copy of the transcripts upon which the appeal is based is available, the appellant is encouraged to e-file that digital transcript.
- (5) Hard copy filing; transcripts. Hard copies of the appendix, appellant's brief, and the transcripts upon which the appeal is based must be filed with the clerk within two business days of receipt by the appellant of email notification that the clerk has reviewed and approved the electronic filing required in subdivision (3) of this section. The appellant shall submit one hard copy each of the appendix and transcripts, and an original and five hard copies of appellant's brief. A failure to file such additional hard copies of documents shall cause the filing to be deemed incomplete.
- (6) Respondent on appeal.
 - (A) Respondent's e-filing status. A respondent shall be deemed exempt from e-filing unless the Court issues an order assigning counsel to represent the respondent on appeal, the respondent engages appellate counsel who is not an exempt attorney, or the respondent chooses to voluntarily participate in e-filing pursuant to 22 NYCRR 1245.4 (d).
 - (B) Entry of information by respondent's counsel. When the Court issues an order assigning counsel to represent a respondent on appeal or a respondent engages counsel who is not an exempt attorney, counsel for the respondent must record that representation in accordance with 22 NYCRR 1245.3 (d) within 20 days of the date of the order of assignment or the date upon which appellate counsel was engaged, as appropriate; provided that, if the assignment or engagement of appellate counsel for a respondent occurs prior to the entry, by appellant's counsel, of initial information for e-filing pursuant to 22 NYCRR 1245.3 (a), counsel for the respondent must record that representation within 20 days of service upon respondent's counsel of notification of the appellate docket number as required in 22 NYCRR 1245.3 (b).

(d) Motions and Applications.

- (1) In all matters subject to mandatory e-filing or e-filed voluntarily via NYSCEF, all motions and applications must be filed electronically in compliance with the Electronic Filing Rules of the Appellate Division (22 NYCRR Part 1245).
- (2) When a motion or application is e-filed via NYSCEF, no hard copy submission is required.



Electronic Filing in the New York State Courts



2025

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

Preface

March 2025



I submit this Report pursuant to the requirements of the Judiciary Law¹ on the status of New York State's Electronic Filing Program; however, I begin this year's introduction with immense gratitude to the Legislature and the Governor for their support in passing legislation proposed by the Judiciary that provides the UCS with the authority to expand e-filing to all courts and case types throughout the state. This is a monumental step forward in further modernizing our court system, and it will undoubtedly contribute to greater efficiency, accessibility, and transparency for all those who seek our vital court services.

I would also like to extend my thanks and appreciation to the members of the bar, the county clerks, and the e-filing advisory committees for their invaluable contributions and ongoing dedication to enhancing the e-filing program over the past 26 years. Their input, expertise, and commitment have been crucial in shaping this successful program and making the e-filing process more effective and user-friendly.

We are excited about the future of e-filing and its ongoing positive impact on court efficiency and user experience, promoting time and cost savings for lawyers, litigants, judges, clerks, and other court users. Thank you again for your partnership in making this important advancement a reality, and we look forward to continuing our collaboration to embrace technology and improve access to justice for all.

A handwritten signature in gold ink, consisting of stylized initials 'JZ' followed by a long horizontal stroke.

Hon. Joseph A. Zayas

Chief Administrative Judge of the State of New York

Contents

Introduction	1
Current Status of E-Filing in New York State	3
• Supreme Court (Civil Cases)	3
• Family Court	4
• New York City Civil and Housing Court	4
• Surrogate's Court	5
• Court of Claims	6
• Appellate Division and Appellate Term	6
• Supreme and County Courts – Criminal Cases	7
The Development and Implementation of NYSCEF Programs in New Courts	8
• City, District, Town and Village	8
Other Supported Digital Applications	9
• Electronic Document Delivery System (EDDS) and Virtual Evidence Courtroom (VEC)	9
• VEC (I & II)	9
E-Filing Among Unrepresented Litigants	10
Comments Received Regarding E-Filing	12
• Support for NYSCEF	12
• Suggestions for Improvement	14
Conclusion	14
Endnotes	15
Appendices	
• Appendix A: New York Senate Bill 7524	17
• Appendix B: E-Filing Advisory Committees - Membership Lists	29
• Appendix C: Advisory Committee Reports	35
• Appendix D: Comments from County Clerks	49
• Appendix E: Comments from Other Stakeholders	53

Introduction

Chief Judge Rowan D. Wilson stated in his 2024 State of the Judiciary address that “we can do better—much better—if those who work for and with the State of New York work collaboratively” to improve outcomes and to find solutions to problems. With this context as our backdrop, we are grateful to the Legislature and the Governor for their crucial collaboration in removing the limitations on e-filing in the New York State Unified Court System (UCS). We enthusiastically report that the legislation to expand the Chief Administrative Judge’s (CAJ) authority to implement e-filing in all state courts has been signed into law.²



As we step into 2025, we mark a pivotal moment in the State’s 26-year e-filing journey, unlocking a new era where all courts—including local criminal courts, civil courts outside New York City, City, District, Town, Village, and Justice Courts—now have the opportunity to implement e-filing programs, expanding access and efficiency across the state. Once a program is implemented, the new e-filing program will empower courts and their users to leverage the benefits of digital filing fully. This includes simplifying document submission and service, reducing filing costs for attorneys, cutting in-person filing expenses, improving efficiency for courts and County Clerk’s offices, enhancing document security, and lowering the environmental impact of court filings. Most importantly, it will ensure that all users—especially self-represented individuals—gain immediate access to court records and can file documents remotely, anytime, from anywhere.

While the NYSCEF team is eager to continue expansion of e-filing, implementation of new consensual and mandatory e-filing programs will only occur after seeking the support and feedback of relevant stakeholders such as bar associations and legal services organizations, securing consent from local county clerks, and the provision of adequate training for attorneys, court staff, and other filers. The UCS will continue to incrementally grow e-filing in a prudent fashion, in geographic areas and courts where it is practical, useful, and desired. Notably, this legislation also preserves the current exemptions from mandatory/required e-filing; for example, unrepresented litigants will continue to be exempt, and attorneys who can demonstrate a lack of requisite skills or resources will also have the option to opt-out. We are dedicated to fostering a fair and accessible process for all parties involved.

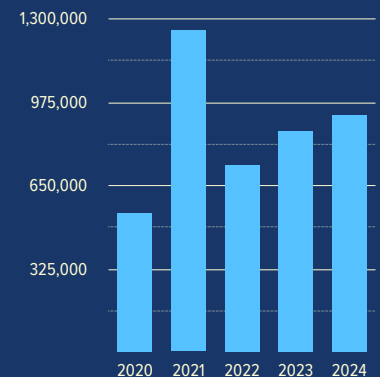
This report highlights the remarkable growth the Division of E-Filing has made in 2024 by expanding the program and enhancing functionality. It outlines our desire to bring the many benefits of e-filing to new territories/courts, given the recently enacted legislation and its lifting of past restrictions. As summarized here, NYSCEF continues to receive positive feedback from stakeholders, who applaud the legislative approval to authorize e-filing in trial courts across the state.

“E-filing and other technology are essential tools to expand access to justice. All litigants, especially those who are low-income and unrepresented would benefit from immediate access to court records and the ability to file legal papers at any time, day or night.”

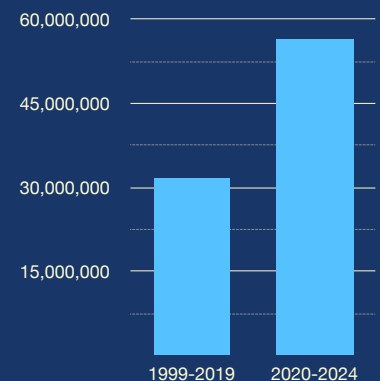
Adriene Holder

**Attorney-in-Charge Civil Practice,
Legal Aid Society**

Cases E-Filed (2000-2024)



Documents E-Filed (1999-2024)



Our data continues to illustrate the growing use and popularity of the e-filing program across New York State. In calendar year 2024, 926,873 new matters/cases were e-filed, and 14,073,880 documents were filed through NYSCEF. Since 1999, a total of 88,067,782 documents have been e-filed through NYSCEF. These filings include contributions from over 82,000 unrepresented individuals who have registered for NYSCEF (15,209 within 2024), filing 129,000 documents in 2024 alone.

In 2024, some of the Division of E-Filing's many achievements include improving the user experience for NYSCEF users in Supreme Court – Civil Term, piloting the Virtual Evidence Courtroom in the Court of Claims, expanding e-filing to new counties for Family Court cases, expanding e-filing of transcripts in the Appellate Division, implementing changes based on new legislation, launching new NYSCEF screens for the Surrogate's Court program, and steadily working on creating a pilot program for Superior Criminal courts.

Looking Ahead

As we look further into 2025 and beyond, the Division of E-Filing is steadfast in its commitment to advancing digital filing solutions and ensuring that justice remains accessible to all New Yorkers. We are ready to rise to the occasion with bold and busy plans aimed at transforming how we serve the public:

- **Superior Criminal Court Pilot Program:**
We will launch e-filing in Superior Criminal courts for the first time in pilot jurisdictions in May/June 2025. Statewide rollout of e-filing in Superior Criminal courts will continue through 2025-26.
- **Mandatory E-Filing for Court of Claims:**
We plan to implement mandatory e-filing for all categories of claims in all districts of the Court of Claims in June 2025.
- **Expansion of Family Court Pilot Program:**
We will expand NYSCEF for Family Courts statewide, with additional case types expected to be added.
- **Implement Mandatory E-Filing for case types in the Supreme Court Civil Term:**
We will switch to mandatory e-filing for all case types in Superior Civil courts to create a more uniform e-filing process in May/June 2025.
- **Expansion of Case Types in NYC Civil Court:**
We intend to implement consensual e-filing in consumer credit cases in the first half of 2025 and may add new case types later in the year.
- **Court of Appeals E-Filing Pilot:**
We will plan for implementation of an e-filing pilot program at the Court of Appeals.
- **Attorney Matters in the Appellate Division:**
We will implement e-filing for attorney matters in the Appellate Division.
- **Ongoing User Experience Enhancements:**
We will make continued improvements to enhance the overall user experience for all e-filing users.
- **Integration with DIY Programs:**
We will work on integrating with DIY programs for court forms.
- **Data Exchange Between NYSCEF and UCMS:**
We will continue to integrate data exchange between NYSCEF and Universal Case Management System (UCMS) programs statewide to improve efficiencies in case handling and processing.
- **Collaboration with Legal Service Groups:**
We will continue our ongoing partnership with legal services groups, the Legal Services Advisory Committees, and the Office for Justice Initiatives to improve accessibility and user-friendliness of the NYSCEF program for unrepresented litigants.
- **Video/Audio Files in VEC via NYSCEF:**
In the virtual evidence courtroom, we will implement video/audio file uploads, enable bulk evidence admission, and add a section for "Judge Notes" based on judicial feedback.
- **Expand Technology to e-file Video/Audio Files:**
We will examine how to expand the technology to allow users to e-file audio and video files in all courts/case types.

“I’d like the ability to e-file files other than PDFs. Often we have video evidence... to be an exhibit... and we have to physically deliver copies... NYSCEF should be able to handle e-filing video and audio files.”

Christopher J. DelliCarpini, Esq.

Sullivan Papain Block McManus Coffinas & Cannavo PC

Current Status of E-Filing in New York State

In 2024, the UCS' Division of E-Filing again made significant strides, expanding and enhancing the program in courts/case types where the authorization permitted. This progress underscores our unwavering commitment to improving the court experience for the over 161,000 registered attorney users and nearly 83,000 unrepresented users we serve.

Supreme Court (Civil Cases)

In 2024, the NYSCEF team continued to make improvements to enhance the user experience in Supreme Court – Civil Term. Some essential enhancements to the program achieved in 2024 include:

- Streamlining the process for removing attorneys from electronically filed matrimonial proceedings.
- In collaboration with Counsel's Office, creating a secure e-filing process to seal e-filed name change and sex designation petitions, in accordance with statutory and rule changes. These matters remain inaccessible to the public upon filing to safeguard the privacy of applicants. Current and proposed names, sex designations, and other identifying information are kept confidential to prevent unauthorized or inadvertent disclosure by third parties until a court makes a determination regarding sealing the records.³
- Adjusting visibility settings for Article 81 (guardianship) matters.
- Updating NYSCEF screens to show the user ID that is logged in at the request of attorneys.
- Creating the ability to file multiple motions in one upload.
- Implementing a method and training for law enforcement agencies to e-file extreme risk protection order (ERPO) applications via NYSCEF.

In 2024, 473,700 cases were e-filed in Supreme Court - Civil Term throughout New York State. All of these courts, with the exception of Allegany County Supreme Court,⁴ currently are mandated for e-filing across all case types, except for matrimonial matters, Mental Hygiene cases, election law proceedings, and CPLR Article 70 & 78 proceedings. These areas were excluded from the previous legislation's mandate, and these case types are currently authorized consensually.

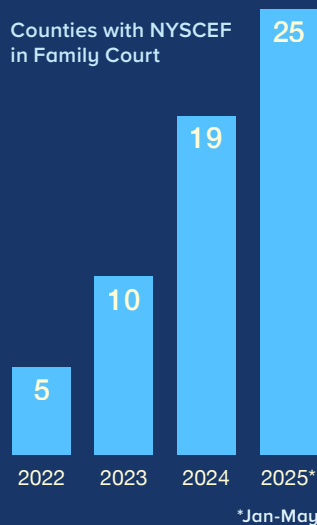
In 2025, we will take steps to mandate e-filing for the previously excluded case types and subsequent filings in residential foreclosures and consumer credit cases.⁵ This initiative will ensure uniformity in e-filing across all Supreme Court – Civil Term cases statewide. Practitioners, attorneys, and court users are already familiar with e-filing in these courts because they have been authorized for consensual e-filing for many years. We will undertake the essential steps to achieve this, including opening a public comment period, notifying and training the relevant/local bar, and consulting with the Supreme (Civil) Court Advisory Committee on E-Filing. The CAJ, NYS Association of County Clerks, and the E-Filing team are eager to launch this process across all courts simultaneously and are confident by working together we can implement this expansion by May/June 2025.

“The Supreme Civil Advisory Committee on E-Filing discussed recently enacted legislation ...It was noted that the NY State Association of County Clerks has begun a survey of its members to allow the Chief Administrative Judge to proceed with an expedited methodology for ... previously exempt case types to be approved for mandatory filing (Supreme Court – Civil Term) ... and received enthusiastic support for this approach.”

Timothy C. Idoni
Committee Chair

“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.”⁸

Hon. Nancy T. Sunshine
County Clerk, Kings County



“The Committee is especially mindful of the challenges faced by unrepresented litigants and acknowledges the considerable efforts by NYSCEF administrators, Family Court staff, and the Division of Technology (DoT) to tailor the program to their needs while safeguarding confidentiality... There is strong support within the Committee for the use of NYSCEF to foster greater uniformity and efficiency in Family Court operations statewide.”

Eugene W. Hurley,
Chair, Family Court Advisory
Committee on E-Filing, Chief Clerk.
NYC Family Court

Family Court

Since launching the e-filing program in the Family Court in August 2022 for custody and visitation, guardianship, paternity, parentage (assisted reproduction and surrogacy) and support matters, the program has expanded to a total of 19 counties throughout the state. Now, all five counties in New York City have access to e-filing in Family Court. In the early spring of 2025, all five counties in the 9th Judicial District will join the pilot program, with several more counties in the queue. By May 2025, with the launch of e-filing in Nassau County Family Court, all downstate Family Courts will have active NYSCEF programs. Throughout 2025, this expansion is expected to continue all through the state in the existing case types, while the NYSCEF team explores and analyzes the possibility of expanding to additional case types/proceedings. The goal is to complete the expansion/implementation of this pilot to all 62 Family Courts throughout the State within the next two years.

This has been a truly collaborative effort involving the Division of Technology, Family Court administration, and the NYSCEF team, all working together to continually enhance the program and ensure it functions effectively for all users. These groups meet monthly to discuss the progress of the program and to make adjustments as necessary before they are implemented in a new court. This includes monitoring the enhancements and modifications in UCS’ internal database, the UCMS system, as it relates to NYSCEF. Many unrepresented litigants, particularly in New York County, have already begun utilizing the e-filing system.

The Electronic Document Delivery System (EDDS) which allows filers to submit papers in non-e-filed matters has led to some troubling inefficiencies in Family Court, with staff duplicating efforts as documents are often submitted through EDDS, mail, and in-person. Once e-filing is implemented in a specific case type within a court, the court eliminates EDDS as an option for filing, alleviating this issue. We are also working in collaboration with the UCMS team to develop a process for automated data transfer from NYSCEF to UCMS and from UCMS to NYSCEF, 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.

New York City Civil and Housing Court

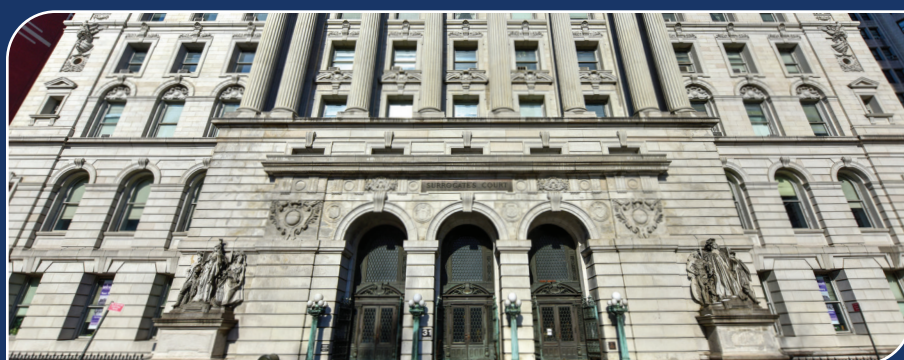
Since 2017, e-filing has gradually expanded in New York City Civil Court to all Housing Court case types on a consensual basis, as well as mandatory filing of no-fault health services cases. In 2024, nearly 152,000 Housing Court cases were e-filed in New York City. The program was enhanced to permit non-party filings to accommodate Housing Preservation and Development (HPD) files, and user access was updated to allow for NYC Marshals to e-file applicable notices (eviction, etc.) to the electronic court file.

For 2025, UCS will consider implementing a mandatory e-filing program for Housing Court within NYC. Over the years, we have received numerous comments from attorneys in the landlord-tenant field expressing interest to see expansion of e-filing for these case types beyond New York City, which legislation now permits.

For the past few years, we have been evaluating the expansion of e-filing to additional case types in New York City Civil Court. This process involves implementing technical enhancements, adding functionality, and providing training to court staff, practitioners, and all users. However, there has been coordinated outreach by interested stakeholders, including legal service organizations, urging the UCS Leadership and the NYSCEF team to prioritize bringing mandatory e-filing

to consumer credit cases in the Civil Court.⁶ Throughout 2024, the NYSCEF team, in collaboration with NYC Civil Court administrators, has been meeting weekly to discuss the necessary functionality with the Division of Technology to expand e-filing to consumer credit cases. The NYSCEF team will engage with users throughout the development phase for consumer credit matters to ensure that the e-filing experience is user-friendly, particularly for unrepresented litigants.

Transitioning from paper to digital filing in health services cases and housing court matters has not only led to significant cost savings for all parties but also ensures a complete and accessible record of all filed documents. This additional benefit is high in demand for the consumer credit bar, which has raised concerns about instances where attorneys and the court lacked a full record when matters were calendared and called before a judge. These challenges highlight the need to prioritize e-filing for consumer credit matters, with the aim of rolling out this case type by the end of the third quarter of 2025.



Surrogate's Court

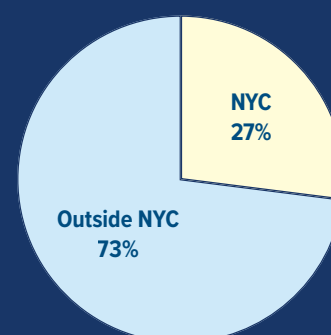
E-filing in Surrogate's Court is currently mandated in the 57 counties outside of NYC and offered on a consensual basis within New York City for probate and administration proceedings, miscellaneous proceedings related thereto, and/or for such types of proceeding as the court permits, including guardianships. The UCS leadership believes that mandatory e-filing for all courts inside NYC is ideal, as this would establish a uniform system throughout the Surrogate's Courts statewide.

54,238 cases were e-filed in the Surrogate's Court in 2024. To improve court user experience and efficiency, the NYSCEF team working together with the Division of Technology (DOT) launched new, user-friendly screens for Surrogate's Court cases that mirror that of the Supreme Civil Court NYSCEF program. This update enhances filing processes, improves the user experience, and integrates better with UCS' Universal Case Management System (UCMS) for a more efficient operation. The NYSCEF Resource Center staff played a vital role in assisting courts with the introduction and implementation of these changes. These updated NYSCEF screens have been rolled out statewide throughout 2024, and many courts and their users are very pleased with these updates. To support this transition, one-hour training sessions were offered by the NYSCEF Resource Center professional staff for the bar, interested parties, and unrepresented litigants. These training sessions continue to be offered. The E-Filing Team and a group of Surrogate's Court Chief Clerks have formed a working group and meet regularly to review filing and functionality issues and to discuss further enhancements.

“A significant portion of the Committee’s recent discussions focused on the urgent need for expanding e-filing to the high-volume consumer credit matters ... there is a clear and growing demand for e-filing to ensure fairness and accessibility for both debtors and creditors. The Committee continues to advocate for the immediate/ urgent prioritization of this project by the Chief Administrative Judge.”

Civil Court Advisory
Committee on E-Filing
Report to Chief Administrative
Judge

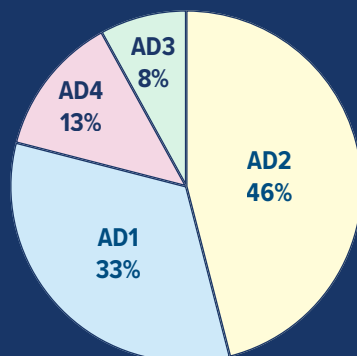
Surrogate's Court
Cases E-Filed (2024)



“The Committee further discussed the benefit of having mandatory e-filing programs in all Surrogate’s Courts. One committee member indicated that as a practitioner, she finds it very difficult to navigate Surrogate’s Courts within NYC, especially as some of the Surrogate’s Courts within the City allow only paper filing for specific case types, creating a difficult path for attorneys to navigate, as not only do some courts not accept e-filing but the demand for paper filings in case types is also not uniform throughout the NYC Surrogate’s Courts.”

Surrogate’s Court Advisory Committee on E-Filing

Appellate Division Cases E-Filed (2024)



Court of Claims

The Court of Claims could not mandate e-filing in their court as per the prior legislative limitations, and therefore, currently offers a consensual/voluntary e-filing program for all claims. However, soon after the amendments to the e-filing legislation were signed, Presiding Judge Richard E. Sise requested the CAJ authorize mandatory e-filing for all claims filed in the Court of Claims with the standard exemptions for unrepresented litigants.⁷ This transition will require minimal technical work, and the bar and interested parties have been notified of Judge Sise’s intention to implement a mandatory program and will be given an opportunity to comment.

The Court of Claims also successfully piloted the Virtual Evidence Courtroom program, VEC2, for submitting video/audio evidence in hearings and trials. This is 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. We are hopeful to expand this technology, specifically the capability to e-file audio and video files, to other aspects of the NYSCEF program.



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. Most of the cases heard on appeal in the Appellate Division are subject to mandatory e-filing. E-filing is available in all four Departments of the Appellate Division, and the program has been expanded to accept original proceedings in all Departments in 2024. However, the Second Department has not yet authorized the e-filing of appeals in criminal or Family Court matters and has been discussing adding these courts/case types in the summer of 2025.

A pilot project has also been launched 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. This program expanded throughout 2024 and will continue to expand to each county within these two Departments in 2025. The intent is to eventually expand this program to the First and Second Departments as well. The First and Third Departments have also been in discussion with the E-Filing Team and DOT to implement the e-filing of attorney matters in 2025.

Five years ago, there were slightly over 5,000 cases e-filed in the Appellate Division per year. As of December 2024, that number has risen to 18,107 per year. Additionally, the E-Filing Team will continue to examine the implementation of e-filing in the Appellate Term.

Court of Appeals

Chief Judge Rowan Wilson together with the Chief Clerk of the Court of Appeals recently expressed interest in transitioning from the Court-Pass System and their digital upload portals to NYSCEF. A meeting was held with the Director of OCA's E-Filing Division and plans have been discussed for the Court of Appeals to model the NYSCEF program utilized in the Appellate Division. The Court of Appeals, the E-Filing team and DOT, will continue working together so that an appropriate program can be adapted for use in the Court of Appeals. Implementing NYSCEF in the Court of Appeals is considered another one of the top priorities for 2025.

Supreme and County Courts – Criminal Cases

The E-Filing Team worked steadily in 2024 to collaborate with stakeholders and staff to build an e-filing system for cases in Superior Criminal Courts. We are on track to implement our first voluntary/consensual pilot program by May/June 2025 in the Supreme Court-Criminal Term and County Courts. The plan is to launch and expand the pilot program on a consensual basis at first, and mandatory e-filing will be considered after experience is gained with the pilot program and the appropriate stakeholders have consented.

The functionality for the e-filing of accusatory instruments and subsequent documents in the Superior Criminal cases is near complete, with a few remaining features being programmed. We plan to launch the pilot in up to three counties by May/June 2025, with further expansion throughout the year. The e-filing rules for the pilot have also been completed and will be forwarded to Counsel's Office for review prior to implementing the pilot program.

The NYSCEF team plans to continue 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 will likely be introduced at a later phase of the pilot program.

The CAJ will continue to seek input from bar associations, attorneys, and affected members of the public whenever electronic filing expansion in the UCS is considered. This process will remain in place before any further expansions of the pilot program, and the newly enacted legislation has not changed the requirements to consult with stakeholders prior to the expansion of e-filing. Electronic filing is most effective when the legal community fully supports the process and is committed to increasing efficiency, maximizing resources, and improving access to justice.

NYSCEF will 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.

“I use NYSCEF often mostly in Supreme Court matters and my suggestion would be to make the filing process the same for each Court using an electronic system.”

Cami Ellen Negus
Paralegal, McLaughlin & Stern, LL

“I have found the implementation of mandatory NYSCEF filing in that context [criminal appeals] to be an excellent change from prior practice and only hope that paperless processes may yet expand to criminal matters in their entirety.”

Brad W. Oastler
Chief of the Law and Appeals
Bureau, Senior Assistant District
Attorney, Onondaga County District
Attorney's Office

The Development and Implementation of NYSCEF Programs in New Courts

In developing and implementing e-filing programs for new courts that currently lack the NYSCEF System, (e.g., District Courts, City Courts, etc.), the E-Filing Team must first assess the operational requirements of each court, as well as the practical needs of both the bar practicing in those courts and self-represented litigants. The team must then work together with the DOT to make the necessary enhancements, develop the required application, and add any additional functionality as needed. The NYSCEF application, for example, contains aspects in its Surrogate's Court program that are not found in its Supreme Court program and vice versa. The Superior Criminal program that will be implemented soon and the Family Court pilot program that was more recently implemented required an extensive amount of time and effort to create and launch. NYSCEF is not a one-size-fits-all application, as each court's needs differ. The E-Filing Team collaborates closely with the specific court, bar associations, and relevant advisory committees to ensure that all parties are fully informed about the program and that the specific requirements of each court are addressed appropriately within the program.

While it is a goal to expand e-filing to all courts, this process cannot (unfortunately) be on a fast track. The implementation requires careful planning and development of specific functionality and processes. Additionally, introducing the program to all relevant parties and providing adequate training is a time-consuming process. Although the goal is to make e-filing available across all courts, the complexity and scale of this initiative means that it will be rolled out methodically and in phases to specific courts, as they become ready, to ensure successful implementation.

Following are some of the numerous steps that are required by statute before an e-filing program can be mandated in New York State:

City, District, Town and Village

Electronic filing and service of documents by litigants in Town and Village Courts is now permitted due to the enacted legislation. However, time and resource constraints limit the number of projects that can realistically be introduced within the same time frame. As detailed above, there are numerous steps and requirements that must be met before an e-filing program can be implemented in courts that are without a current e-filing program, aside from necessary training of the court, bar, and interested parties. We are hopeful to have a solid plan in the near future regarding a timeline for a launch of e-filing programs in these courts. Until then, EDDS is available for the digital delivery of documents.

Notification and Outreach

- The County Clerk and Court (Administrative Judge/District Executive) notify the affected local Bar, agencies, and stakeholders about the intent to request the Chief Administrative Judge (CAJ) to implement a new e-filing program in their court or to expand their program by mandating specific case types.

Submission of Request

- The County Clerk and Administrative Judge jointly submit a formal letter to the CAJ, requesting the implementation and/or expansion of e-filing, detailing the specifics and a tentative start date.
- They also inform the CAJ that affected stakeholders have been notified.

Public Notice

- The CAJ sends a notice to all bar associations, affected legal service organizations, including but not limited to city, state, county, and women's bar associations, institutional service providers, not for profit legal service providers, attorneys assigned pursuant to article 18-B of the County Law, and unaffiliated attorneys who regularly appear, announcing the proposal, the anticipated effective date, available resources for training, and a 30-45-day window for public comments.

Collection of Public Comments

- Comments from stakeholders are collected and compiled for review.

Advisory Committee Review

- The comments are presented to the E-Filing Advisory Committee for further discussion.
- The Committee consults with the CAJ, providing a report and recommendation, based on their review of the feedback received.

Approval and Implementation

- If approved, the CAJ issues an Administrative Order implementing the e-filing program.

Other Supported Digital Applications

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

EDDS was created during the pandemic to securely transmit documents to courts where e-filing through NYSCEF was not available. It is currently operational in over 300 courts across various jurisdictions, including City Courts, Family Courts, NYC Civil and Criminal Courts, Supreme and County (criminal) courts, and District courts. Over 4 million documents have been transmitted through EDDS since its inception in May 2020. EDDS has much less functionality compared to NYSCEF and will be phased out as more courts are authorized to implement e-filing programs as a result of the enacted legislation.

However, until then, EDDS continues to be a tool to digitally transmit documents and is broadly used. In 2024, 838,811 documents were transmitted to courts using EDDS. While EDDS continues to serve as a substitute measure, our focus remains on expanding the more robust NYSCEF system in more courts and jurisdictions.⁹

In 2024 EDDS' functionality was enhanced to include document transmission from the NYS Public Authorities to County Clerks for recording and entering judgments against toll evaders.

VEC (I & II)

In 2024, 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 300 Supreme Court Judges using the application in their court parts. There have been over 5,600 Virtual Evidence Courtrooms created. 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 successfully piloted this exciting new project in 2024.

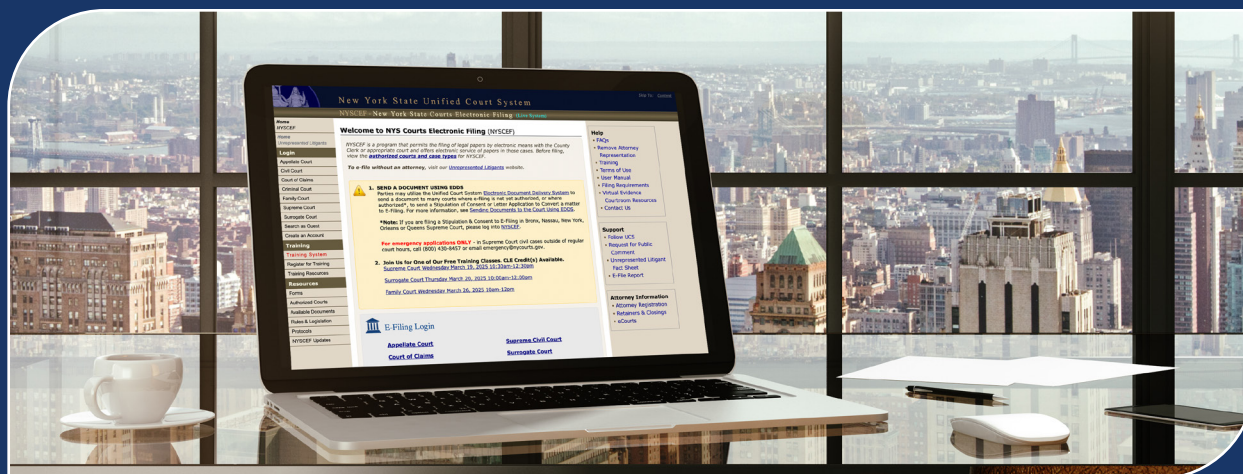
There are plans to permit electronic submission of video/audio files in VEC1 and to add the ability to admit evidence in bulk (i.e., admit more than one exhibit). Functionality to allow judges and court staff to add a section to include hearing notes in both VEC 1 and 2 platforms is being developed as requested by the Court. Currently, the NYSCEF program does not have the functionality to accept video/audio files as attachments to matters e-filed. However, staff intends to explore the capabilities available in the VEC program, which facilitates the submission of such files, with the goal of potentially incorporating the functionality into the NYSCEF System for filings in all courts/case types.

“I write with regard to revising the filing system for Civil Court and request that all of Civil Court move to NYSEF. As someone who routinely appears in Civil Court (mostly Kings County) ... I am confused why general litigation cases are still using EDDS and paper for filing ... It is inefficient and potentially unjust... Please make that leap to e-filing.”

Bonnie C. Harper, Esq.

“I write this email to ask that Civil Court convert from EDDS to regular e-filing. With EDDS, the various attorneys are not able to view each other's filings and pleadings... Converting over to regular e-filing will make it easier for attorneys and the Court to view and share documents.”

Matthew A. D. Canzoneri, Esq.
Property Damage Trial Attorney



E-Filing Among Unrepresented Litigants

E-filing is not just about embracing new technologies. At its core, it is about helping solve real problems for real people. Before the arrival of e-filing, litigants often had to take time off work to file documents in person, sometimes enduring long wait times. Today, e-filing allows individuals to file from home, at any time, which greatly enhances convenience, and provides immediate access to court records. This system is especially beneficial for marginalized communities and individuals in remote/rural areas, offering significant time and cost savings. With e-filing, unrepresented litigants, such as single parents seeking child support, do not have to take off from work to submit filings. Instead, they can file at home at their convenience without losing valuable work hours.

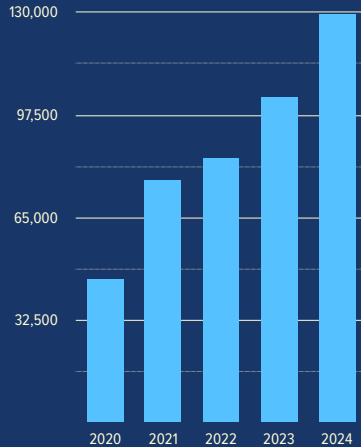
Unrepresented litigants are never required to e-file if they do not want to, and they are not required to take any steps to retain this exemption.¹⁰ Despite being automatically exempt from mandatory e-filing, many unrepresented litigants have voluntarily chosen to e-file, and they can also choose to withdraw their participation at any time. As of December 2024, there have been nearly 83,000 self-represented active NYSCEF Users, representing a 26% increase in self-represented users from the year before.

The E-Filing Division has actively pursued and continues to seek partnership with various other programs to expand its training and support for unrepresented litigants. This would include continuing collaboration with the Office for Justice Initiatives (OJI) and partnering with programs they manage to provide guidance on e-filing and navigating the NYSCEF website. Help Centers, Ask-A-Law Librarian, CourtHelp, and other online resources have assisted hundreds of thousands of individuals. By working together, we can ensure that these groups are more prepared from a NYSCEF perspective, enabling them to better assist the communities they serve. Additionally, we plan to reach out to courts that utilize Court Navigator Programs and offer NYSCEF training, as this can empower the navigators to be better able to assist court users in navigating the NYSCEF website and the e-filing of legal documents.

“Electronic filing proves to be very successful in our county and has been embraced by the bar and court users. Although legislation is in place for continued exemption of mandatory e-filing for unrepresented parties unless they choose to participate, electronic filings (of this group) continue to increase each year.”

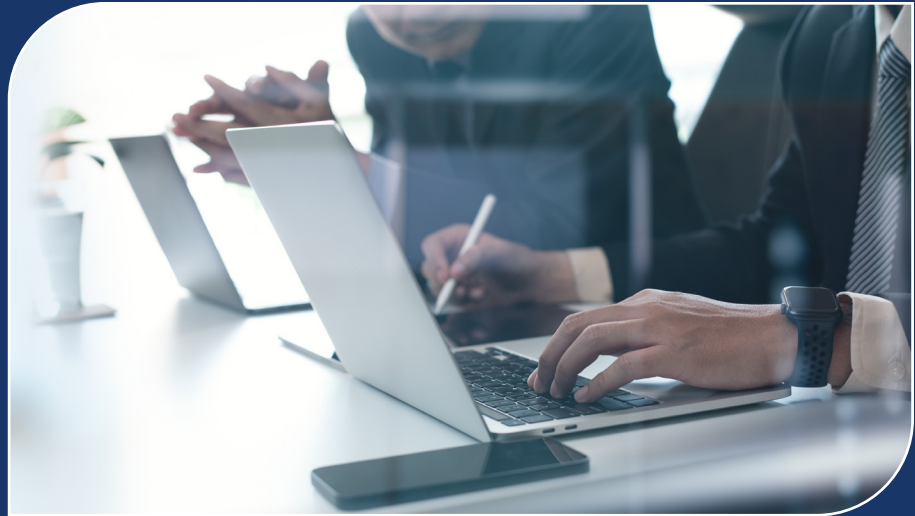
Hon. Audrey I. Pheffer
Queens County Clerk

Documents E-Filed by
Unrepresented Users (2024)



“Most of our clients would not be able to... figure out how to submit documents on NYSCEF... We strongly encourage enhanced training and protocol development to address the challenges faced by pro se litigants who need assistance and guidance on the manner in which they can access the court system to exercise their rights.”

Amy Gathings, Esq.
Center for Elder Law & Justice



Further, we remain open to partnering with the New York State Courts Access to Justice Program's roundtable discussions, where we can engage with community leaders to help spread e-filing knowledge through community centers, schools, senior centers, and more. Lastly, OJI oversees state Help Centers and the “Opening Courthouse Doors” Public Librarians’ Program. We have offered training to these groups in the past and will continue to do so as librarians across the state help patrons access legal information. Through these collaborative efforts, we can assist with making e-filing more accessible.

The NYSCEF team also continues 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. We also will continue discussions on streamlining the NYSCEF registration process, adding and enhancing video instructions for the unrepresented, and updating unrepresented litigant webpages, including working towards updating screens in multiple languages and developing mobile apps for easier e-filing access. By collaborating with the UCS grant team, we can explore funding opportunities to support these initiatives. We will also explore a partnership with the Division of Court Modernization to provide expanded customer-focused access to computers and the internet at help centers and courthouses. Through these partnerships, we can make e-filing more accessible to diverse populations and continue modernizing our justice system.

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 Resource Center Staff also continues to make training easily available to the unrepresented through on-line self-help tools and virtual training sessions.

Comments Received Regarding E-Filing

“My law firm strongly supports the implementation for e-filing in the local courts and specifically e-filing civil matters in the Suffolk District court.”

Gregory Goodman, Esq.

“... the system is amazing and has really changed how lawyers work and how law is administered in the state of New York.”

Gil Perez, Esq.

“... my experiences with NYSCEF for Supreme Court matters has been wonderful. The system is set up well and user friendly... Having our case set up so that everything is in one place and notifications regarding new filings going out immediately to all counsel is a plus.”

Kathleen Lorti,
Legal Assistant

The UCS reached out to over 400 bar associations, legal service organizations, and other key stakeholders to solicit feedback on NYSCEF for the annual report. Only 57 responses were received. This low response rate clearly reflects the overall satisfaction with e-filing.

Support for NYSCEF

Most of the feedback received this year regarding NYSCEF, once again, expresses strong support and satisfaction with the NYSCEF program. Over 60% of the comments express praise and endorse the program, with some also offering suggestions for enhancements.

Some examples of feedback from individuals praising and advocating for the expansion of e-filing:

“E-Filing is largely a massive improvement in my practice, and I am grateful. I practice primarily in Kings County, Civil Court, landlord tenant.”

-Richard Semegram, Supervising Attorney, The Legal Aid Society – Civil Practice

“First, I love the system. I’m 63 and still marvel at it.”

Mitchell Dranow, Attorney

“The NY system is among the better ones I have worked with. The NYSCEF layout presents a decent balance between providing information about system components and functions in a coherent manner, without loading so much data on each screen as to be confusing...NYSCEF has a number of convenient features that are not available on Pacer and systems in several other states.”

Douglas Capuder, Esq.

“Overall I love NYSCEF; I find it easy to use and straightforward.”

Emily Maltese, Paralegal

“Will the e-filing program be expanded to include filings for L&T and Civil cases in the City and District Courts? ”

Ralph Branciforte, Esq., Partner, SahnWard

“My experience with e-filing comes from working in Supreme Court. I found it to be the best record of court papers and filings I have experienced.”

Mary Mahoney, Principal Court Clerk

“The NYC Civil Court have been open to e-filing in a limited capacity, and it’s been working wonderfully for those areas thus far. But the other aspects of Court ... have been relegated to the antiquated EDDS system ... Joining e-filing will streamline processes, decrease adjournments, reduce paper and costs and bring us closer to where we should be.”

Vincent Spata, Esq.

Advisory Committees' Support

All 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.

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.

Hon. Nancy T. Sunshine, NYSACC President, states: "The Association of County Clerks recognizes the Office of Court Administration's superb job of developing the electronic filing application through which the New York State Courts Electronic Filing System (NYSCEF) functions. NYSACC continues its strong support for further expansion of this program and looks forward to working together with NYSCEF to accomplish appropriate expansion with consent of the County Clerks."

Hon. Timothy Idoni, Westchester County Clerk, states: "We here in Westchester have led the way toward this long time goal of universal e-filing in the New York state courts. The expansion of e-filing and other technology has been a dream for almost twenty years and we are grateful for the advances it has brought to our county's operations."

Hon. Audrey Pheffer, Queens County Clerk, states: "Electronic filing proves to be very successful in our county and has been embraced by the bar and court users.... electronic filings continue to steadily increase each year. The legislation in place to ensure the safeguarding of confidential records has been proven beneficial as 90% of our filings last year were electronic and 68% of our matrimonial cases were electronically filed."

Support from Bar Groups

The Women's Bar Association of the State of New York (WBASNY) comments include: "This expansion will significantly enhance the efficiency for court users and improve access to justice, marking a significant step forward in our legal system. Accordingly, WBASNY approves the expansion of the e-filing system to all trial courts in the State."

Throughout the years, The Managing Attorneys and Clerk Association, Inc. ("MACA"), have overwhelmingly supported NYSCEF, its Resource Center,¹¹ and its continued expansion, their comment this year includes: "We continue to find NYSCEF a very effective tool, both as our means of serving and filing court papers and as the

courts' readily accessible online record of their cases. The technology is reliable; we very rarely experience a service disruption and, in this regard, NYSCEF compares favorably with the federal CM/ECF and other state's systems."

The president of the New York State Bar, Domenick Napoletano, issued the following statement, "This law allows attorneys to better serve their clients by reducing the amount of needless paperwork. It also helps underserved residents of rural communities who previously had to rely on attorneys to drive an hour to merely file a document. We commend the governor for signing this bill that provides greater access to legal services for all citizens."¹²

Comments from Legal Service Organizations

There continues to be overwhelming support for the continued expansion of e-filing from numerous legal service groups.

- The Center for Elder Law & Justice writes "We generally support the use of e-filing procedures for attorneys who have the means and capabilities. We especially want to highlight our support of the provisions that exempt self-represented individuals from the e-filing requirements (NYS Rules Civil Courts 202.5-bb(e))."
- The Legal Aid Society comments: "We appreciate the opportunity to comment and offer our insights and recommendations on electronic filing and the New York State Courts Electronic Filing System (NYSCEF) in New York State Courts and the ongoing dialogue we have had with the Office of Court Administration's (OCA) Division of E-Filing about its expansion." The Legal Aid Society (LAS) continues to urge the CAJ and OCA "to introduce an e-filing pilot program for consumer credit cases in one of New York City's Civil Courts."
- The Legal Services of the Hudson Valley comments: "We strongly support the e-filing expansion bill that Governor Hochul recently signed, which amends CPLR Article 21-A and other relevant statutes permitting the Chief Administrative Judge (CAJ) to institute e-filing in all of the State's trial courts."
- 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.

Suggestions for Improvement

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.

One opposition comment

One unrepresented commenter provides regarding the expansion of NYSCEF:

“While NYSCE is undeniably a powerful tool it should not replace hard copy filing and in-person court interactions. Being a digital system, it remains vulnerable to human manipulation, which can severely undermine the integrity of litigation. Safeguards must be implemented to prevent such outcomes and ensure the system serves its intended purpose without compromising justice.”

NYSCEF team response

We have full confidence in the security of the NYSCEF system, which is safeguarded by robust security protocols and decades of experience. The system is designed with multiple layers of protection to ensure data integrity and confidentiality. Additionally, NYSCEF includes an electronic audit trail, providing transparency and accountability by tracking all document access and ensuring that only authorized parties can view confidential documents.

All comments/submissions received have been posted on the UCS website. In addition to the responses to comments and issues raised that are addressed within this Report, the Director of the Division of E-Filing and his team are in the process of sending individual responses by e-mail to commentors.

Conclusion

The New York State Courts E-Filing (NYSCEF) program has revolutionized court operations, fostering greater transparency and building public trust in the court system. As we move forward, we will continue to expand the program responsibly, incorporating extensive testing, stakeholder feedback, and necessary safeguards for self-represented litigants. This will also ensure that self-represented litigants who choose to e-file can do so easily from home, at any time, greatly enhancing convenience. The E-Filing Division will continue to oversee its growth, working alongside the DOT and other OCA partners to improve the system’s capabilities/functionality/accessibility. Our commitment to enhancing and expanding the system and steadily making it a reality in all courts remains a top priority, which aligns with Chief Judge Rowan Wilson’s vision of “making the New York State Courts better than you can even imagine.” Each phase of enhancement and expansion will heighten the overall user experience for everyone.

The widespread use of digital communication has been a significant aspect of a modern society for some time, with the legal sector and the general public transitioning from traditional and/or outdated methods—such as postal mail and paper submissions—to more advanced digital platforms like email, online resources, and videoconferencing. Other state and federal courts progressed with e-filing at a quicker pace, and we are eager to catch up.¹³ We sincerely thank the Legislature and the Governor for their vital role in working to enact this measure and removing the limitations on e-filing within the New York State Unified Court System. Their support and partnership are instrumental in advancing this essential tool and ultimately bringing our courts out of the past and into the future.

Endnotes

1. Judiciary Law 212(2)(u)(i)(A) states that the Chief Administrator of the Courts 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. L. 2024, ch. 579, effective 12/13/24.
3. The NYSCEF program ensures that confidentiality is strictly maintained with vigorous security measures in place. For example, when a matrimonial case is filed, the automated NYSCEF system places the case into a restricted network that ensures only authorized individuals (e.g., counsel, unrepresented parties, court staff, and others authorized by court order) can access the documents. Public access is not permitted. Our confidence in NYSCEF’s security comes from decades of experience. Also, NYSCEF allows the County Clerk to seal files when required, as directed by the court, and complies with statutory requirements.
4. Allegany County does not have an e-filing program.
5. E-filed consumer credit actions as defined in CPLR § 105(f) and residential foreclosure actions as defined in RPAPL § 130, in most counties have been considered mandatory in part as a result of the previous legislative limitations – wherein the e-filing of the commencement documents are mandated, but all subsequent filings – regardless of defendant being represented or not – is consensual.
6. There have been discussions regarding the expansion of case types in addition to consumer credit in New York City Civil Court. These discussions will be continuing, and a plan is expected to be implemented regarding further expansion. Requests and comments have also been received in support of a broader expansion: “We write to urge the adoption of e-filing for name changes in New York City Civil Court ...” Comment, Noah E. Lewis, Coordinator, Ezra Cukor, Director, Advocates for Transgender Equality.
7. The new legislation was enacted on 12/13/24 and the Hon. Richard Sise requested that the CAJ authorize the implementation of mandatory e-filing for all claims in the Court of Claims on January 13, 2025.
8. Hon. Nancy T. Sunshine, County Clerk, Kings County, 2024 Annual Report. Appendix E.
9. We received eight comments that suggest NYSCEF should replace the current EDDS platform. We have received many similar comments in previous years.
10. This exemption continues and is mandated within the amended legislation, L. 2025, ch. 579
11. “In our experience, a substantial factor in NYSCEF’s success is the NYSCEF Resource Center (a.k.a. The Statewide E-Filing Resource Center). Their staff operate an effective help desk that provides competent e-filing problem-solving services. In addition, leadership of the Center for many years has been receptive to our feedback and suggestions, and sought our input on new proposals and developments, and alerted us and other bar associations to e-filing related changes to help ensure our firms adapt efficiently.” Owen G. Wallace, Esq., MACA President.
12. The New York State Bar Association’s House of Delegates approved recommendations of its Task Force on the Modernization of Criminal Practice, which recommended an expansion of e-filing in its 2023 report, “This legislation improves access to justice, especially in regions where there are not enough lawyers, and it also makes the practice of law more efficient.”
13. Many other states, including Florida, have transitioned to e-filing and have reaped big benefits while saving millions of dollars by reducing administrative costs. 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.

The federal system, PACER, was launched in the 1990s and has proven to simplify procedures for attorneys and ease the burden of court staff by offering direct access to public records. The Case Management/Electronic Case Files (CM/ECF) system was in use in 98% of federal courts, including 92 district courts and 93 bankruptcy courts. ncsc.contentdm.oclc.org

Appendix A

L. 2024, ch. 579 (Senate Bill 7524)

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)
2 and (vi) of paragraph (u) of subdivision 2 of section 212 of the judi-
3 cary law, clause (A) of subparagraph (i) as amended by chapter 99 of the
4 laws of 2017, subparagraphs (iv), (v) and (vi) as added by chapter 237
5 of the laws of 2015 and such paragraph as relettered by section 1 of
6 part BB of chapter 55 of the laws of 2017, are amended to read as
7 follows:
8 (A) Not later than February first in each calendar year, the chief
9 administrator of the courts shall submit to the legislature, the gover-
10 nor and the chief judge of the state a report evaluating the state's
11 experience with programs in the use of electronic means for the
12 commencement of actions and proceedings and the service of papers there-
13 in as authorized by law and containing such recommendations for further
14 legislation as he or she shall deem appropriate. In the preparation of
15 such report, the chief administrator shall consult with each county

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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S. 7524

2

1 clerk in whose county a program has been implemented in [~~civil cases in~~
2 the supreme [~~court~~] and/or county court, each district attorney in whose
3 county a program has been implemented in criminal cases in the courts of
4 such county, the advisory committees established pursuant to subpara-
5 graphs (ii) through (vi) of this paragraph, the organized bar including
6 but not limited to city, state, county and women's bar associations; the
7 office of indigent legal services; institutional legal service provid-
8 ers; not-for-profit legal service providers; public defenders; attorneys
9 assigned pursuant to article eighteen-B of the county law; unaffiliated
10 attorneys who regularly appear in proceedings that are or have been
11 affected by any programs that have been implemented or who may be
12 affected by the proposed recommendations for further legislation; repre-
13 sentatives of victims' rights organizations; and any other persons in
14 whose county a program has been implemented in any of the courts therein
15 as deemed to be appropriate by the chief administrator, and afford them
16 an opportunity to submit comments with respect to such implementation
17 for inclusion in the report and address any such comments.

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

21 (iv) The chief administrator shall maintain an advisory committee to
22 consult with him or her in the implementation of laws affecting the
23 program in the use of electronic means for the commencement of civil
24 actions and proceedings and the service and filing of papers therein in
25 the civil court of the city of New York, the district courts, the city
26 courts outside New York city, and the town and village justice courts.
27 This committee shall consist of such number of members as the chief
28 administrator shall designate, among which there shall be the chief
29 clerk of the civil court of the city of New York; one or more chief
30 clerks of the district courts, the city courts outside New York city,
31 and the town and village justice courts; the president of the state
32 magistrates' association or his or her designee; representatives of the
33 organized bar including but not limited to city, state, county and
34 women's bar associations; [~~attorneys who regularly appear in actions~~
35 ~~specified in subparagraph (C) of paragraph two of subdivision (b) of~~
36 ~~section twenty-one hundred eleven of the civil practice law and rules;~~]
37 and unaffiliated attorneys who regularly appear in proceedings that are
38 or have been affected by the programs that have been implemented or who
39 may be affected by any recommendations for further legislation concern-
40 ing the use of electronic means for the commencement of actions and
41 proceedings and the service and filing of papers therein in [~~the civil~~
42 ~~court of the city of New York~~] any of the courts specified in this
43 subparagraph; and any other persons as deemed appropriate by the chief
44 administrator. Such committee shall help the chief administrator to
45 evaluate the impact of such electronic filing program on litigants
46 including unrepresented parties, practitioners and the courts and to
47 obtain input from those who are or would be affected by such electronic
48 filing program, including unrepresented parties, city, state, county and
49 women's bar associations; institutional legal service providers; not-
50 for-profit legal service providers; attorneys assigned pursuant to arti-
51 cle eighteen-B of the county law; unaffiliated attorneys who regularly
52 appear in proceedings that are or have been affected by the programs
53 that have been implemented or who may be affected by any recommendations
54 for further legislation concerning the use of the electronic filing
55 program in any of the [~~civil court of the city of New York~~] courts spec-
56 ified in this subparagraph; and any other persons in whose county a

S. 7524

3

1 program has been implemented in any of the courts therein as deemed to
 2 be appropriate by the chief administrator.

3 (v) The chief administrator shall maintain an advisory committee to
 4 consult with him or her in the implementation of laws affecting the
 5 program in the use of electronic means for the commencement of criminal
 6 actions and the filing and service of papers in pending criminal actions
 7 and proceedings[, ~~as first authorized by paragraph one of subdivision~~
 8 ~~(c) of section six of chapter four hundred sixteen of the laws of two~~
 9 ~~thousand nine, as amended by chapter one hundred eighty four of the laws~~
 10 ~~of two thousand twelve, is continued~~]. The committee shall consist of
 11 such number of members as will enable the chief administrator to obtain
 12 input from those who are or would be affected by such electronic filing
 13 program, and such members shall include county clerks; chief clerks of
 14 supreme, county and other courts; district attorneys; representatives of
 15 the office of indigent legal services; not-for-profit legal service
 16 providers; public defenders; statewide and local specialty bar associ-
 17 ations whose membership devotes a significant portion of their practice
 18 to assigned criminal cases pursuant to subparagraph (i) of paragraph (a)
 19 of subdivision three of section seven hundred twenty-two of the county
 20 law; institutional providers of criminal defense services and other
 21 members of the criminal defense bar; representatives of victims' rights
 22 organizations; unaffiliated attorneys who regularly appear in
 23 proceedings that are or would be affected by such electronic filing
 24 program and other interested members of the criminal justice community.
 25 Such committee shall help the chief administrator to evaluate the impact
 26 of such electronic filing program on litigants including unrepresented
 27 parties, practitioners and the courts and to obtain input from those who
 28 are or would be affected by such electronic filing program, including
 29 unrepresented parties, district attorneys, not-for-profit legal service
 30 providers, public defenders, statewide and local specialty bar associ-
 31 ations whose membership devotes a significant portion of their practice
 32 to assigned criminal cases pursuant to subparagraph (i) of paragraph (a)
 33 of subdivision three of section seven hundred twenty-two of the county
 34 law; institutional providers of criminal defense services and other
 35 members of the criminal defense bar, representatives of victims' rights
 36 organizations, unaffiliated attorneys who regularly appear in
 37 proceedings that are or would be affected by such electronic filing
 38 program and other interested members of the criminal justice community.

39 (vi) The chief administrator shall maintain an advisory committee to
 40 consult with him or her in the implementation of laws affecting the
 41 program in the use of electronic means for the origination of [~~juvenile~~
 42 ~~delinquency~~] proceedings [~~under article three of the family court act~~
 43 ~~and abuse or neglect proceedings pursuant to article ten of the family~~
 44 ~~court act~~] in family court and the filing and service of papers in such
 45 pending proceedings[, ~~as first authorized by paragraph one of subdivi-~~
 46 ~~sion (d) of section six of chapter four hundred sixteen of the laws of~~
 47 ~~two thousand nine, as amended by chapter one hundred eighty four of the~~
 48 ~~laws of two thousand twelve, is continued~~]. The committee shall consist
 49 of such number of members as will enable the chief administrator to
 50 obtain input from those who are or would be affected by such electronic
 51 filing program, and such members shall include chief clerks of family
 52 courts; representatives of authorized presentment and child protective
 53 agencies; other appropriate county and city government officials; insti-
 54 tutional providers of legal services for children and/or parents; not-
 55 for-profit legal service providers; public defenders; representatives of
 56 the office of indigent legal services; attorneys assigned pursuant to

S. 7524

4

1 article eighteen-B of the county law; and other members of the family
 2 court bar; representatives of victims' rights organizations; unaffil-
 3 iated attorneys who regularly appear in proceedings that are or would be
 4 affected by such electronic filing program; and other interested members
 5 of the family practice community. Such committee shall help the chief
 6 administrator to evaluate the impact of such electronic filing program
 7 on litigants including unrepresented parties, practitioners and the
 8 courts and to obtain input from those who are or would be affected by
 9 such electronic filing program, including unrepresented parties, repre-
 10 sentatives of authorized presentment and child protective agencies,
 11 other appropriate county and city government officials, institutional
 12 providers of legal services for children and/or parents, not-for-profit
 13 legal service providers, public defenders, attorneys assigned pursuant
 14 to article eighteen-B of the county law and other members of the family
 15 court bar, representatives of victims' rights organizations, unaffil-
 16 iated attorneys who regularly appear in proceedings that are or would be
 17 affected by such electronic filing program, and other interested members
 18 of the criminal justice community.

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

22 (a) Notwithstanding any other provision of law, the chief administra-
 23 tor of the courts, with the approval of the administrative board of the
 24 courts, may promulgate rules authorizing a program in the use of facsimile
 25 transmission only in the court of claims and electronic means in the
 26 [~~supreme court, the civil court of the city of New York, surrogate's~~
 27 ~~courts and the court of claims~~] courts of New York having civil juris-
 28 isdiction for: (i) the commencement of civil actions and proceedings, and
 29 (ii) the filing and service of papers in pending actions and
 30 proceedings. Provided, however, the chief administrator shall consult
 31 with the county clerk of a county outside the city of New York before
 32 the use of electronic means is to be authorized hereunder in the supreme
 33 court or the county court of such county, afford him or her the opportu-
 34 nity to submit comments with respect thereto, consider any such comments
 35 and obtain the agreement thereto of such county clerk.

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

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

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

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

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

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

55 (iv) where a party is not represented by counsel, the court shall
 56 explain such party's options for electronic filing in plain language,

S. 7524

5

1 including the option for expedited processing, and shall inquire whether
 2 he or she wishes to participate, provided however the unrepresented
 3 litigant may participate in the program only upon his or her request,
 4 which shall be documented in the case file, after said party has been
 5 presented with sufficient information in plain language concerning the
 6 program.

7 (B) Where participation in this program is to be required:
 8 (i) such requirement shall not be effective in a court in a county
 9 unless, in addition to consulting with the county clerk of such county
 10 and obtaining his or her agreement thereto if the court is a supreme
 11 court or county court, the chief administrator shall:

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

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

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

30 § 4. The opening paragraph of paragraph 3 of subdivision (b) of
 31 section 2111 of the civil practice law and rules, as added by chapter
 32 237 of the laws of 2015, is amended to read as follows:

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

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

43 § 2112. Filing of papers in the appellate division by electronic
 44 means. Notwithstanding any other provision of law, and except as other-
 45 wise provided in subdivision (c) of section twenty-one hundred eleven of
 46 this article, the appellate division in each judicial department may
 47 promulgate rules authorizing a program in the use of electronic means
 48 for: (i) appeals to such court from the judgment or order of a court of
 49 original instance or from that of another appellate court, (ii) making a
 50 motion for permission to appeal to such court, (iii) commencement of any
 51 other proceeding that may be brought in such court, and (iv) the filing
 52 and service of papers in pending actions and proceedings. Provided
 53 however, such rules shall not require an unrepresented party or any
 54 attorney who furnishes a certificate specified in subparagraph (A) or
 55 (B) of paragraph three of subdivision (b) of section twenty-one hundred
 56 eleven of this article to take or perfect an appeal by electronic means.

S. 7524

6

1 Provided further, however, before promulgating any such rules, the
 2 appellate division in each judicial department shall consult with the
 3 chief administrator of the courts and shall provide an opportunity for
 4 review and comment by all those who are or would be affected including
 5 city, state, county and women's bar associations; institutional legal
 6 service providers; not-for-profit legal service providers; attorneys
 7 assigned pursuant to article eighteen-B of the county law; unaffiliated
 8 attorneys who regularly appear in proceedings that are or have been
 9 affected by the programs that have been implemented or who may be
 10 affected by promulgation of rules concerning the use of the electronic
 11 filing program in the appellate division of any judicial department; and
 12 any other persons in whose county a program has been implemented in any
 13 of the courts therein as deemed to be appropriate by any appellate divi-
 14 sion. To the extent practicable, rules promulgated by the appellate
 15 division in each judicial department pursuant to this section shall be
 16 uniform and may apply to any appellate term established by an appellate
 17 division.

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

20 1. Notwithstanding any other provision of law, the chief administrator
 21 of the courts[~~, with the approval of the administrative board of the~~
 22 ~~courts,~~] may authorize a program in the [voluntary] use of facsimile
 23 transmission and electronic means in the court as provided in article
 24 twenty-one-A of the civil practice law and rules.

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

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

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

35 § 8. The uniform district court act is amended by adding a new section
 36 2103-a to read as follows:

37 § 2103-a. Use of electronic filing authorized.

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

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

46 § 9. The uniform city court act is amended by adding a new section
 47 2103-a to read as follows:

48 § 2103-a. Use of electronic filing authorized.

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

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

S. 7524

7

1 § 10. The uniform justice court act is amended by adding a new section
2 2103-a to read as follows:

3 § 2103-a. Use of electronic filing authorized.

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

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

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

15 (a) Notwithstanding any other provision of law, the chief administra-
16 tor, with the approval of the administrative board of the courts, may
17 promulgate rules authorizing a program in the use of electronic means
18 ("e-filing") in the [~~supreme court and in the county court~~] courts of
19 New York having criminal jurisdiction for: (i) the filing with a court
20 of an accusatory instrument for the purpose of commencement of a crimi-
21 nal action or proceeding [~~in a superior court, as provided by articles~~
22 ~~one hundred ninety-five and two hundred of this chapter~~], and (ii) the
23 filing and service of papers in pending [~~criminal~~] actions and
24 proceedings. Provided, however, the chief administrator shall consult
25 with the county clerk of a county outside the city of New York before
26 the use of electronic means is to be authorized hereunder in the supreme
27 court or county court of such county, afford him or her the opportunity
28 to submit comments with respect thereto, consider any such comments and
29 obtain the agreement thereto of such county clerk.

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

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

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

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

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

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

54 (D) where a party is not represented by counsel, the court shall
55 explain such party's options for electronic filing in plain language,
56 including the option for expedited processing, and shall inquire whether

S. 7524

8

1 he or she wishes to participate, provided however the unrepresented
 2 litigant may participate in the program only upon his or her request,
 3 which shall be documented in the case file, after said party has been
 4 presented with sufficient information in plain language concerning the
 5 program.

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

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

11 (1) first consult with and obtain the agreement of the district attor-
 12 ney and the criminal defense bar of such county, provide all persons and
 13 organizations, or their representative or representatives, who regularly
 14 appear in criminal actions or proceedings in the criminal courts of such
 15 county with reasonable notice and opportunity to submit comments with
 16 respect thereto and give due consideration to all such comments, and
 17 consult with the members of the advisory committee specified in subpara-
 18 graph (v) of paragraph (u) of subdivision two of section two hundred
 19 twelve of the judiciary law; and

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

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

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

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

41 § 15. Subparagraph (ii) of paragraph (e) of subdivision 2 of section
 42 10.40 of the criminal procedure law, as added by chapter 237 of the laws
 43 of 2015 and such paragraph as relettered by section thirteen of this
 44 act, is amended to read as follows:

45 (ii) Notwithstanding any other provision of this section, no paper or
 46 document that is filed by electronic means in a criminal proceeding [~~in~~
 47 ~~supreme court or county court~~] shall be available for public inspection
 48 on-line. Subject to the provisions of existing laws governing the seal-
 49 ing and confidentiality of court records, nothing herein shall prevent
 50 the unified court system from sharing statistical information that does
 51 not include any papers or documents filed with the action; and, provided
 52 further, that this paragraph shall not prohibit the chief administrator,
 53 in the exercise of his or her discretion, from posting papers or docu-
 54 ments that have not been sealed pursuant to law on a public website
 55 maintained by the unified court system where: (A) the website is not the
 56 website established by the rules promulgated pursuant to paragraph (a)

S. 7524

9

1 of this subdivision, and (B) to do so would be in the public interest.
 2 For purposes of this subparagraph, the chief administrator, in determin-
 3 ing whether posting papers or documents on a public website is in the
 4 public interest, shall, at a minimum, take into account for each posting
 5 the following factors: (A) the type of case involved; (B) whether such
 6 posting would cause harm to any person, including especially a minor or
 7 crime victim; (C) whether such posting would include lewd or scandalous
 8 matters; and (D) the possibility that such papers or documents may ulti-
 9 mately be sealed.

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

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

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

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

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

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

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

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

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

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

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

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

S. 7524

10

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

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

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

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

28 § 18. Section 11 of chapter 237 of the laws of 2015 amending the judi-
29 ciary law, the civil practice law and rules and other laws relating to
30 the use of electronic means for the commencement and filing of papers in
31 certain actions and proceedings, as amended by chapter 554 of the laws
32 of 2022, is amended to read as follows:

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

39 § 19. This act shall take effect immediately.

Appendix B

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.

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County Clerk, Westchester County, NY,
White Plains, NY

Committee Vice-Chair

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Director, OCA Division of E-Filing,
Statewide Coordinator for E-Filing

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Mindy Jeng, Esq.

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Administrator, Assigned Counsel
Plan (18-B), Appellate Division, First
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Hon. Craig Hayner
Saratoga County Clerk

Hon. John R. Higgitt
Justice of the Supreme Court, Bronx, NY

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The Legal Aid Society

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Steuben County Clerk

Hon. Michael Jankowski
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Hon. Bradford Kendall
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Chief Clerk, Civil Division, NYS Supreme
Court, Kings County, Brooklyn, NY

Hon. Nancy T. Sunshine
Kings County Clerk, 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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Hon. Michael V. Coccoma, JSC (ret.)
Former Deputy Chief Administrative
Judge for Courts Outside New York City

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Dutchess County Clerk

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President, Chief Defenders Association
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Lisa White-Tingling
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York County Supreme Court, Criminal
Term

E-Filing Advisory Committees Membership Lists

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E-Filing Advisory Committees Membership Lists

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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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Committee Vice-Chair

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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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Program Director, Housing Unit, Legal
Aid Society of Rochester, New York

Silvia Orna
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Latino Justice PRLDEF

Nancy Sunshine
Kings County Clerk, Brooklyn, NY

Appendix C

Advisory Committee Reports



WESTCHESTER COUNTY CLERK

Timothy C. Idoni
County Clerk

January 28, 2025

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 27, 2025, at 12:30 p.m. to discuss the following issues:

Item 1

A presentation was given regarding a proposed streamlined process via NYSCEF for removing attorneys from electronically filed matrimonial proceedings. Changes would include simplified reasons for leaving the case.

Changes were implemented to provide appropriate measures to seal the initial e-filing process for Name Change and/or Sex Designation petitions pursuant to rules.

Work was performed to adjust visibility settings for Article 81 matters.

NYSCEF screens were updated to show/provide the User ID that is logged in at the request of the Bar.

The ability was created to file multiple motions in one upload.

A method/application was created with training for Law Enforcement agencies to e-file ERPO applications via NYSCEF.

Item 2

A discussion was held to insure that this report was filed with your office to assist on the preparation of your state-mandated 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. As you are aware, the legislation requires your office to consult with our committee and afford this committee an opportunity to submit comments with respect to the implementation of these programs for inclusion to your report.

The Unified Court System distributed to hundreds of bar groups, legal service providers and other interested groups and persons across New York state soliciting comments and suggestions regarding NYSCEF for your report. Comments will be allowed through January 31, 2025.

It was noted that the Legal Aid Society has already submitted a well-scripted letter and their representative on the committee was thanked for its assistance.

The committee urged its members to return to their own organization's comments and continue to solicit comments prior to the deadline.

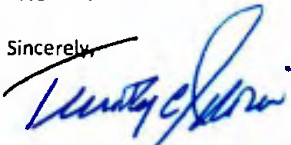
Item 3

The committee discussed recently enacted legislation, which the Office of Court Administration has proposed for the past few years - and endorsed by this committee - which permits the Chief Administrative Judge to introduce e-filing in any court and/or action with all current safeguards remaining in place. It was noted that the New York State Association of County Clerks has commenced a survey of its members to allow for the Chief Administrative Judge to proceed with approvals with the types not previously subject to mandatory e-filing be approved for mandatory e-filing. The County Clerk members of the committee have communicated with the membership on the expedited methodology approach and have received enthusiastic support for this approach.

It was noted once again 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 review and recommendations.

Sincerely,



Timothy C. Idom
Chair, New York Supreme Court (Civil) Advisory Committee on E-Filing

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



New York State Unified Court System

Office of Court Administration • Division of E-Filing

Justin A. Barry, Esq.
Executive Director

Christopher Gibson
Director, Division of E-Filing

February 25, 2025

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

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

Dear Chief 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.

Since our committee's inception in 2015, we have met regularly and consistently reported on the gradual expansion of e-filing in Surrogate's Courts statewide. The meeting held on January 23, 2025, marked the final meeting chaired by the Honorable Craig Doran, who has retired from the bench. Throughout his tenure, Judge Doran demonstrated dedication and commitment to the committee's work. His leadership, and insights, and energetic efforts have been integral in advancing e-filing initiatives within the Surrogate's Court. We are deeply grateful for his invaluable contributions and leadership and wish him the very best in his next endeavors.

The NYSCEF program in Surrogate's Courts has proven to be a valuable tool, providing convenience for both unrepresented litigants and legal professionals, enabling them to continue their work outside the traditional court setting. The passing of the e-filing legislation this year has further increased accessibility and efficiency, allowing for even broader adoption of the program across various court types, thereby enhancing its benefits for all involved.

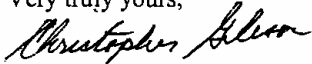
The Committee reports as follows:

1. As of December 2021, all 62 Surrogate's Courts have active e-filing programs, with 57 implementing mandatory e-filing. The remaining five courts, all within New York City, have opted for consensual e-filing while awaiting specific functionality updates to the Surrogate's Court NYSCEF platform. These updates were successfully completed throughout 2024, including improved integration with the Unified Court Management System (UCMS) and updated NYSCEF screens that mirror the functionality of the Supreme Civil Court NYSCEF program.

2. The Committee discussed the benefit of having mandatory e-filing across all Surrogate's Courts. One committee member shared the challenges of navigating Surrogate's Courts in NYC, where some courts demand paper filing for specific case types, creating confusion and inefficiencies. Additionally, members reported that there have been concerns raised by the Bar about long waiting periods and backlogs in the NYC Surrogate's Courts.
3. The Committee was informed that OCA's leadership is eager to engage in discussions on implementing mandatory e-filing in the five NYC Surrogate's Courts. As Director of the E-Filing Division (NYSCEF), I was tasked with starting these discussions with the NYC Chief Clerks. The majority of this Committee supports uniform e-filing across all Surrogate's Courts, as the members indicated it will add transparency, efficiency, and universal navigation to the Court's processes.
4. We also discussed the 2025 annual Electronic Filing Report of the Chief Administrative Judge, which evaluates the state's experience with electronic means. This Committee has consistently supported the Office of Court Administration's legislative proposals, including empowering the Chief Administrative Judge to expand e-filing statewide with necessary safeguards, such as exemptions for self-represented litigants. We were pleased to discuss the enactment of legislation lifting the limitations previously placed on the CAJ in implementing e-filing.
5. The Committee continued previous discussions regarding putting together a smaller working group to review current rules for potential updates and to recommend replacing inactive committee members. Additionally, we recommend that additional resources be allocated to the NYSCEF Division to meet the growing demands for e-filing in all authorized courts.

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

Very truly yours,



Christopher Gibson, Director
Vice-Chair, Surrogate's Court Advisory Committee on E-Filing



New York State
Unified Court System

Office of the Chief Clerk • New York City Family Court

Eugene W. Hurley
Chief Clerk

February 27, 2025

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

Dear Chief Administrative Judge Zayas:

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

This letter is being submitted on behalf of the Family Court Advisory Committee to fulfill our obligation to consult with the Chief Administrative Judge regarding the state's ongoing use of electronic filing systems for initiating proceedings and serving papers, as well as to offer recommendations for future legislative measures.

On January 23, 2025, the Committee convened to review the progress of the Family Court's e-filing initiatives and to discuss additional steps for expanding these programs. We are pleased to share that the consensual e-filing pilot program has seen significant growth since its launch in August 2022. At present, e-filing is available for limited case types, including Custody/Visitation, Guardianship, Paternity, Parentage-Assisted Reproduction, Parentage-Surrogacy, and Support, across nineteen Family Court locations statewide. Seven of these courts recently joined the program in January 2025, and we have been informed that a further expansion is planned for the Spring of 2025, beginning with all five counties within the Ninth Judicial District. In addition to this, potential expansion is being reviewed for additional case types. It is the goal to complete the expansion/implementation of the Family Court pilot program throughout the state within two years.¹

While the Electronic Document Delivery System (EDDS) served as a helpful tool during the pandemic, there is broad consensus within the Committee that NYSCEF will be the more effective and sustainable platform for the future of Family Court operations. The EDDS system has added an unnecessary layer of complexity, as court users have continued to submit documents through multiple channels, including EDDS, mail, and in-person filing. And the option to use EDDS is no longer available for case types where NYSCEF has been implemented, though parties may still

¹ The E-Filing Team has recently informed the Committee Chair that Nassau County has expressed interest in participating in the pilot program, which, once implemented, will complete the rollout of e-filing across all downstate Family Courts.

Honorable Joseph A. Zayas

February 27, 2025

Page 2

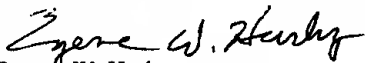
submit documents by mail or in person. The ongoing development of NYSCEF includes updates such as the ability to transfer data between UCS platforms (UCMS), enhancements to DIY family programs that integrate with NYSCEF, and the direct creation of petitions on the NYSCEF platform. These upgrades are designed to streamline processes and enhance functionality for both litigants and court staff.

The Committee is especially mindful of the challenges faced by unrepresented litigants and acknowledges the considerable efforts by NYSCEF administrators, Family Court staff, and the Division of Technology (DoT) to tailor the program to their needs while safeguarding confidentiality. The Committee has been informed of the ongoing work to improve the program, including monthly meetings between e-filing team members, Family Court administrators, and DoT staff, to address any challenges and implement necessary changes before launching the program in new courts. Additionally, many Committee members, especially those who frequently practice in Family Court, highlighted the disorganization caused by inconsistent policies across different Family Courts. There is strong support within the Committee for the use of NYSCEF to foster greater uniformity and efficiency in court operations statewide.

Finally, the Committee unanimously supports the enacted legislation that permits the Chief Administrative Judge to authorize e-filing to all courts and case types. We also endorse the legislation maintaining essential safeguards, particularly regarding exemptions for self-represented litigants, to ensure that e-filing remains accessible and equitable for all parties.

Thank you for your attention to these important matters. We look forward to continuing to work with you to improve the implementation of electronic filing programs in Family Court.

Respectfully Submitted,



Eugene W. Hurley

Chairperson,

Family Court Advisory Committee on e-Filing



New York State
Unified Court System

Office of Court Administration • Division of E-Filing

Justin A. Barry, Esq.
Executive Director

Christopher Gibson
Director, Division of E-Filing

February 24, 2025

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

Dear Chief Administrative Judge Zayas:

This letter is intended to fulfill the obligation of the **Civil Court Advisory Committee on E-Filing** 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, as well as to offer recommendations for potential legislative improvements.

The Committee convened on January 24, 2025, and has several important updates to share concerning the ongoing developments and successes of electronic filing in the New York City Civil Court. The implementation of e-filing platforms for consensual housing court matters and mandatory no-fault health services actions pursuant to insurance law has been well received, streamlining access and improving efficiency. As highlighted by The Legal Services of the Hudson Valley, comment January 17, 2025, "All litigants, especially those who are low-income and unrepresented would benefit from the ability to file legal papers remotely at any time, day or night."

A significant portion of the Committee's recent discussions focused on the urgent need for expanding e-filing to the high-volume consumer credit matters, a topic we have previously raised. Meetings with NYSCEF representatives, Legal Service Organizations, and Civil Court Administration were held, and a pilot program was initially anticipated in 2022. However, this initiative was delayed as resources were redirected towards implementing e-filing in family court. Given the high volume of cases in consumer credit, there is a clear and growing demand for e-filing to ensure fairness and accessibility for both debtors and creditors. The Committee continues to advocate for the immediate/urgent prioritization of this project by the Chief Administrative Judge.

We also discussed the challenges presented by the current reliance on the Electronic Document Delivery System (EDDS), which was introduced during the COVID-19 pandemic but has proven to be inefficient and inadequate compared to NYSCEF. One Committee member aptly noted that the backlog and lack of access to court documents create significant delays, with no court papers available, leading to undue pressure on litigants to settle cases prematurely. Court staff has also been frustrated with the EDDS platform. The Committee recommends that the E-Filing Division and DOT consider an approach that minimizes the burden on UCS, one with the least resource-intensive options, thereby accelerating

completing the functionality for this project and speeding up the process of the rollout and implementation of the program.

The Committee was pleased to hear that the NYSCEF team, Civil Court Administration, and the Division of Technology have been meeting regularly to finalize the necessary functionality for this project. A concrete timeline is expected by fall 2025, and the Committee will be promptly updated once the details are available. The committee was also made aware that other expansion to additional case types is also currently being considered.

Acknowledging the constraints of court resources, the Committee strongly emphasizes that all e-filing initiatives must be treated as high priorities. We also urge the allocation of additional staffing to support these critical programs. Additionally, the Committee is keenly aware of the challenges faced by many self-represented litigants navigating the Civil Court. We support the continued efforts of NYSCEF leadership to collaborate with other OCA Divisions, particularly the Division of Justice Initiatives, to address barriers and ensure greater access to justice for self-represented parties seeking to e-file. The issue of technology access—such as the availability of computers, scanners, and internet access—remains a concern. The Committee expressed appreciation of the efforts of OCA administrators to improve access to such technology at self-help centers and other support locations. The Committee will continue to explore ways to enhance the availability of these resources, ensuring meaningful access for all litigants.

The Committee applauds the Governor for enacting the e-filing legislation.¹ We are encouraged by the lifting of restrictions on the Chief Administrative Judge's authority to introduce e-filing in any court or action, with the continued safeguard that self-represented litigants remain exempt from mandatory e-filing. Furthermore, we respectfully recommend that additional resources be allocated to assist the NYSCEF Division in implementing the necessary improvements outlined in this report.

The Committee looks forward to working collaboratively to monitor and support the ongoing progress of e-filing in the Civil Court and to ensuring that all litigants, regardless of resources, can effectively engage with the court system.

Respectfully submitted,



Christopher Gibson

Vice Chair – Civil Court Advisory Committee on E-Filing

¹ "As providers of free legal services to low-income New Yorkers and active members of several statewide e-filing committees, we believe the time has come to move away from the incremental approach of expanding e-filing of the last two decades." Adriene Holder, Attorney-in-Charge, Civil Practice Legal Aid Society – January 17, 2025, comment.

SUPREME AND COUNTY (CRIMINAL) ADVISORY COMMITTEE ON E-FILING

For the New York State Unified Court System
Hon. Michael V. Coccama, JSC (ret.)
Former Deputy Chief Administrative Judge Outside NYC
Committee Chair

February 26, 2025

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 legislative considerations.

The full Committee convened on January 24, 2025, to review the progress of the Superior Criminal Pilot E-Filing Program. We are excited to report that the pilot program is nearing its launch, which we anticipate will take place in May/June 2025, in at least two courts.

Below are key points discussed during our recent meeting:

Working Group: Throughout 2024, the E-Filing team, along with the Committee's working group, has worked diligently and collaborated with agency stakeholders, court staff, and the Division of Technology to develop comprehensive e-filing functionality for Superior Criminal Courts.

Rules Subcommittee: Committee members reviewed the draft consensual e-filing rules for the pilot program, which were carefully developed by the Rules Subcommittee. We will send the Pilot Rules to OCA's Counsel's Office for a final review, after our next meeting of 2/28/25, and prior to the program's launch.

EDDS: Although NYSCEF is not yet available in criminal courts, the Electronic Document Delivery System (EDDS) has been used for digital document submissions. The EDDS system has generated increased demand from attorneys and parties for the NYSCEF pilot program due the numerous benefits that digital filing offers, including 24/7 access to case files, the ability to file and serve notice of documents at any time of the day or night from the convenience of your home/office.

New E-Filing Legislation: The committee fully supports the legislation that facilitates the expansion of e-filing, with the current safeguards intact, and the removal of restrictions on the Chief Administrative Judge's discretion to implement e-filing programs—whether consensual or mandatory—in all courts and case types. This expansion is a significant and positive

development. The e-filing system will continue to ensure that criminal case documents are treated confidentially, with the same sealing and confidentiality protections as paper documents. Additionally, as stated in CPL Sec. 10.40(2)(d)(ii), “no paper or document filed electronically in a criminal proceeding in Supreme Court or County Court shall be available for public inspection online.” Furthermore, the proposal requires consultation with key stakeholders, such as the Bar, legal service providers, County Clerks, District Attorneys, and other groups, prior to expanding e-filing. The Committee emphasizes the importance of involving all relevant stakeholders in the roll-out of the program.

The Committee looks forward to continuing testing the e-filing functionality, monitoring the program’s progress, and addressing any concerns that may arise during its implementation. We are excited about the upcoming launch of the e-filing system and the benefits it will bring to the New York State criminal bar. The committee will be consulted regarding the expansion of the program to each new county/supreme criminal court.

We appreciate your consideration of our input as you prepare the annual report.

Respectfully submitted,

Michael Coccoma

Hon. Michael Coccoma, JSC (ret.)
*Former - Deputy Chief Administrative Judge
Outside New York City*



**New York State
Unified Court System**

Office of Court Administration • Division of E-Filing

Justin A. Barry, Esq.
Executive Director

Christopher Gibson
Director, Division of E-Filing

February 25, 2025

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

Re: Report of the Legal Services Advisory Committee on E-Filing

Dear Chief Administrative Judge Zayas:

The Legal Services Advisory Committee on E-Filing, established in 2019, works alongside other advisory committees to consult with the Chief Administrative Judge on electronic filing in New York State courts. Its purpose is to improve communication between the legal services community and the court system, focusing on the challenges faced by self-represented litigants and gathering suggestions to enhance electronic filing for them and address broader concerns from the legal services community.

Upon review of the agenda, agenda items, and discussion, it appears there is a strong consensus regarding the benefits of e-filing and the necessity to embrace its expansion. Moving away from the incremental and confusing piecemeal process is a clear priority for the committee. We also recognize that enhanced training opportunities for clerks will be beneficial for all stakeholders. The NYSCEF Resource Center's capacity to address isolated errors, especially when promptly notified, and continue educating on new features and improving communication, is a valuable asset.

Some comments received/reviewed related to operational delays, and it was clarified that these are not issues within the NYSCEF system, but rather court related. Additionally, some of the suggestions regarding NYSCEF enhancements, like the availability of e-filing a fee waiver, requires better communication as this feature is already in existence. The recommendations for a more user-friendly NYSCEF, especially concerning disability accommodations, call for further discussion with more specific details so that appropriate departments can address the specific concerns. Expanding language access was also noted as a valuable recommendation to be carefully considered for implementation, and the E-Filing Division has made efforts to partner with additional OCA Departments to explore all resources available to assist with expanding language access.

The Committee discussed other comments regarding operational issues including concerns related to virtual or remote court hearings and the de-escalation of contentious cases. As these are judicial decisions and are within the purview of court administration, they fall outside the scope of the NYSCEF committee's responsibilities. An additional suggestion from the Legal Services of the Hudson Valley for legal services to act as an authorized agent for pro se parties merits consideration, but it would require a rule amendment.



New York State Unified Court System

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Justin A. Barry, Esq.
Executive Director

Christopher Gibson
Director, Division of E-Filing

The Committee further emphasized the critical point that County Clerks and Clerks of Supreme Court are prohibited from giving legal advice. Additional self-help centers with forms and e-file kiosks would provide necessary support for pro se litigants and could be an appropriate improvement in this regard. As the number of self-represented active NYSCEF users has surpassed 82,000, the Committee recognizes the growing demand for remote court access among self-represented litigants who may face barriers due to a lack of technology. To address this issue, OCA Administration is exploring ways to enhance accessibility to assist self-represented litigants with electronic filing.

Despite acknowledging limited resources, the Committee strongly advocates for prioritizing e-filing programs and providing sufficient staffing and support for self-represented litigants choosing to e-file. The Committee expresses support for NYSCEF leadership to collaborate with other OCA departments, divisions, and programs to bridge the digital divide. Additional suggested proposals include providing a feedback page on the NYSCEF self-represented pages to provide another avenue for unrepresented users navigating the e-filing process to voice issues encountered, enhancing these web pages, and conducting training sessions for court “help-centers” and libraries to better assist self-represented litigants.

We look forward to contributing to an electronic filing program that serves the needs of all litigants and attorneys across New York State.

Sincerely,

A handwritten signature in dark ink that reads "Christopher Gibson".

Christopher Gibson
Chair – Legal Services Advisory Committee on E-Filing

Appendix D

Comments from County Clerks



NYS ASSOCIATION OF COUNTY CLERKS

January 14, 2025

Christopher Gibson
Statewide Coordinator for Electronic Filing
VIA EMAIL: cgibson@nycourts.gov

Dear Mr. Gibson,

As President of NYSACC, I applaud Governor Hochul and the Legislature for the passage of legislation which lifts the current restraints on the Chief Administrative Judge (CAJ) to introduce e-filing programs in all courts and case types including Article 70, Article 78, election law, matrimonial, and Mental Hygiene cases after consultation with the Bar, legal services providers, and other groups with the consent of the County Clerk.

Significantly, the enacted legislation maintains existing e-filing safeguards: Unrepresented persons continue to be exempt from e-filings unless they affirmatively choose to participate; attorneys lacking the equipment or knowledge continue to have the right to opt out of e-filing, and confidential treatment of cases such as matrimonial actions, as provided elsewhere under State law, is maintained.

The Association of County Clerks recognizes the Office of Court Administration's superb job of developing the electronic filing application through which the New York State Courts Electronic Filing System (NYSCEF) functions. NYSACC continues its strong support for further expansion of this program and looks forward to working together with NYSCEF to accomplish appropriate expansion with consent of the County Clerks.

Sincerely,

Nancy T. Sunshine

Hon. Nancy T. Sunshine, NYSACC President



WESTCHESTER COUNTY CLERK

Timothy C. Idoni
County Clerk

January 27, 2025

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:

I am writing in response for the request for comments on electronic filing in the New York State Courts for inclusion in the Office of Court Administration's 2025 annual report. We are strongly in support of the recently signed e-filing bill amending CPLR Article 21A giving the Chief Administrative Judge (CAJ) the authority to make electronic filing mandatory statewide in any or all New York state trial courts.

We here in Westchester have led the way toward this long-time goal of universal e-filing in the New York state courts. The expansion of e-filing and other technology has been a dream for almost twenty years and we are grateful for the advances it has brought to our county's operations.

E-filing has indeed become an essential tool to expand justice to all. Having access to court records and the ability to file any time of the day or night has led to significant improvements in our system. No longer are our system's users locked into normal work hours to file records in their time sensitive cases. And the system recognizes that *pro se* litigants who do not have the ability to access the system are not legally penalized for not being able to do so. This insures fairness to all.

In conclusion, we continue to look forward in the process, adding essential case types to our programs and delivering court services with efficiency and compassion to those who need it so dearly.

Sincerely,

Timothy C. Idoni
Westchester County Clerk
Chair, Supreme Court (Civil) Advisory Committee on E-Filing



QUEENS COUNTY CLERK
CLERK OF THE SUPREME COURT
COMMISSIONER OF JURORS



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

Erika Louis
*Administrator
County Clerk Operations*

Raymond M. Weaver
First Deputy County Clerk

Jerome White
*Deputy Administrator
County Clerk Operations*

January 15, 2025

Christopher Gibson, Director
Division of E-Filing
NYS Office of Court Administration
25 Beaver Street, 9th Floor
New York, NY 10004

[via email:efilingcomments@nycourts.gov](mailto:efilingcomments@nycourts.gov)

Dear Mr. Gibson:

I was so happy to hear about the recent legislation passed lifting the current restraints on the Chief Administrative Judge to introduce e-filing programs in all courts and counties as he deems appropriate. This will be done after consulting with the bar and other affected parties/groups with the consent of the County Clerks.

Electronic filing proves to be very successful in our county and has been embraced by the bar and court users. Although legislation is in place for continued exemption of mandatory e-filing for unrepresented parties unless they choose to participate, electronic filings continue to steadily increase each year. The legislation in place to ensure the safeguarding of confidential records has been proven beneficial as 90% of our filings last year were electronic and 68% of our matrimonial cases were electronically filed.

As always, I applaud the NYSCEF Resource Center's collaboration with my office to address concerns and provide continuous enhancements to the system. Thank you for the opportunity to comment on the past year experience of electronic filing in Supreme Court, Queens County, and I look forward to continuing working with you and your team.

Very Truly Yours,

Hon. Audrey I Pheffer
Queens County Clerk

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

Appendix E

Comments from Other Stakeholders



Owen G. Wallace, *President*
Onika D. McLane, *Vice-President*
Jennifer S. Candelario, *Secretary*
Brendan Cyr, *Treasurer*

Peter McGowan, *Immediate Past President*

Timothy K. Beeken
John D. Bové
Jennifer Pordes
Bradley Rank
Bradley Small
Robert T. Westrom
Directors

January 17, 2025

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

Re: 2025 NYSCEF Comment Letter

Dear Mr. Gibson,

We write on behalf of the Managing Attorneys and Clerks Association, Inc. (“MACA”), in response to the December 16, 2024 notice to comment on our experience with electronic filing and the NYSCEF system. We welcome this opportunity and thank you and the Office of Court Administration for seeking the views of the bar on these important subjects.

As you know, MACA is comprised of approximately 125 law firms with litigation practices (primarily large and mid-sized firms) and in-house law offices, as well as the New York State Attorney General’s Office. Managing attorneys’ and managing clerks’ positions within our respective firms and concomitant responsibilities afford us a breadth of understanding of the day-to-day operations of the various state and federal court e-filing systems. Our members have extensive experience with e-filing in NYSCEF, in other states’ e-filing systems, and in the federal e-filing system. In a majority of our member firms, managing attorney or managing clerk staff perform the actual e-filing and retrieval of litigation papers in NYSCEF. Furthermore, some of our member firms handle matters that fall outside standard civil litigation, such as matrimonial actions, proceedings in Family Court and Criminal Court, and

residential foreclosure and consumer credit actions, either as part of their regular business or on a pro bono basis. In that vein, we are pleased to see that Governor Hochul has signed the recent legislation permitting Chief Administrative Judge Zayas to institute e-filing in all of the State's trial courts.

General Assessment

We continue to find NYSCEF a very effective tool, both as our means of serving and filing court papers and as the courts' readily accessible online record of their cases. The technology is reliable; we very rarely experience a service disruption and in this regard, NYSCEF compares favorably with the federal CM/ECF and other states' systems.

In our experience, a substantial factor in NYSCEF's success is the NYSCEF Resource Center (a.k.a. the Statewide E-Filing Resource Center). Their staff operate an effective help desk that provides competent e-filing problem-solving services. In addition, leadership of the Center for many years has been receptive to our feedback and suggestions, sought our input on new proposals and developments, and alerted us and other bar associations to e-filing-related changes to help us ensure our firms adapt efficiently.

2025 Comments and Suggestions

Integration of eTrack/eCourts

MACA is generally quite satisfied with NYSCEF as an e-filing system, however, conspicuous by its absence on NYSCEF is any indication of future court dates and appearances. Many other court's e-filing systems include such information, but on the New York Courts website one must go to a separate location, eCourts, in order to obtain information on upcoming conferences, motion return dates, and court appearances in a particular matter. Similarly, unlike alerts for new court filings, NYSCEF does not send out e-mail notifications when new court dates are scheduled. Instead, an attorney, litigant, or interested party must enroll in a separate service known as eTrack via the eCourts website for each particular case to receive such e-mails.

Because eTrack is often the only way for an attorney or litigant to learn of upcoming court appearances, and one must affirmatively sign-up to track each case, it is not uncommon in New York State Court practice for a party to miss a scheduled appearance, necessitating the matter be rescheduled. This is of course a tremendous waste of everyone's valuable time and resources, not to mention an annoyance for all involved. The advent of remote court appearances via MS Teams, while a welcome addition, further adds to the confusion since attorneys have become accustomed to receiving a calendar invite by email from chambers for remote appearances, but receive no automatic calendar notifications for in-person appearances or other calendar items which are not sent directly from chambers. While some chambers have begun posting a "Court Notice" to NYSCEF anytime a conference or oral argument is scheduled, others do not, which adds to the confusion and is only a "notice" as opposed to an actual calendar marking.

While MACA would ideally like to see full integration of eTrack/eCourts with NYSCEF, we believe that two simple steps would help reduce confusion about future court dates and appearances and add efficiency for litigants when calendaring court dates:

First, make enrollment in eTrack automatic when an attorney files an appearance in a case on NYSCEF. There is already some interaction between the two systems, as an attorney can use one's Attorney Online Services account login (which also may be used for NYSCEF) for eTrack. And after an attorney commences a new action on NYSCEF, the system provides a link to eCourts for the attorney to set up case tracking. But this still requires an opt-in from the user. With hopefully just some additional programming, making eTrack enrollment an automatic part of a NYSCEF user's filing process could greatly alleviate the problem of inadvertently missed court appearances.

Second, provide a direct link from the case page on NYSCEF to the corresponding case page on eCourts. Litigants, attorneys, and the public should be able to access all information about a particular case from a single source, and as e-filing has now become widespread, it is only sensible that NYSCEF should be that source.

Downloading And Printing Multiple Documents

Currently, NYSCEF enables a viewer to download or print a single document at a time. The ability to batch print or download would be a wonderful functional addition. A routine request of the managing attorneys' and managing clerks' offices is to obtain sets of documents e-filed on various platforms. While the ability to locate and print single documents on NYSCEF is above par, it requires quite a bit of time and effort to download or print multiple documents, such as a set of documents related to a particular motion, including exhibits. It would be a welcome update if we could select multiple documents at a time, or all documents related to a particular motion and have the ability to download or print with a single click.

Additionally, we believe the same download or print functionality that is available for printing a docket list should be added for the case detail for respective appearances of parties' counsel and individual attorney's full case list. Currently, we use a web print function to print those lists, and the results can be incomplete or oddly formatted.

Date/Time e-Filing Stamp on All Filings

With respect to the NYSCEF system affixing a date/time stamp to the header of most filings, we question why the system does not date/time stamp certain e-filed documents. For example, letters/correspondence and proposed Orders do not get any type of filing stamp when they are uploaded to NYSCEF. Other than the docket entry there is no confirmation that the document has been e-filed. It is possible the reason for this is the expectation the Court will act upon the correspondence or proposed Order and upload an endorsed or executed version of same, thus placing another stamp on the filing and causing "clutter" at the top of the document. It would be helpful, and is more important to us to have the stamp on of the initial filing for purposes of attorneys' records and posterity than it is to avoid the clutter. We understand that "entry" of documents is a County Clerk function, but NYSCEF has the ability to date/time stamp e-filed documents without adding the "Entered" or "Filed" designation. This is already done with Notices of Motion, which are not marked "Filed" until they are fully processed. In the

interim they merely have a filing date stamp along with the Index Number listed. The extra stamp on those documents does not clutter the header stamp.

Ability of Counsel of Record to File on Behalf of a Non-Party

While the NYSCEF system generally permits the filing of documents on behalf of non-parties, once an attorney records their representation for a party in a particular action, that attorney may not subsequently record their representation for a non-party in the same action. There are occasions, however, when an attorney of record for a party needs to file on behalf of a non-party. For example, when an entity related to a party has been served with a subpoena and retains that party's attorney to move to quash or file some other relevant document with the court. However, since that attorney has already recorded a representation for a party, the NYSCEF system will not allow the attorney to check the box indicating the filing is on behalf of the non-party. While the attorney may still file by leaving the non-party box unchecked, there is no way for the attorney to add the non-party to the list or record a representation for the non-party. We would like to see the prohibition on counsel of record filing for non-parties removed such that counsel can register an appearance for both a party and a non-party.

* * *

Again, we are grateful for the opportunity to comment on NYSCEF. We are enthusiastic supporters of the system and eagerly look forward to the expansion of e-filing and improvements to NYSCEF functionality.

Respectfully submitted,

s/ Owen G. Wallace
MACA President
Managing Attorney
Cahill Gordon & Reindel LLP
owallace@cahill.com

Comments from Other Stakeholders

From: [Harper, Bonnie](#)
To: [eFiling Comments](#)
Subject: Adding Civil Court to NYSECF/efiling
Sent: 1/9/2025 1:05:07 PM

Hello, I write with regard to revising the filing system for Civil Court and request that all of Civil Court move to NYSECF.

As someone who routinely appears in Civil Court (mostly Kings County) for the MTA and New York City Transit Authority*, I am confused why general litigation cases are still using EDDS and paper for filing and have not migrated to NYSECF (or other full-service efilng platform). Frankly, this is a huge hinderance not just to the parties and counsel, but to the Court as well. Judges and clerks cannot find any filings without the character code issued when filed with EDDS. Often, when appearing in person, I need to provide paper copies of the filings to the Judge, who was unable to see everything served and filed prior to the court date. It is inefficient and potentially unjust. It also requires me, and attorneys like me, to make certain we retain all the confirmations of filing with EDDS as we have to provide them to the judge at hearings. Worse, when one of my cases is consolidated with a case in Supreme, the transfer takes at least a year instead of a few clicks of a button. When the transfer finally does happen, everything filed in Civil is now scanned as one huge document in Supreme – it is very difficult to use when all the filings are now one pdf. That does not happen when cases are transferred in Supreme; merely new index numbers are created, and everything scanned into the file is more or less the same, thus benefitting all users. The New York State Workers' Compensation Board moved to an all-digital platform on January 1, 1997. Most cases in Supreme Court have mandatory efilng and have had so for the last five years. Yet, here in Civil Court, things haven't budged much, and I routinely still cross the street and file paper with the court. It is time to move forward and join the rest of the court system. Please make that leap to efilng.

Thank you.

Respectfully,

Bonnie C Harper, Esq

Senior Associate Counsel

Commercial Litigation Unit

Law Department

718/694-5613



*I am not a spokesperson for the Authority; my requests and opinions are my own.

Comments from Other Stakeholders

From: Peter Lomtevas
To: [eFiling Comments](#)
Subject: 90s Technology?
Sent: 1/13/2025 4:24:06 PM

I have yet to see a working, modern filing system in any court anywhere in this country. NYSCEF as with all others is 90s technology with little more than menus with selections. Much does not work.

Entering a new password leads to errors despite careful adherence to rules. Menu choices omit certain actions (inclusion of a legal back with Part 130 certification, for example) while other selections are missing altogether.

Pdfs need to be in the downloads folder for upload otherwise the 90s tech website cannot find extended folders other than *downloads*. Documents have to be split up by the user: exhibits for example. In many cases, the website refuses to upload a file because it is not a "valid" pdf file when in reality it is a valid pdf file.

Using computers is a godsend to lawyers and lawyering. We don't have to pollute the environment with our cars and public transport to file basic documents. We can pay using a credit card. We become more efficient and can spend less on over head as we represent our public. Why can't NYSCEF be more like Facebook or X in the way it accepts and uploads files? Why Windows 95 in its appearance and operation?

Thank you.

Peter

www.lomtevas.com

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DUNNING RIEVMAN & MACDONALD LLP
ATTORNEYS AT LAW

James Montgomery
jmontgomery@drmlaw.com
646-509-1852

Jan. 3, 2025

VIA U.S. MAIL

Mr. Christopher Gibson
Director, OCA Divn. of E-Filing
25 Beaver Street, Room 926
New York, NY 10004

Re: Comment on NYSCEF

Dear Mr. Gibson,

Now that the NYC Civil Court has jurisdiction up to \$50,000, the availability of e-filing in that court is a welcome change. However, a significant limitation is the inability in Civil Court cases to review the entire docket, in the way one can with Supreme Court matters. A change to the system to allow that to happen would be most welcome. I remain,

Sincerely,

A handwritten signature in black ink, appearing to read "James Montgomery".

James Montgomery

1350 Broadway, Suite 2220, New York, NY 10018

PAUL W. MEYER, JR.

Attorney at Law
Admitted in New York and Florida

January 6, 2025

Christopher Gibson
Director, OCA Division of E-Filing
25 Beaver Street - Room 926
New York, NY 10004

Re: E-Filing Program

Dear Mr. Gibson:

My comment to the E-Filing program is relative to the method of removal of consent/representation from an action.

Enclosed herewith is a copy of the instructions set forth in the NYSCEF system as to how an attorney removes himself/herself from the representation of a client. The reasons/methods of removal are flawed. In a matrimonial action, the last reason permitted is that the action is over and irrespective of the pendency of an appeal, an attorney can withdraw if not retained for the handling of an appeal. What about a non-matrimonial action?? No basis for removal as per marital action exists. Why not? I had represented a party in a civil action whereby the action was dismissed. An adversary filed a notice of appeal. While I have not been retained to handle the appeal and the within retainer agreement so provides for same and I have so advised the former client, she refuses to sign a change of attorney herein. As such, I have been compelled to file an OTSC for the relief of removal. Absent same, the adversary would be permitted to name and serve me as the attorney/the representative in the Appeal. This is not proper.

Furthermore, a requirement should be made that representation of a client must be removed from the system when an attorney is discharged by Court Order and or by the filing of a change of attorney. Absent same, the discharged/replaced attorney will still receive automatic notices of filings, etc. While said attorney can still look up the case, why should

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(Fax and Email Not For Service Purposes)

Comments from Other Stakeholders

From: [Marylou Mooney](#)
To: [eFiling Comments](#)
Subject: Comment on Electronic Filings
Sent: 1/15/2025 5:56:47 PM

When an attorney wishes to remove his/her consent to represent a party, the options listed do not cover all circumstances upon which to remove said consent. Often a case concludes on the basis of a Court Order issued on a motion for summary judgment or motion to dismiss. If such a motion is granted, and none of the parties to the action perfect an appeal, then the case is simply over. No Stipulation of Discontinuance can exist in this instance because no one is stipulating to anything – the Court has issued a directive. None of the options listed accommodate this possibility.

I would like to thank you for allowing comments on the e-file system.

Mary-Lou Mooney
Legal Assistant
Kosakoff & Cataldo LLP
175 Pinelawn Road, Suite 100
Melville, New York 11747
631-650-1200
Fax: 631-650-1207
Direct: 631-297-8146
mmooney@kcllp.net

From: [Michelle Locklin](#)
To: [eFiling Comments](#)
Subject: Comments on E-filing
Sent: 1/15/2025 3:09:58 PM

Good afternoon,

I would like to make a suggestion regarding e-filing. In federal court and in the NJ Courts you are able to open all documents related to a single filing by clicking a button. For example, if a motion was efiled along with the affirmation in support and exhibits, you would be able to click that button which would open the motion documents as one file. This would make the process of viewing and saving the filing much easier and more time efficient.

Thank you for any consideration given.

Michelle Locklin
Legal Assistant to William J. Mitchell, Esq.
Bongiorno, Montiglio, Mitchell & Palmieri, PLLC
200 Old Country Road, Suite 680
Mineola, New York 11501
Phone: (516)620-4490
Direct Dial: (516)620-4533
Fax: (516)742-1790

Michelle.locklin@bmmplaw.com



Bongiorno
Montiglio
Mitchell &
Palmieri, PLLC

Comments from Other Stakeholders

From: Mitchell Dranow
To: [eFiling Comments](#)
Subject: Case Searches
Sent: 1/16/2025 11:21:38 AM

First, I love the system. I'm 63 and still marvel at it. I feel that I may be missing this, but if not, could you insert a link on every page that can take a user directly back to the **Case Search** page?

Thanks.

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January 6, 2025
Page -2-

same receive notices when no longer involved in the case. As such, whether by Court Order as to a discharge order pursuant to CPLR, or a filed change of attorney filed in the Court NYSCEF system, a relieved attorney must be ordered to forthwith remove his/her representation of said client.

Very truly yours,

Paul W. Meyer, Jr.

PWM/cd
Enclosure

Comments from Other Stakeholders

From: [Bradley Oastler](#)
To: [eFiling Comments](#)
Subject: Comment - eFiling expansion/amendment
Sent: 12/31/2024 11:35:13 AM

Mr. Gibson,

In response to the solicitation of comments regarding the proposed amendment/expansion of eFiling, I wish to offer a few thoughts as an everyday user of NYSCEF. I am the chief of the Appeals Bureau in the Onondaga County District Attorney's Office and use NYSCEF on a daily basis for criminal appeals. I have found the implementation of mandatory NYSCEF filing in that context to be an excellent change from prior practices, and only hope that paperless processes may yet expand to criminal matters in their entirety. But, to the extent that we now employ NYSCEF for criminal appeals, there are a few shortcomings that stand to be addressed.

More detail in notification emails

While I began drafting this email, I received an email alerting me to the entry of an order in one of the 380 appeals in which I have logged representation. This required me to click the hotlinked order, enter my password, and review it. The order was for the extension of time to file a reply brief by a defendant. That is relief sought by my opponent which I cannot (by court rule), nor would I ever (ethically), oppose, and which in reality does not affect the case. But it still took a portion of time, and diverted my attention from another task, all of which was unnecessary. The contents of that order (or at least the nature of it: "extension of time for reply brief granted") should be visible in the email alert, which would allow me to glean the necessary information without logging in and wasting further time. It would seemingly require an additional, or perhaps just a modified, drop-down-box style input by the court clerk, but would save me a minute of time on the back end. I received 125 NYSCEF notification emails in December 2024, so the time savings stands to be significant, with a negligible added investment of time by court staff.

Archiving old cases

As I mentioned, I am presently registered on 380 appeals on behalf of the Onondaga County District Attorney's Office. I received eight new cases in December 2024 on which I recorded representation. We resolve several dozen criminal appeals each year, but I am reticent to remove my recorded representation in case of future changes in filing procedures or additional unexpected filings under existing KA numbers. There is no ability to archive or "hide" completed cases. In the coming years, the number of cases on which I or some future appellate bureau member will be registered on will be enormous. There should be some way to either make cases dormant and remove representation, or otherwise protect against risk that some unexpected filing goes unnoticed.

Office/Firm accounts

My colleagues and I record representation, of course, on behalf of the Office. There is no way for a government office or a law firm, to my knowledge, to create an account. This should be an option, such that when a colleague departs, they can remove their representation without the Office risking accidental oversights on pending cases. It

Comments from Other Stakeholders

also would eliminate the need--as I learned when I took over this role from my predecessor, and my remaining appellate colleague simultaneously departed--to compile a list of all pending appeals, and to individually assign myself to them. The number was merely 100+ in January 2023 when that shift occurred, significantly less than it is now. This would further facilitate firm- or office-wide handling of cases, as support staff would be more easily empowered to access NYSCEF, and a firm account could remain attached to a given case in perpetuity without burdening my individual account with what could be thousands of cases.

Additional search filters

Perhaps narrow to criminal appeals, but many of the pending appeals have only the initial paperwork filed within. Oftentimes, the cases are commenced but are not perfected or perfected only after significant time. Being able to filter cases by age of last submission or by number of documents submitted would enable practitioners to more easily determine if certain cases have languished or might be ripe for motions to dismiss. Piggybacking on my above comments, it would also enable easier "archiving" of older matters that are completed.

Notice of Entry

It is unclear to me if formal Notice of Entry is permissible to include at the conclusion of an appeal. There is an option to upload a copy of the Appellate Division decision, but there is no clear guidance on whether that would constitute appropriate notice. A document upload option specifically for Notice of Entry would be useful for all parties, and would not be inappropriate given that formal service of other documents in connection with an appeal is satisfied by eFiling through NYSCEF.

Thank you for the continued improvements to NYSCEF and consideration of practitioners' thoughts.

Bradley W. Oastler
Senior Assistant District Attorney
Law and Appeals Bureau
Onondaga County District Attorney's Office
505 South State Street, 4th Floor
Syracuse, New York 13202
PHONE: (315) 435-3916 x4319

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Comments from Other Stakeholders

From: [Julie B. Friedman](#)
To: [eFiling Comments](#)
Subject: Comment on e-filing
Sent: 1/17/2025 4:15:02 PM

Greetings,

RE: Need for attorney accounts tied to employment and not attorney registration number.

When attorneys leave our office, we need to remove them from our cases, since most of which are sealed, and replace with another attorney - even for closed cases. For some attorneys, the number of cases could be in the hundreds. We do not feel an agency account would be appropriate for us as individual attorneys would need notice on their cases (in addition to notice to our general email). Thus, it would be helpful if an attorney could establish an account for e-filing that was connected with a current office email address. Then if they left - we would not need to remove them as they would no longer have access to their email account with our agency and therefore no longer access to cases that are sealed. And we would only need to add new counsel for open cases.

Thank you.

Julie B. Friedman
Managing Attorney
Mental Hygiene Legal Service
Albany Regional Office
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Phone: 518-471-4870

Office Email: AD3-ARO-MHLS@nycourts.gov

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Comments from Other Stakeholders

From: [Alex Vays](#)
To: [eFiling Comments](#)
Subject: Comment on Electronic Filing Program
Sent: 1/14/2025 11:21:40 AM

Dear NYS Office of Court Administration,

What are the most common mistakes users make when e-filing legal papers? We have created [efiling.us](#), an AI legal document reader tool that accelerates the e-filing process through automation which we believe can help avoid common mistakes. Knowing the most common mistakes would enable the tool to avoid them and improve the general performance and satisfaction with the NYSCEF - New York State Courts Electronic Filing System.

We fully support the initiative to create a more efficient and effective court system in New York State and expand the coverage for e-filing throughout the State.

Thank you,

Alexander Vays, Esq.
CEO

(e) alex@efiling.us (w) www.efiling.us



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Comments from Other Stakeholders

From: Christopher DelliCarpini
To: [eFiling Comments](#)
Subject: Comments on E-Filing
Sent: 12/30/2024 12:06:44 PM

Thanks very much for inviting comments on e-filing.

There are three changes I'd like to see to the program.

1. It would help if we could e-file documents for in camera inspection. Right now, we have to physically deliver to chambers documents for in camera inspection. Seems like we should be able to indicate that an e-filed document is for in camera inspection only, and that NYSCEF would accordingly limit access to court staff. And in cases where parties are required to submit documents for in camera inspection — for example, an unreacted copy of a redacted medical expert opinion — e-filing would make it easier not just to comply but to prove compliance.

2. I'd also like the ability to e-file files other than PDFs. Often we have video evidence in cases, and when that's to be an exhibit to a motion, we have to physically deliver copies to the clerk and the parties. YouTube has let people upload videos for twenty years now, so it seems like NYSCEF should be able to handle e-filing of video and audio files.

3. It would also be a big help if court orders were simply deemed entered at the time of e-filing. Failing that, I'd like some way to know whether and when an e-filed order is officially entered. We can't file notice of entry to start parties' time to notice appeal until the order is entered. It appears, however, that every court has different practices: some courts consider a document entered upon uploading to NYSCEF, while others take days to e-mail notification of entry on an e-filed order. Even a link within each case to that particular clerk's policy on entry of orders would be a help. But why can't the courts uniformly enter an order at the same time it's entered?

Thanks for the improvements we've seen recently; being able to designate filings as related to multiple motions is a particular help.

Christopher J. DelliCarpini
Sullivan Papain Block McManus Coffinas & Cannavo PC
1140 Franklin Avenue, Suite 200
Garden City, NY 11530
212.266.4207
cdellicarpini@triallaw1.com

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Comments from Other Stakeholders

From: [Matthew Lizotte](#)
To: [eFiling Comments](#)
Subject: Comments on Electronic Filing Program - Matthew W. Lizotte, Esq.
Sent: 12/29/2024 9:55:31 PM

To Whom It May Concern,

I have been using the NYSCEF System since I was admitted to the bar. I regularly use the NJ ECourts e-filing system as well. I am familiar with the e-filing systems in other states and my comments are informed by that knowledge.

1. Consolidate e-courts and NYSCEF like Connecticut.
2. Expand e-filing to all civil matters statewide. It promotes transparency and fairness.
3. Remove the requirement of the notice of electronic filing. Instead include a QR code on filed documents, a link, or a sentence explaining that the documents are available online.
4. Allow attorneys to select dates that are convenient for their petition return dates in civil court. Remove the computer assignment of dates in New York Civil Court.
5. Centralize or make uniform all e-filing rules for all judges statewide.
6. Allow parties to fix filing errors on consent. And allow a simple application to the clerk then to a judge, if denied by the clerk, for fixing filing errors. Errors are sometimes missed in busier courts. Whether a document is returned for correction should not be based on the Court you are practicing before.

Thank you for your time and consideration.

Sincerely,

Matthew W. Lizotte

Law Offices of Matthew W. Lizotte

1 Blue Hill Plaza - Lobby Level

Suite 1509

Pearl River, NY 10965

(845) 414-3331

Lizotte-Law.com

Comments from Other Stakeholders

From: [Debra Sambataro](#)
To: [eFiling Comments](#)
Subject: Comments on Mandatory E-Filing programs
Sent: 1/10/2025 4:31:54 PM

Greetings,

I have had the following issues with the NY County Supreme Court NYSCEF system:

- Unresponsive NYSCEF clerks that do not answer phone calls or emails
- Unacceptably long wait for the issuance of Index Numbers. In one instance I had to go in person to the County Clerk's office after two days of waiting for the index number to obtain one.
- Unacceptably long wait for the entry of judgments, that at the present are taking three full months to be uploaded and made available to the parties.

Debra Sambataro
Senior Staff Attorney

Due to an office move, all staff at Manhattan Legal Services are working remotely starting January 6, 2025.

Email is preferred to U.S. mail. Effective January 6th, 2025, our new mailing address is 2090 Adam Clayton Powell Jr Blvd, 5th Floor, New York, NY 10027. We will be open to the public on Monday, January 27th, 2025.

Tel. (646) 442-3153

Fax (646) 891-1933

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Comments from Other Stakeholders

From: [Diana J. Szochet](#)
To: [eFiling Comments](#)
Subject: Court Attorney Referees
Sent: 1/10/2025 10:58:01 AM

It is problematic that once assigned a case, Referees do not receive electronic notice of court documents filed in the case thereafter, especially Judgments of Divorce.

Diana J. Szochet
Diana J. Szochet
Court Attorney Referee
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Comments from Other Stakeholders

From: [Roninson, Rebecca \(LABOR\)](#)
To: [eFiling Comments](#)
Subject: Comments on NYSCEF
Sent: 1/16/2025 10:21:10 AM

Hello,

I find the e-filing system to mostly be easy to use except for documents that are returned for correction from the county. I am responsible for filing instant judgments for the Department of Labor and if documents are returned the comments from the clerks do not necessarily appear for me as the authorized e-filer.

A feature that would be extremely helpful is the ability to transcribe judgments from one county to another within the NYSCEF system. We are currently waiting months for something that should be able to be transmitted instantly from one county to another.

Thanks,

Rebecca Roninson

Administrative Assistant 1

New York State Department of Labor - Division of Labor Standards

Interest Penalty & Collection Section

Harriman State Office Campus

Building 12, Room 185A, Albany NY 12226

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WE ARE YOUR DOL



From: [Regina M. Fitzgerald](#)
To: [eFiling Comments](#)
Subject: Efile New Case Search Suggestion
Sent: 12/31/2024 10:55:20 AM

It would be helpful for the public to be able to search new cases by including a case type along with the date filed and County. Otherwise, you have to sort by case type then take a guess at where that would be in the pages of cases produced. This would be helpful to the public & court employees both.

Regina Fitzgerald

Senior Court Clerk

Guardianship Records

King's County Clerk's Office

360 Adams Street, Room 122A

Brooklyn, NY 11201

(347) 404-9808

rmfitzge@nycourts.gov

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Comments from Other Stakeholders

From: [Richard Semegram](#)
To: [eFiling Comments](#)
Subject: Consenting on cases
Sent: 12/31/2024 11:14:14 AM

Dear E-filing comments

E-Filing is largely a massive improvement in my practice and I am grateful. I practice primarily in Kings County Civil Court, landlord tenant.

My comment is a request to allow a change of consent in batches rather than manually for each case. When an attorney leaves an my organization and moves to another employer, often they are required to remove consent from every case they are on, even if the litigation is long over and the case is fully disposed. This is time consuming and monotonous. Is there a way that a feature could be added to 'consent on all cases' for one staff member?

Thank you

Richard Semegram|Supervising Attorney
The Legal Aid Society - Civil Practice|Brooklyn Neighborhood Office
111 Livingston Street|Brooklyn, New York|11201
cell: 917-565-0793|fax: 646-449-6928|Rsemegram@legal-aid.org
pronouns: he/him/his
www.legalaidnyc.org



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Comments from Other Stakeholders

From: [Peter Kijewski](#)
To: [eFiling Comments](#)
Subject: December 16, 2024, Notice for 2025 Annual Report on Electronic Filing
20250112 January 12, 2025, NYS Electronic Filing System - Peter Kijewski
Attachments: Comments.docx; Peter K Kijewski 20200627 NYSCEF Registration Form -
60606-2015 Westchester Supreme Court.pdf;
Sent: 1/12/2025 5:32:28 PM

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

Dear Mr. Gibson, January 12, 2025

I am an experienced NYSCEF user, including NYSCEF document filing. I will print and mail the appended document about the New York State Unified Court System NYSCEF filing system to your office.

Appended is my June 27, 2020, Registration Form for a failed attempt to obtain NYSCEF username/password.

Peter K. Kijewski, PhD



Peter Kijewski
23 Shipyard Drive #307
Hingham, MA 02043
Cell: 914-281-4893
Email: pkijewski@outlook.com

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Comments from Other Stakeholders

From: [Michael W. Goldstein](#)
To: [eFiling Comments](#)
Subject: Efile Payments
Sent: 1/16/2025 2:58:33 PM

Re: Efile Credit Card Payment Surcharge

1 When the charge appears on my credit card statement, despite having entered the client name on the efile payment screen, there is no indication of the client's name on credit card statement, so very difficult to determine which client the court fees should be charged to

Is there any way to get a chronological (or reverse chronological) list of all payments I have made & identify which case each payment relates to?

2 The Efile Credit Card Payment Surcharge is annoying both because it is an extra cost, but also because it changes round amounts (\$45, \$210, etc.) to odd amounts with dollars & cents.

Can the credit card surcharge be eliminated?

3 Can a debit option be added to avoid the credit card surcharge. If so, please include a feature that will automatically include the case name on the bank statement.

Thanks,
Michael

Michael W. Goldstein
Email: mwglawyer@gmail.com

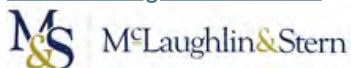
From: [Cami Negus](#)
To: [eFiling Comments](#)
Subject: Efiling Comments
Sent: 1/15/2025 12:24:50 PM

Hello:

I use the NYSCEF often mostly in Supreme Court matters and my only suggestion would be to make the filing process the same for each Court using the electronic system. For ex. the Surrogate's Court is very different and much less user friendly than that of the Supreme Court. Surrogate's Court does not allow for review of uploaded items to confirm what has been attached is in fact the correct document. Thank you.

Cami Ellen Negus
Paralegal

McLaughlin & Stern, LLP
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Comments from Other Stakeholders

From: [Lindsie Alterman](#)
To: [eFiling Comments](#)
Subject: E-filing Comment
Sent: 12/30/2024 12:37:35 PM

Good afternoon,
Please add a drop down option for the e-filing of a motion submission form which is required by Queens County Supreme Court 2 days prior to all motion return dates.
Thank you,
Lindsie B. Alterman
Chesney, Nicholas & Brower, LLP
485 Underhill Boulevard, Suite 308
Syosset, New York 11791
(516) 378-1700
(516) 378-7633 (Fax)
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From: [Michael Curtis, Esq.](#)
To: [eFiling Comments](#)
Subject: Efiling comment
Sent: 1/17/2025 2:54:57 PM

Good afternoon. My suggestion is that when an individual signs up for case alerts on eTrack, they are sent an alert when there is a new filing on the docket. At present (as far as I am aware), case updates that are sent out do not include docket filings.
Thanks for your consideration.

KAHANA:FELD
UPSTANDING. OUTSTANDING. UNDERSTANDING.



Michael J. Curtis, Esq.
Partner

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Comments from Other Stakeholders

From: [Ralph Branciforte](#)
To: [eFiling Comments](#)
Subject: E-Filing Comments
Sent: 12/24/2024 10:30:45 AM

To Whom it May Concern:

Good morning. This is not necessarily a comment but more of a general question: Will the eFiling program be expanded to include filings for L&T and Civil cases in the City and District Courts?

Thank you,

Ralph Branciforte

Partner



Email: rbranciforte@sahnward.com

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Please consider the environment before printing this email.

From: [Maria Mahoney](#)
To: [eFiling Comments](#)
Subject: e-filing in District Court Civil Division
Sent: 1/7/2025 2:37:58 PM

Good afternoon,

My experience with eFiling comes from working in Supreme Court. I found it to be the best record of court papers and filings I have experienced. The ease of looking for motions/orders/filings was wonderful. The time saved in clicking and finding as opposed to getting up from the counter or your desk and getting a physical file, which may be stored in a room far away, and sifting through the paperwork for a specific item was immeasurable. The ease of scanning and filing to make a record was terrific.

Currently the District Court does not have eFiling. The amount of space and files and paper used is overwhelming. The money the court can save by converting to eFiling is tremendous. I have implemented scanning of Judges orders and stipulations/discontinuances into UCMS and have saved man hours of looking for and rummaging through files when a phone call comes in and requests some information. I am a big proponent of implementing eFiling in the District Court.

Respectfully,

Mary Mahoney

Principal Court Clerk

Mmahone1@nycourts.gov

631-381-6017

Comments from Other Stakeholders

From: [Sanderson, Joseph](#)
To: [eFiling Comments](#)
Subject: E-Filing Comment
Sent: 12/26/2024 12:36:20 PM

I strongly support the continued expansion of e-filing in all state courts. I write to highlight a few constructive points regarding how the system might be improved.

First, NYSCEF has technical limitations regarding sealed documents that often require “old-school” service in addition to electronic filing. For example, a non-party – even if authorized by court order to see a sealed filing, such as one that they filed themselves – cannot access sealed filings on NYSCEF. This has been a major issue in a case where I represent a non-party movant who could not see the court’s order on his own motion because he was classified by NYSCEF as a non-party. Similarly, NYSCEF does not contain a docket event to allow an amended complaint to be filed under temporary seal to allow an opposing party to move to seal it when, for example, it quotes material obtained in discovery pursuant to a protective order but the filer does not believe it meets the high standards for permanent sealing.

Second, county clerk backlogs in processing electronic filings remain stubbornly long, particularly in New York City. I would support increasing filing fees, especially in commercial and other high dollar value cases, to better fund county clerks’ offices and other court operations. Filing fees have not remotely kept pace with inflation and are much lower than many states (and orders of magnitude lower than many foreign countries such as England). Court users who can afford it should bear more of the cost of maintaining high quality court operations. Court delays are a major access to justice issue in this state, with people kept in marriages they do not want to be in or facing other important delays as a result of underresourced courts.

Third, with the amendments to CPLR 2106 to allow unsworn affirmations in place of affidavits, guidance would be welcome as to whether a non-e-filer affiant is required to sign a hard copy of an affirmation or use a forensically-sound electronic signature such as DocuSign. Typed signatures are widely used but clarity would be appreciated. Additionally, the

Fourth, NYSCEF lacks certain docket events that would be useful. In appellate courts, I often have to file letter applications as “Exhibit,” for example.

Fifth, Supreme Court special proceedings related to enforcing judgments for child support or spousal maintenance should have a separate category so that they are automatically filed confidentially as DRL 235, etc., requires.

Sixth, the court system ought to create an automated NYSCEF form-generator for uncontested divorces similar to how it generates automated RJIs. This is an area where judges have told me that too much of their and clerks’ time is taken up with form-filling errors by unrepresented litigants.

Best,

Joseph Myer Sanderson

Associate

Steptoe

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[Steptoe Bio](#)

Comments from Other Stakeholders

From: [gil.perez](#)
To: [eFiling Comments](#)
Subject: EFILING Solicitation or Comments
Sent: 1/9/2025 6:13:43 AM

Good Morning:

1. If you want emails provide an email address. Not everyone has outlook and in fact many do not set it up. Links work sometimes.

2. The filing system in the Case file numbers the documents. When downloaded, that number should (or could) be in the file name as the first number so the cases sort in the folder as they do in your folder. Could also be a letter. but when I download, they go random, and I have to either number them or sort them differently.

3. Sometimes when when I travel, (Egypt, Kenya) the filing system does not work.

But I must say, the system is amazing and has really changed how lawyers work and how law is administered in the state of New York.

Gil Perez
4207148

From: [Fontanelli, Davia](#)
To: [eFiling Comments](#)
Subject: Efiling system
Sent: 1/14/2025 8:33:59 AM

The "Other" or "Miscellaneous" document should be an option. It comes up frequently.

The courts do not see the same way that the filer sees-we get this comment frequently. It would be helpful if the info that the court/recipient sees is similar to the list we have or what we see when we e-file.

The system is user friendly, except finding your document can sometimes be difficult, especially with an unusual Petition.

Thank you.

Davia Fontanelli
Paralegal

Comments from Other Stakeholders

From: [DiGuida, Jamileh-Sofia](#)
To: [eFiling Comments](#)
Subject: E-Filing.
Sent: 1/9/2025 11:57:20 AM

I think it would be marvelous.
Thank you.

From: [Matthew Canzoneri](#)
To: [eFiling Comments](#)
Subject: E-Filing
Sent: 1/15/2025 4:51:36 PM

Hello,

I write this email to ask that Civil Court convert from EDDS to regular e-filing. With EDDS, the various attorneys are not able to view each other's filings and pleadings, and in order for the Court to view a document they have to be told the six character code for that particular document. Converting over to regular e-filing will make it easier for attorneys and the Court to view and share documents. Thank you for your consideration.

Regards,

Matthew

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Property Damage Trial Attorney
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Comments from Other Stakeholders

From: [Vincent Spata](#)
To: [eFiling Comments](#)
Subject: E-Filings nyc civil court
Sent: 1/9/2025 10:38:50 AM

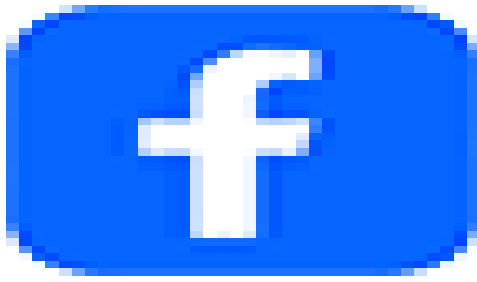
To Whom it May Concern,

The NYC Civil Courts have been open to efilng in a limited capacity, and it's been working wonderfully for those areas thus far.

But the other aspects of Court, non-no-fault and non-Landlord/Tenant law, have been relegated to the antiquated EDDS system, which does not allow visibility of filings and requires parties to provide a 6 character code for the Court to view documents. We understand that the Governor has opened efilng to the rest of the Courts, for all areas, and we hereby request that the NYC Civil Courts join efilng for all cases.

Joining efilng will streamline processes, decrease adjournments, reduce paper and costs and bring us closer to where we should be.

Vincent Spata, Esq. | Associate



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Comments from Other Stakeholders

From: [Tmnit Tewolde](#)
To: [eFiling Comments](#)
Subject: Filing System Comment -- Case Search By Firm Name
Sent: 1/14/2025 3:46:33 PM

Good afternoon,

NYSCEF is pretty user friendly for the most part (which I love), so the only comment I would make is whether there is a possibility of being able to search by firm name under the "Name Case Search". Sometimes we have a firm approach us for co-counseling opportunities and it would make finding the related cases easier to search. I've added a visual below (haha).

The screenshot displays the 'Case Search' interface of the New York State Unified Court System (NYSCEF). The header shows 'New York State Unified Court System' and 'NYSCEF - New York State Courts Electronic Filing (Live System)'. The 'Case Search' section has tabs for 'Case Identifier', 'Name', 'Tax Cert/SCAR', and 'New Cases'. The 'Name' tab is active. Below the tabs, there are instructions: 'Business/Organization name requires at least 2 characters. First and Last name require at least 1 character.' The 'Name Type' section has radio buttons for 'Party' (selected) and 'Attorney', with a handwritten 'Firm' next to the 'Party' option. Below this is a text field for 'Business/Organization'. Further down are three text fields for 'First', 'Middle', and 'Last' names, followed by a green 'Search' button. Below the search fields is a section titled 'Narrow Your Results' with instructions: 'When searching by Date, both the Start and End Date are required.' This section includes a 'County' dropdown menu (set to 'Please select...'), a 'Case Type' dropdown menu, and two date fields for 'Filing Start Date' and 'Filing End Date' (both with calendar icons). A final green 'Search' button is at the bottom of this section.

Thank you!

Tmnit Tewolde
(she/her)
Legal Assistant

PCVA
ATTORNEYS AT LAW

Comments from Other Stakeholders



Legal Services of
the Hudson Valley

Protecting Rights Promoting Justice

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914-402-5 185 Fax

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LSC America's Partner
for Equal Justice
LEGAL SERVICES CORPORATION

VIA EMAIL: efilingcomments@nycourts.gov

January 17, 2025

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

Re: New York State Courts Electronic Filing Program

Dear Director Gibson:

Thank you for the opportunity to comment on the New York State Courts Electronic Filing Program. We are writing from [Legal Services in the Hudson Valley](#) with a mission “to provide high-quality counsel in civil matters for low-income individuals and families and other vulnerable persons who do not have access to legal representation and to pursue equity through dismantling systemic oppression.” As such, this issue greatly impacts our clients.

We strongly support the e-filing expansion bill that Governor Hochul recently signed, which amends CPLR Article 21-A and other relevant statutes permitting the Chief Administrative Judge (CAJ) to institute e-filing in all of the State's trial courts.

As you are likely aware from the [2022 National Center for State Courts report](#) titled “Self-represented efilings: surveying the accessible implementations,” a “structural-access bias” exists in most efilings systems that are designed by and to benefit the traditionally sophisticated court user to the detriment of the self-represented, low-income individual or family, and other public users, even though a large majority of users are unrepresented and [an estimated 74% of low-income households experienced at least one civil legal problem in the past year – with many households dealing with multiple problems](#). Research supports that if the NYS Office of Court Administration **designs the electronic court access system to meet the needs of all users by reducing barriers to access, then we move toward a fairer, more efficient, and more accessible system, especially for our most vulnerable and most in need of support.**

This research makes some important conclusions:

- All litigants, especially those who are low-income and unrepresented would benefit from the ability to file legal papers remotely at any time, day, or night.
- It is the best practice for the electronic filing system to accommodate filers who request a fee waiver.
- The systems should be built so that users can, whenever possible, communicate in their native language because non-English speaking users have additional barriers to justice.
- Disability accommodations for efilers can also increase user access, with thoughtful attention to options for people with disabilities as required by the Americans with Disabilities Act.

Page 2 of 3
Christopher Gibson, Director
OCA Division of E-Filing
January 17, 2025

- Court service technology barriers can feed a perception that unrepresented user participation in the courts doesn't matter; so, a clear, informative, and accessible presentation of these e-resources to the public, especially to low-income populations, can increase the public's overall trust in the judicial system.

As such, while we appreciate the "opt-out" rule for efilers due to the "[digital divide](#)", our experience shows that increasing access to the online court systems and efilers for our client **provides significant benefits** for telephone-based advice and counsel cases, as well as the [limited scope](#) and full representation cases, by allowing for

- expanded access to Legal Services, especially for services to low-income individuals outside of urban areas, disabled, or elderly, allowing us to handle more cases, advise/advocate quicker, and limit the burden on resources, courts, and court personnel,
- significant and increased amount of *pro se* support; many clients want to be their own best advocates; it's empowering and specific to their goals; they just need our guidance, and welcome the opportunity to manage their case if we can point them in the right direction;
- expedited communication with the court, which is an effective way for courts and advocates to move matters to resolution,
- a decrease in costs and time expenditures, reducing the need for in-person attendance for low-income individuals already limited in funds, transportation, and resources,
- increase meaningful involvement, such that clients are less likely to miss the opportunity to participate in their case, seek support, or prepare for critical issues,
- de-escalation of contentious proceedings, addressing matters more efficiently, submitting their complaints in a simplified manner with an interactive process.

We want to emphasize that having access to **an electronic copy of a case file is extremely helpful** in determining the issues and action steps needed. Many of our clients have a loose understanding of their matter, and as such, reviewing the court file without an appearance in the case is extremely helpful in getting to the point of the problem and determining which cases need immediate attention and resources. **Email communications with clerks are appreciated.** The time, energy, and cost of copying a case file in person are often so prohibitive to our clients that they cannot obtain the file at all. Furthermore, requiring hard copies is unnecessary in this age of electronic documents.

Despite New York's progress in this arena, we would like to draw your attention to a series of problems that persist in our system, which needs further attention and resolution:

- Lack of uniformity in Smaller Courts (i.e. Justice Courts and some smaller City courts), as these courts remain limited (and resistant) to the options of e-filing or online court records, which creates a system that is neither concurrent with modern court practice or goals of access to justice for all, nor efficient. For example, one City Court in Westchester required a legal services attorney to personally drive to court and sit in the unused courtroom to review a court file at the watchful eye of one of many clerks instead of providing a copy of the court file electronically (by pdf or email) as requested;

Comments from Other Stakeholders

Page 3 of 3
Christopher Gibson, Director
OCA Division of E-Filing
January 17, 2025

- Discretionary barriers to public access to court records: some courts are under the impression that an attorney appearance is needed to access court records; many of our clients are denied access to their court files; we attempted to clarify some of these misunderstandings, but all courts need to be aware, that unless marked as confidential, court records should be available to the public to view on request, especially attorneys not ready to appear; furthermore, just because a case is older or in archives, should not mean that it is inaccessible.
- Unrepresented users' permission to enroll in NYSCEF takes too much time; as we move into an age where the public is increasingly competent in their use of electronic and online resources, so too should the expediency of their ability to use the e-court system; many of our clients want to use the NYSCEF e-filing system, are capable of using it, but this permission can take weeks to obtain by way of a consent form and NYSCEF staff permissions that are not readily clear on the website; the process by which clients can opt-in to NYSCEF needs to be clearer and fully detailed on the website; opting-in should also be electronic, so as not to delay in their option to e-file in system right away;
- Legal Services agency respectfully requests the option to be a "designed electronic filing agent," on behalf of clients without filing appearance; much of our work can be expedited for those who cannot use the electronic system if we could file documents electronically and be a recipient of documents but without taking full legal responsibility for the case; as the rule states currently, an attorney cannot be a designated filing agent; filing as a "nonparty" often confuses courts resulting in a call from courts, and
- Requiring the unrepresented user who has NOT opted into e-file to, nonetheless, serve hard copies on the attorneys who commenced by NYSCEF, even though these attorneys opted into the system and receive electronic notice of any filings through the NYSCEF, is an unnecessary, duplicative, and onerous requirement on the unrepresented user.

Lastly, ensuring electronic access to court systems is also an issue of racial justice. Individuals of color are not always provided with adequate or timely access to court records or e-filing systems, limiting their ability to fully engage in their cases. Considering and rectifying these barriers to justice is a step towards unraveling the history and systemic issues of bias against people of color, which we know is a critically important goal of the NYS Office of Court Administration.

We thank you again for taking the time to consider the concerns and recommendations set forth in our letter.

Thank you for the opportunity to comment. If you have any questions, please contact Attorney Marcie Kobak at mkobak@lshv.org or Attorney Lee Sauerhoff at lsauerhoff@lshv.org.

Respectfully submitted,

Legal Services of the Hudson Valley

Comments from Other Stakeholders

12/30/24

Dear Mr Gibson:

Thank you for soliciting comments from the public, especially those that use the court system, not just those who benefit from the court system (judges and lawyers).

I have two requests for improvements.

First, I have had multiple cases in New York State courts. In these cases I was pro se because I could not afford a lawyer and neither the courts appointed civil counsel nor was any attorney willing to take the case with reduced rates or pro bono. In at least three cases, the lawyers abused the existing statute that both parties need to consent to a pro se party to efile. In my cases, I wished to accept and complete service though efilng but the lawyers would not accept service through efilng such that I had the expense of service of process. As a pro se, I had the expense of either using a process server or had to find a friend to serve process. This was expensive and difficult. In a foreclosure case where I represented the Estate of Patricia King, my mother, Acting Justice McDonough outrageously refused to allow me to efile even though Key Bank and my sister's attorney were permitted (I believe also required) to efile. A simple statute change that states that either if one files electronically, one must accept service through electronic filing, would solve this problem.

Second, I have multiple cases in multiple courts. It would be far more efficient if individuals could create accounts just as attorneys can; the existing technology allows for setting up individual accounts. I probably have eight separate accounts with different user names and passwords. It is difficult to remember all the passwords and it puts an unnecessary burden on pro se litigants in setting up an account with NYSCEF each time he or she must start or defend case; this can be injurious if there are tight deadlines, such as being a defendant in a foreclosure case.

Certainly, many nonlawyers may have only one case, but chances are, as one goes through life, there will be multiple cases, as I have had. There is no reason that I can see why nonattorneys should not be permitted to have efilng accounts as the lawyers do.

I am providing a PDF for your ease of forwarding this letter to interested parties.

Again, thank you.

Sincerely yours,

Jared King

nwfg@email.com

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calendly.com/jaredking

www.linkedin.com/company/new-world-financial-group/?viewAsMember=true

www.linkedin.com/in/jared-king-alternativeassetmanager/



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January 17, 2025

Alan Levine
President

Twyla Cater
Attorney-in-Chief
Chief Executive Officer

Adriene L. Holder
Attorney-in-Charge
Civil Practice

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

Re: New York State Courts Electronic Filing Program

Dear Mr. Gibson:

We write in response to the request for comments on electronic filing in New York State Courts for inclusion in the Office of Court Administration's 2025 annual report and in support of the recently signed e-filing expansion bill amending CPLR Article 21A to give the Chief Administrative Judge (CAJ) the authority to make electronic filing mandatory statewide in any or all New York State trial courts. We appreciate the opportunity to comment and offer our insights and recommendations on electronic filing and the New York State Courts Electronic Filing System (NYSCEF) in New York State Courts and the ongoing dialogue we have had with the Office of Court Administration's (OCA) Division of E-Filing about its expansion. We also applaud the OCA's continued expansion of e-filing and other technology used by the courts during the coronavirus pandemic.

As providers of free legal services to low-income New Yorkers and active members of several statewide e-filing advisory committees,¹ we believe the time has come to move away from the incremental approach of expanding e-filing of the last two decades. There must be equal access to e-filing for all court users in all New York State courts, including unrepresented litigants who should have the option to benefit from e-filing like those represented by counsel.

Expansion of E-Filing

E-filing and other technology are essential tools to expand access to justice. All litigants, especially those who are low-income and unrepresented, would benefit from immediate access to court records and the ability to file legal papers remotely at any time, day or night. Immediate electronic access also permits the court to be confident that it has a complete record when reviewing a case. Litigants with disabilities that limit their mobility can benefit from electronic access to court files without the need to travel to the courthouse.

¹ Including the Supreme Court (Civil) Advisory Committee on E-filing, Legal Services Advisory Committee on E-filing, and Civil Court Advisory Committee on E-filing.

Justice in Every Borough.

At the same time, the court must ensure both access to e-filing and safeguards for the unrepresented who opt-in to using this system. Importantly, the new e-filing expansion legislation takes into account the “digital divide,” by making the default for unrepresented litigants opt-out; meaning that *pro se* litigants who want to file, must affirmatively “opt-in” to do so. However, for those unrepresented litigants who do opt-in to e-filing, the current system is not user-friendly for non-lawyers or people who do not e-file regularly.

An e-filing system should be designed to be accessible and easy to use for all court users, otherwise it results in uneven access to the advantages it offers, disadvantages unrepresented litigants, and creates a system of unequal access to the courts. The reality is that most unrepresented litigants are unable to access the benefits of e-filing through the existing system in courts where e-filing is already available. We echo the concerns raised in the past by other legal service providers about lack of access to computers, internet, software, hardware, and difficulty filing on NYSCEF in those cases where e-filing is already available.

Recommendations:

To address these concerns in part, we therefore make the following recommendations:

- Unrepresented litigants should continue to be exempt from e-filing but should be allowed to opt-in if they so choose.
- Language access: For New Yorkers not proficient in English, the prospect of navigating the legal system is daunting, especially for those who have no choice but to represent themselves. Any e-filing program should ideally be provided in the primary languages spoken in New York. At a minimum the notice to opt-in must be provided in each of these languages so litigants can make an informed decision on whether to participate. The notice should make it clear that it is not mandatory and inform them of what is required to successfully e-file. For those who do choose to opt-in, the NYSCEF website should also be translated into the primary languages spoken in New York. Currently, NYSCEF is only in English.
- Because many low-income litigants do not own or have access to personal computers (but do have smartphones), the courts must provide the technology and other means for those who choose to opt-in to be able to e-file papers. The court could do this in a number of ways. One way is to make available at self-help centers, legal services offices, public libraries and other forums shared public computers for the purposes of permitting *pro se* litigants to e-file. Another is by developing a system by which *pro se* litigants can e-file papers via their smartphones.
- Dedicated *pro se* assistance: The primary and essential requirement for *pro se* litigants to successfully utilize e-filing is adequate staffing and e-filing support. In expanding NYSCEF to new courts and case types, particularly cases with high rates of self-representation in high-volume courts, there must be adequate support for those who choose to e-file.
- Data analysis and transparency: We also recommend that OCA collect, analyze, and make publicly available data from NYSCEF, including about how it is used and by who in order to increase transparency and encourage public trust in the courts, promote accountability, and allow for creative problem-solving.

NYC Civil Court Consumer Credit Pilot

A lack of NYSCEF in consumer credit actions in New York City Civil Court means that *pro se* defendants face barriers to navigating the court system including lengthy delays in accessing court files² required to file legal papers to vacate default judgments, respond to motions, consider settlement options, and obtain legal assistance.³ Moreover, if and when the physical court files are retrieved, key documents are often missing.⁴ With the backlog in the court docket and Electronic Document Delivery System (EDDS) filings, it has become a regular occurrence for hearings to proceed where the judge does not have the court file or motion papers before them and rely entirely on information and assurances provided by plaintiff's counsel. Without NYSCEF, defendants must resort to more costly and complex paper service process under time constraints not present with electronic filing. Also attendant with paper filings are burdens associated with transportation to and from the courts, administrative costs, and employment and/or childcare concerns.

Expanding NYSCEF to Civil Court consumer credit actions would allow *pro se* litigants to overcome many of these existing barriers to navigating the court system. However, expansion of e-filing to case types with high numbers of unrepresented litigants, such as consumer credit actions, is new territory for the courts, and should first be tested through a pilot program. We therefore urge CAJ Joseph Zayas and OCA to introduce an e-filing pilot program for consumer credit cases in one of New York City's Civil Courts. The pilot should be implemented in a way that avoids unintended consequences for the unrepresented and allows for analysis and modification before expansion to the remaining boroughs. There should be dedicated *pro se* e-filing court clerks to assist unrepresented litigants who want to participate in e-filing; reliance should not be placed on existing court personnel tasked with other responsibilities.

The goals of the pilot program should include: (1) testing e-filing technologies and processes with end-users, including and in particular unrepresented litigants; (2) soliciting and incorporating feedback from end-users into the design (and potential redesign) of technology choices and e-filing processes; (3) identifying those unrepresented litigants and other court users for whom e-filing is and is not likely to be beneficial; (4) developing appropriate safeguards for unrepresented litigants informed by feedback from end-users; and, (5) collecting, analyzing, and making publicly available data from the pilot program.

Finally, we recommend the pilot also incorporate remote practices the court developed during the pandemic and has retained and expanded upon in its wake, including allowing all litigants the option to appear virtually in court proceedings without condition. Virtual appearances and other remote practices implemented during the pandemic reduced some of the burdens associated with in-person appearances for many *pro se* litigants. The pilot should ensure that litigants in these proceedings

² In our experience, it takes on average 6 to 8 weeks to obtain NYC civil court files older than 3 years and these files are archived in offsite storage facilities.

³ The most common filings in consumer debt cases require access to affidavits of service, motions to dismiss and for summary judgment.

⁴ NY Judiciary Law § 255-255-B (Public right to inspect and copy records and filings in New York courts).

continue to be able to access the full range of remote services and associated benefits that other court users enjoy.

Supreme Court

Even before the pandemic, Supreme Court began rolling out e-filing, with unrepresented litigants only opting-in to the process. Today, almost all state Supreme Courts participate in e-filing. E-filing has proven to be a huge asset to Supreme Court.

It allows for instantaneous filing of documents and review of files. For matters with attorneys, it was extremely needed. However, for *pro se* litigants who opt-in, as mentioned above, there are insufficient resources to assist them including court staff to assist and computers to upload documents. Further, we have heard of experiences where unrepresented litigants were pressured to opt-in and were provided inaccurate information about being required to e-file.

Though some practice areas in Supreme Court see limited *pro se* litigants, others can have over 50% of their cases with *pro ses*. Some of these matters, such as matrimonial, include issues of custody and orders of protection. In that regard, in matrimonial matters, the court should make it easier for plaintiffs to opt-in to e-filing in default cases.

If the court is to continue to serve all New York, it must create safeguards for the unrepresented.

Family Court

New York City Family Courts recently expanded its pilot project to more courts. Previously, documents were emailed to the clerks through EDDS. Similar to Civil Court, petitions that were emailed were lost, multiple petitions were filed and not linked, so matters were on in different courts for the same issue. Litigants were not notified, and after waiting almost a year, their matters were dismissed. There was limited ability to mark matters as urgent (except for orders of protection), so petitions languished. Cases were not docketed for months, and then notifications went out haphazardly.

The expansion of e-filing in Family Court has changed the landscape the landscape for the better. Documents are not lost, litigants and attorneys can see what is filed in their cases, and there is a record of the filing. Cases are given a date relatively quickly but because of lingering COVID-era delays and judicial shortages, some of those dates are calendared on average 12 months out.

While the e-filing rollout has been relatively successful in Family Court, the same issues in Supreme Court continue to limit that success: more clerks are needed to assist *pro se* litigants with e-filing and process the petitions, and more accessible technology is necessary. However, we support the continued expansion of e-filing in Family Court and recommend that CAJ Zayas and OCA maintain e-filing in all of New York City.

Housing Court

In New York City Housing Courts, NYSCEF has been overwhelmingly successful in two-attorney cases, and should now be made more accessible to *pro se* litigants through the use of forms that allow tenants to electronically file orders to show cause, answers, HP proceedings, and motions with user-friendly online tools and the option to upload exhibits that are both PDFs and JPEGs from a computer, tablet, or smartphone. Especially since documents filed with the court no longer need to be notarized, there should be no barrier to an accessible e-filing option for *pro se* litigants.

E-filing tools should also automate service to City Marshals in eviction cases and HPD in HP cases through NYSCEF without the need for additional service.

Communications from the court via NYSCEF need to be sent to tenant phones via text and not only by email for communication with tenants to be effective.

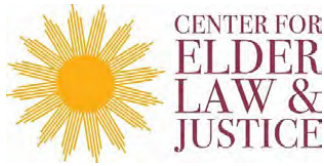
Finally, in all cases, NYSCEF should be integrated with the court's eCourts system for a single system that alerts all litigants and counsel when court dates are scheduled and/or rescheduled.

The Legal Aid Society commends OCA for their efforts to expand the use of e-filing and technology in our courts. We support the expansion of e-filing and the proposed amendment to grant the CAJ the authority to implement mandatory e-filing in New York courts, subject to the recommendations herein.

Thank you for your consideration,

Adriene Holder
Attorney-in-Charge
Civil Practice
Legal Aid Society
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New York, NY 10038
212-577-3355
aholder@legal-aid.org

Comments from Other Stakeholders



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175 Walnut St, Suite 1 • Lockport, NY 14094
314 Central Ave, Suite 300 • Dunkirk, NY 14048
(716) 853-3087
www.elderjusticenyny.org

January 13, 2025

By Email

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: Request for Public Comments - Annual Electronic Filing Report

Dear Director Gibson:

The Center for Elder Law & Justice (“CELJ”) appreciates the opportunity to submit comments toward the Office of Court Administration’s (“OCA”) Annual Electronic Filing Report. CELJ is an 80-person full service regional civil legal services organization with the mission of using civil legal services to help older adults and those with disabilities, live with independence and dignity. Our services include consumer law, healthcare advocacy, kinship care, elder abuse, eviction defense, and foreclosure defense, amongst other matters.

While we mainly offer full representation, we do provide limited scope service and/or advice and counsel on matters, as the demand for civil legal assistance outpaces available resources. For example, we offer advice to individuals on how to answer a lawsuit on their own behalf if we are unable to take on a matter for full representation. We serve individuals in all counties of Western New York where one in every seven Western New Yorker is considered impoverished¹, and poverty rates range from 9.6% to 16.3%.² The majority of our clients are of limited means, many have transportation issues or are homebound due to medical issues, and many have limited access or ability to use computers.

We generally support the use of e-filing procedures for attorneys who have the means and capabilities. We especially want to highlight our support of the provisions that exempt self-represented individuals from the e-filing requirements (NYS Uniform Rules Civil Courts §202.5-bb(e)). However, we suggest that there be an increased effort to train county clerk offices in how to work with self-represented individuals who are seeking both to file an affirmative action and to defend a pending action.

We have encountered several situations in which individuals we offer advice to on filing answers or representing themselves in a lawsuit have been required by their county clerks’ offices to e-

¹ G. Scott Thomas, *Here’s where you’ll find the most poverty in Western New York*, Buffalo Business First, Oct. 20, 2020, available at <https://www.bizjournals.com/buffalo/news/2020/10/20/poverty-across-western-new-york.html> (last accessed Aug. 15, 2023).

² Office of the NYS Comptroller, *New Yorkers in Need: A Look at Poverty Trends in NYS for the Last Decade*, December 2022, available at <https://www.osc.ny.gov/reports/new-yorkers-need-look-poverty-trends-new-york-state-last-decade> (last accessed Jan. 16, 2024).

Comments from Other Stakeholders

file documents with no assistance even though they are self-represented and have not opted in to e-filing. This is extremely problematic as our clients generally do not have access to the computer equipment needed to e-file on their own. A recent individual we assisted had to print out the e-filing account set-up form, drive somewhere to get it notarized, then scan it back into the computer and submit it. The individual then had to scan the documents for filing into the computer and figure out how to submit them on NYSCEF with no assistance. Most of our clients would not be able to do this and this presents a serious access to justice issue. We strongly encourage enhanced training and protocol development to address the challenges faced by pro se litigants who need assistance and guidance on the manner in which they can access the court system to exercise their rights.

We thank OCA for inviting these comments and appreciate the opportunity to share our experience.

Respectfully,

Amy Gathings, Esq.

Comments should be sent by e-mail or regular mail to either of the following addresses:

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

Looking forward to your comments.

cc: Hon. Joseph A. Zayas, Chief Administrative Judge
Hon. Norman St. George, First Deputy Chief Administrative Judge
Justin Barry, Esq., Executive Director, NYS Office of Court Administration
David Nocenti, Esq., Counsel, NYS Office of Court Administration
Mindy Jeng, Esq., Special Counsel to the Executive Director, NYS OCA
Anthony Perri, Esq., First Deputy Counsel, NYS Office of Court Administration
Phyllis Mingione, Esq., Chief Management Analyst, NYS OCA Division of E-Filing


**Roemer Wallens
Gold & Mineaux LLP**
Counsellors at Law

VIA ELECTRONIC TRANSMISSION:

efilingcomments@nycourts.gov

January 2, 2025

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

RE: Comments on Electronic Filing Program

Dear Mr. Gibson:

In response to the Notice Seeking Comments on Electronic Filing Program, I again renew and offer my comments as I did back in December 2021. I enclose a copy of that letter here.

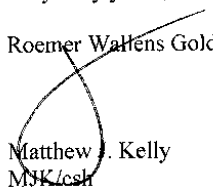
To date, this issue has yet to be resolved and continues to place a hinderance on attorneys who are seeking to file motions to change venues pursuant to CPLR §511(b). Instead, NYSCEF representatives have been directing all inquires to said issue to the individual County Clerks for them "to tell us how they want to handle it". Since 2021, each County Clerk which I have had the pleasure of speaking with on this issue has acknowledged the inadequacy of the NYSCEF system in this regard.

Although we were advised in 2022 that this issue was being evaluated and that a solution would be forthcoming to rectify this issue, no such solution was ever implemented after 3 years. Defendants are being forced to file paper hard-copy motions (if the County Clerk begrudgingly will permit said filing) causing all papers related to the motion to be filed in paper format, contrary to the purpose of the NYSCEF system.

I would appreciate your immediate correspondence to me to acknowledge receipt of this and advise me whom else I should contact so that this problem can be remedied.

Very truly yours,

Roemer Wallens Gold & Mineaux LLP


Matthew J. Kelly
MJK/csh
Encl.

13 Columbia Circle
Albany, New York 12203

Ph. 518.464.1300(ext. 312)
Fx. 518.464.1010

mkelly@rwgmlaw.com



VIA ELECTRONIC TRANSMISSION: efilingcomments@nycourts.gov

February 14, 2022

Jeffrey Carucci
Director, OCA Division of E-Filing
Office of Court Administration
25 Beaver Street, Room 1062
New York, NY 10004

RE: Comments on Electronic Filing Program

Dear Mr. Carucci:

On December 15, 2021, I wrote to you to offer my comments pertaining to a significant issue with respect to the NYSCEF system. These comments were not sent to you randomly and were in response to the Notice which was published in the New York Law Journal requesting public comments of NYSCEF.

To date, we have not received any acknowledgment of this letter, although, we requested an acknowledgment of the same.

I would appreciate your immediate correspondence to me to acknowledge receipt of this and advise me whom else I should contact so that this problem can be remedied.

Very truly yours,

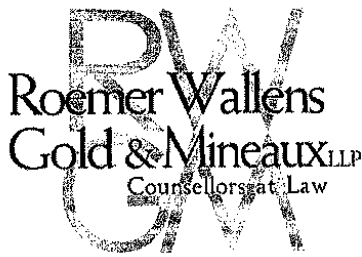
Roemer Wallens Gold & Mineaux LLP

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Fx. 518.464.1010

mkelly@rwgmlaw.com



VIA ELECTRONIC TRANSMISSION: efilingcomments@nycourts.gov

December 15, 2021

Jeffrey Carucci
Director, OCA Division of E-Filing
Office of Court Administration
25 Beaver Street, Room 1062
New York, NY 10004

RE: Comments on Electronic Filing Program

Dear Mr. Carucci:

Pursuant to the Notice in the New York Law Journal, I am writing to offer my comments pertaining to what we believe to be a significant issue with the NYSCEF system.

I represent upstate entities that frequently bring on motions to change venue based on forum selection clauses. As you may know CPLR §511 specifically provides that I may bring that motion to change venue in the county in which I want to move the case to.

However, on two separate occasions in the most recent months, I have been precluded from filing this motion as specified in the CPLR due to the limitations and inadequacies of the NYSCEF system. I have addressed those issues with the County Clerks in both Warren and Ulster County and have been advised that this is not an issue that can be remedied by the County Clerks as it is a limitation of NYSCEF.

As you may or may not be aware, NYSCEF does not permit me to commence an action by virtue of a motion to change venue although the CPLR states that I may do so. In fact, my office has had communications with your office wherein we were advised that your office was aware of this exact issue and attempted to offer a "workaround". That is, we were directed that in order to circumvent the limitations of NYSCEF, we were to file a summons with the caption reversed directing the now defendant to respond to the motion to change venue. I attach a copy of such correspondence.

Please keep in mind, plaintiffs rarely move to change venue, as this is normally a remedy for defendants, therefore, this "workaround" is inadequate. As I am sure you are aware, most courts are moving to a strictly e-filing system, and because of this, they will not allow paper filings of these motions in order to keep the integrity of the caption as originally filed. Forcing a party to bring a completely separate action and requiring them to "flip" the caption to circumvent the inadequacies of NYSCEF has complicated matters significantly.

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Comments from Other Stakeholders

Jeffrey Carucci
December 15, 2021
Page 2 of 2

It is of no passing matter, since there is a strict time limit for defendants to bring on the motion to change venue under the CPLR.

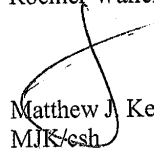
We respectfully request that an option be allowed under "Commencement of an Action" to be "Motion to Change Venue" so that these situations be eliminated.

Please be advised that our office has filed numerous motions to change venue under CPLR §511 "in paper" with the County Clerks around the State in the past. We have never been charged a "motion fee" of \$45.00, as they are considered commencement documents and are already being changed \$210.00 for an index number and \$95.00 for the RJL. We believe that the \$45.00 fee in this instance be waived through NYSCEF, as well.

I would appreciate your immediate correspondence to me to acknowledge receipt of this and advise me whom else I should contact so that this problem can be remedied.

Very truly yours,

Roemer Wallens Gold & Mineaux LLP


Matthew J. Kelly
MJK/csh
Encl.

Courtney S. Herkel

From: Courtney S. Herkel
Sent: Wednesday, December 15, 2021 2:14 PM
To: efilingcomments@nycourts.gov
Cc: Matthew J. Kelly
Subject: Comments on Electronic Filing Program
Attachments: Ltr to NYSCEF regarding efiling issues 12-15-21.pdf

Attached please find correspondence from Mr. Kelly regarding this issue.

Thank You.

Courtney S. Herkel
Paralegal
Roemer Wallens Gold & Mineaux, LLP
13 Columbia Circle
Albany, NY 12203
Tel No. (518) 464-1300, ext. 419
Fax No. (518) 464-1010
cherkel@rwgmlaw.com



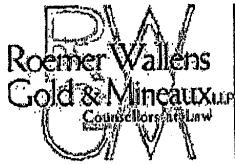
Courtney S. Herkel

From: Courtney S. Herkel
Sent: Monday, May 10, 2021 2:25 PM
To: lathamc@warrencountyny.gov
Subject: FW: eFiling Website

As discussed. Any information or assistance you can provide, would be most appreciated.

Thank You.

Courtney S. Herkel
Paralegal
Roemer Wallens Gold & Mineaux, LLP
13 Columbia Circle
Albany, NY 12203
Tel No. (518) 464-1300, ext. 419
Fax No. (518) 464-1010
cherkel@rwgmlaw.com



From: nyscef <nyscef@nycourts.gov>
Sent: Monday, May 10, 2021 2:15 PM
To: Courtney S. Herkel <CHerkel@rwgmlaw.com>
Subject: RE: eFiling Website

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The work around is similar to e-filing a motion for summary judgment. You'll e-file a summons that directs the defendant to answer the notice of motion within the required time. That will be document #1. Your notice of motion will be uploaded as doc. #2. The documents can go in any order after that. The caption in this proceeding will be reversed. The plaintiff will actually be the defendant in this action. The movant will be listed as a plaintiff. If the Judge assigned to the case directs the case to be transferred the case will be assigned a new no fee index number so that won't cause any issues.

-Mike

Michael Baccellieri
E-filing Resource Center
646-386-3033
25 Beaver Street
New York, N.Y. 10004

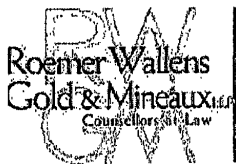
Comments from Other Stakeholders

From: Courtney S. Herkel <CHerkel@rwgmlaw.com>
Sent: Monday, May 10, 2021 11:06 AM
To: nyscef <nyscef@nycourts.gov>
Subject: RE: eFiling Website

The Warren County Clerk directed me to your office. We are aware that we have to pay for a new Index Number and RJl. If you could please provide the work around, I would be most appreciative.

Thank You.

Courtney S. Herkel
Paralegal
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13 Columbia Circle
Albany, NY 12203
Tel No. (518) 464-1300, ext. 419
Fax No. (518) 464-1010
cherkel@rwgmlaw.com



From: nyscef <nyscef@nycourts.gov>
Sent: Monday, May 10, 2021 11:02 AM
To: Courtney S. Herkel <CHerkel@rwgmlaw.com>
Subject: RE: eFiling Website

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Unfortunately, there is no method available in NYSCEF for filing this type of motion. Many counties offer a work around so that filers can still file their documents electronically but it requires paying for a new index number and an RJl. I can provide you with the work around that some counties use but I think you should contact the Warren County Clerk's Office and find out from them first if they will accept it electronically.

-Mike

Michael Baccellieri
E-filing Resource Center
646-386-3033
25 Beaver Street
New York, N.Y 10004

Comments from Other Stakeholders

From: Courtney S. Herkel <CHerkel@rwgmlaw.com>
Sent: Monday, May 10, 2021 9:56 AM
To: nyscef <nyscef@nycourts.gov>
Subject: eFiling Website

I am attempting to file a Motion to Change Venue in a matter in case.

Original matter was filed in Washington County
Answer and Demand to Change file to change venue to Warren County
Plaintiff did not oppose venue change which means we now need to file Motion to Change Venue in Warren County

How do I efile this? There is no selection for this type of document in Commencement Documents.

This Court does not accept paper filings.

Thank You.

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NEW YORK STATE

Unified Court System

OFFICE OF COURT ADMINISTRATION

JUSTIN BARRY, ESQ.
EXECUTIVE DIRECTOR

CHRISTOPHER GIBSON
DIRECTOR, OCA DIVISION OF E-FILEING

To: Bar Associations, Legal Service Providers, Attorneys, and Other Interested Persons and Organizations

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

Date: December 16, 2024

Re: New York State Courts Electronic Filing Program

The NYS Office of Court Administration will be submitting its annual electronic filing report on February 1, 2025, to the Legislature, the Governor, and the Chief Judge evaluating the State's experience with the New York State Courts Electronic Filing System (NYSCEF). OCA's Division of E-Filing has in years past invited your comments on electronic filing and the NYSCEF system, and once again your invaluable comments for inclusion in this year's report is sought.

For those that might not be aware, I am excited to inform you that Governor Hochul has recently signed the long-sought e-filing expansion bill, which amends CPLR Article 21-A and other relevant statutes permitting the Chief Administrative Judge (CAJ) to institute e-filing in all of the State's trial courts. This legislation, supported by many of you including the New York State Bar Association, The Legal Aid Society, and *The Commission to Reimagine the Future of New York's Courts* and its *Working Groups*,¹ creates a more efficient and effective court system in New York State, and does not alter the requirements of the CAJ to consult in advance of any expansion with the Bar, legal service providers, County Clerks in Supreme Court matters, District Attorneys, and other groups who would be affected by such electronic filing. Further, unrepresented persons continue to be exempt from e-filing unless they affirmatively choose to participate. Moreover, attorneys in cases in which e-filing is otherwise required continue to be able to opt out of e-filing if they lack the equipment or knowledge to participate. Finally, the enacted measure does not alter current requirements of confidentiality in the treatment of actions that require it.

In order that we may have the time needed to prepare the report due February 1, 2025, I ask that as a group, an individual member of a group, or any interested person and/or attorney, submit your comments by January 17, 2025.

¹ Created in June 2020 and charged with making recommendations to improve the delivery and quality of justice services, facilitate access to justice, and to examine technological and other innovations and to make recommendations to better equip the UCS to keep up with society's rapid evolving challenges/changes. Further information about the Commission and its work is available at: <https://www.nycourts.gov/reimagine-the-future/mission.shtml>

Comments from Other Stakeholders

From: DC
To: [eFiling Comments](#)
Subject: NY Courts eFiling system
Sent: 12/30/2024 9:38:05 AM

The NY system is among the better ones I have worked with. The NYSCEF layout presents a decent balance between providing information about system components and functions in a coherent manner, without loading so much data on each screen as to be confusing. That is a difficult balance to achieve, in particular on a budget that is limited compared to those of large, general application software publishers. (Over time, I've become experienced enough with the system that I seldom have to use the manual and help features, so I can't address them.)

NYSCEF has a number of convenient features that are not available on Pacer and systems in several other states. Particularly useful is the ability to view subsets of filings in a case, for example, by motion, by document type, by date or by filer.

The ability to remove and replace an erroneously filed document is also a helpful feature that seems to be available only in some counties (New York, for one) but not others. Extending that ability to all counties would be good. The related return for correction feature available to the clerks' offices is also helpful and generally messages given to a user in the event of a return are understandable.

Comments from eFiling staff and clerks even when documents are not returned are also generally useful, but could be more useful if the ability to engage in dialog with staff through the system was available. Generally, the help line for NYSCEF has put me in contact with people who know the system well enough to be of assistance, but at times the line seems to be understaffed.

Internet access and the fact the system is available without charge are also, from the view of serving the public, valuable features. For non-lawyers, one recurrent issue seems to be confusion about the NY court system components themselves. That translates, for example, to problems executing searches by members of the public in the right database, for example when trying to find cases by index numbers.

Douglas Capuder
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Comments from Other Stakeholders

From: [Louise Dembeck](#)
To: [eFiling Comments](#)
Subject: Mandatory Online Biennial Registration
Sent: 1/3/2025 8:20:28 PM

It's not clear if the comments sought intend to include Attorney Biennial Registration but when I filed online, I was unable to get a copy of my Registration. I don't understand why there was no provision for making or getting a copy of our Registration forms -- it is an important record. Moreover, I had to pay with a credit card because there was no explanation or instruction on how to submit an "echeck". If "echecks" are acceptable, than we deserve to know how to submit payment that way.

Louise #1357714
Louise E. Dembeck

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From: [Mike Halpo](#)
To: [eFiling Comments](#)
Subject: Public Commens - Christopher Gibbsob
Sent: 1/7/2025 9:55:48 AM

Hello I am commenting on the e-filing program:

When a Supreme Court case is disposed of and in the Pre-RJI stage - the case status maintains a Pre-RJI status - rather than "disposed".

Yes a stipulation of discontinuance does indicate a resolution and disposal, but at the top of each case above the document list / case detail section, in the portal, at first glance, it gives the impression that the case is ongoing.

Please consider a software tweak that clearly indicates Case Status - DISPOSED (rather than staying in Pre-RJi in perpetuity)

thank you very much

Please be CAREFUL when clicking links or opening attachments from external senders.

Comments from Other Stakeholders

From: [Dillon, Philip](#)
To: [eFiling Comments](#)
Subject: NYSCEF suggestion
Sent: 1/17/2025 10:04:58 AM

My suggestion for NYSCEF: There should be a mechanism to remove a case from your list of cases once the party you represent is dismissed from the case. For instance, in Stahl v R.P. Brennan etal, Supreme Kings Index # 517595/2022, the parties I represent (the State of New York and related state agencies) were dismissed from the case for lack of jurisdiction. We filed the order with notice of entry granting the dismissal in Nov 2023. But there is no mechanism allowing us to remove our office from the case. The options for withdrawal pertain to change of attorney or court order withdrawal of an attorney from representing a party. There should be some way to avoid getting the regular emails we have unnecessarily received on a matter for which we are no longer involved with. Thank you.

Philip J. Dillon, Esq.

Assistant Attorney General

Office of the New York State Attorney General

State Counsel | Claims Bureau

28 Liberty Street, 18th Floor

New York NY 10005

(212) 416-6066

From: [Marielena Reyes](#)
To: [eFiling Comments](#)
Subject: phone assistance
Sent: 1/7/2025 3:24:00 PM

Hello there and HAPPY NEW YEAR!!!

ECF is fantastic

But the only complain I have about it is the phone assistance.

Every time I call to the number listed, there is no answer, just recordings telling us to send emails, which I have done it, but there is nothing like talking to someone when you have questions.

It is REALLY frustrated not to get someone on the phone when you have simple questions re ECF

Otherwise, as I said above, ECF is fantastic.

Regards

Marielena Reyes

Paralegal

Comments from Other Stakeholders

From: [Katherine Parsons](#)
To: [eFiling Comments](#)
Cc: [Katherine Parsons](#)
Subject: NYSCEF, e-filing: CPLR Article 21-A
Sent: 1/17/2025 10:14:15 AM

Good day,

I am a pro se plaintiff in a medical malpractice case in Onondaga County Supreme Court and am participating in the electronic filing system.

After receiving a motion to withdraw counsel in 2023, I was informed that I did not need to respond but was required to attend the hearing. When I attempted to submit a response, the NYSCEF system was unable to accommodate my materials, which included my response, exhibits, and an audio recording. Despite notifying the court's chambers, my submissions were not accepted during the hearing, and the judge stated, "I do not want to hear from you" (Court transcript).

After several months, I was still unable to log in. After multiple communications with NYSCEF representatives, we discovered that Judge Lamendola's order had not been properly entered, which prevented NYSCEF from granting me access to their system.

As a result, I had to make a 178-mile round trip to submit a physical copy of my materials. While my exhibits were well organized and labeled, the upload quality was poor, and I was instructed to bring the remaining documents to the hearing. Unfortunately, the court declined to accept those additional exhibits again. It is also noteworthy that after the clerk's office received the hard copy submission, it was not uploaded to NYSCEF for five days, which led to allegations of untimely document submissions.

I am planning to appeal to the 4th Department; however, because I am pro se, I have yet to be assigned a docket number and am currently denied access to the 4th Department Appellate NYSCEF system. An attorney would not face such limitations, but as a pro se litigant, I continue to wait for a docket number despite impending motions from the defense.

Additionally, there are significant inconsistencies in the forms and "how-to" instructions on the court's website, which has been recognized as a goal for improvement by the New York State Supreme Court.

Please let me know if I can assist further in supporting the court's goals of consistency and process improvement.

Sincerely,

Katherine Parsons, RN
210 Alpine Lake Rd.
Sidney Center, NY 13839
315-877-1518

Index No. 002925/2020
Parsons v. Bianco, SOS et. al

Comments from Other Stakeholders

From: [Kathleen Lortie](#)
To: [eFiling Comments](#)
Subject: NYSCEF E-Filing Comments
Sent: 1/6/2025 11:28:08 AM

Dear Sir or Madam:

I would like to say that my experiences with NYSCEF for Supreme Court matters has been wonderful. The system is set up well and user friendly. I am a registered user – non-attorney- filer. I am a paralegal. Having our cases set up so that everything is in one place and notifications regarding new filings going out immediately to all counsel involved is a plus. Now, regarding Family Court: It is difficult as a paralegal to not be able to assist the attorneys I work with on our Family Court cases that are E-filed. For some reason, registered users such as myself cannot upload documents to Family Court via NYSCEF. We were able to when using the previous EDDS systems. I can walk into Family Court and file in person, but not on NYSCEF. Making attorneys stop what they're doing to do menial tasks such as uploading, and charging our clients attorney rates to perform these tasks adds to client expenses unnecessarily. Also, when the attorneys print out the case lists from NYSCEF I see that each Petition has its own NYSCEF case, rather than stream-lining the matters into one unit on NYSCEF. Visually it is overwhelming and attorneys must stop and think, 'which filing am I responding to?'

Why are there different rules between NYSCEF Family Court and NYSCEF Supreme? Exhibits attached to Pleadings in Supreme cannot be filed in one PDF with the pleading. Exhibits in Family Court should be filed in one PDF.

NYSCEF Supreme works marvelously, I hope that NYSCEF Family Court follows suit.

Thank you for your time and attention, it is greatly appreciated.

Yours truly,

Kathleen M. Lortie

Kathleen Lortie – Legal Assistant

Donnellan Law, PLLC

658 Malta Ave., Suite 201

Ballston Spa, NY 12020

Ph. 518-884-0200

Fax 518-884-0343

e-mail: lortie@dlawfirmny.com

www.dlawfirmny.com

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Comments from Other Stakeholders

From: [Sara Diamond](#)
To: [eFiling Comments](#)
Subject: Please open the NYC Civil Courts to efilng
Sent: 1/8/2025 4:25:29 PM

Please open the NYC Civil Courts to efilng.
To Whom it May Concern,

The NYC Civil Courts have been open to efilng in a limited capacity, and it's been working wonderfully for those areas thus far.

But the other aspects of Court, non-no-fault and non-Landlord/Tenant law, have been relegated to the antiquated EDDS system, which does not allow visibility of filings and requires parties to provide a 6 character code for the Court to view documents. We understand that the Governor has opened efilng to the rest of the Courts, for all areas, and we hereby request that the NYC Civil Courts join efilng for all cases.

Joining efilng will streamline processes, decrease adjournments, reduce paper and costs and bring us closer to where we should be!

Thank You Very Much,
Sara Diamond

--

Sara Diamond, Esq.
Sara Diamond Law Group, PC
Queens Law Firm, PC
189 Sunrise Highway, Suite 204
Rockville Centre, NY 11570

c: 347 528 1958
f: 347 321 7867
sara.diamond.esq@gmail.com
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Comments from Other Stakeholders

Court.

5. Centralize or make uniform all e-filing rules for all judges statewide.
6. Allow parties to fix filing errors on consent. And allow a simple application to the clerk then to a judge, if denied by the clerk, for fixing filing errors. Errors are sometimes missed in busier courts. Whether a document is returned for correction should not be based on the Court you are practicing before.

Thank you for your time and consideration.

Sincerely,

Matthew W. Lizotte

Law Offices of Matthew W. Lizotte

1 Blue Hill Plaza - Lobby Level

Suite 1509

Pearl River, NY 10965

(845) 414-3331

Lizotte-Law.com

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From: [Joseph Lee Matalon](#)
To: [eFiling Comments](#)
Subject: Word Count Certificate
Sent: 1/3/2025 10:20:33 AM

Since counsel are required to certify that certain documents meet the word count limitations, **(22 NYCRR 202.8b)**, how about adding a “check the box” certification to the filing platform? When uploading a document, the filing attorney would check a box which constitutes the certification, and fill in the number of words.

Good idea, no?

Joseph Lee Matalon

MATALON Esquires PC

1602 Lawrence Avenue

Suite 110

Ocean, New Jersey 07712

(212) 244-9000

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Comments from Other Stakeholders

From: [Matthew Lizotte](#)
To: [eFiling Comments](#)
Subject: Re: Comments on Electronic Filing Program - Matthew W. Lizotte, Esq.
Sent: 1/9/2025 9:27:35 PM

I would like to add to my initial comments:

1. Consolidate e-courts and NYSCEF like Connecticut.
2. Expand e-filing to all civil matters statewide. It promotes transparency and fairness.
3. Save progress for filing when NYSCEF is unable to process the requested filing rather than requiring the user to start the filing from the beginning like New Jersey.
4. Remove the requirement of the notice of electronic filing. Instead include a QR code on filed documents, a link, or a sentence explaining that the documents are available online.
5. Allow attorneys to select dates that are convenient for their petition return dates in civil court. Remove the computer assignment of dates in New York Civil Court.
6. Centralize or make uniform all e-filing rules for all judges statewide.
7. Allow parties to fix filing errors on consent. And allow a simple application to the clerk then to a judge, if denied by the clerk, for fixing filing errors. Errors are sometimes missed in busier courts. Whether a document is returned for correction should not be based on the Court you are practicing before.
8. Create a simpler UI including drag and drop for pdf filing and the order that documents are filed.

Sincerely,
Matthew W. Lizotte
Law Offices of Matthew W. Lizotte
1 Blue Hill Plaza - Lobby Level
Suite 1509
Pearl River, NY 10965
(845) 414-3331
[Lizotte-Law.com](#)

From: Matthew Lizotte
Sent: Sunday, December 29, 2024 9:55 PM
To: efilingcomments@nycourts.gov
Subject: Comments on Electronic Filing Program - Matthew W. Lizotte, Esq.
To Whom It May Concern,
I have been using the NYSCEF System since I was admitted to the bar. I regularly use the NJ ECourts e-filing system as well. I am familiar with the e-filing systems in other states and my comments are informed by that knowledge.

1. Consolidate e-courts and NYSCEF like Connecticut.
2. Expand e-filing to all civil matters statewide. It promotes transparency and fairness.
3. Remove the requirement of the notice of electronic filing. Instead include a QR code on filed documents, a link, or a sentence explaining that the documents are available online.
4. Allow attorneys to select dates that are convenient for their petition return dates in civil court. Remove the computer assignment of dates in New York Civil

Comments from Other Stakeholders

From: [Independent Process, Inc. Servers](#)
To: [eFiling Comments](#)
Subject: SUGGESTIONS FOR EFILING PROGRAM
Sent: 1/3/2025 10:34:24 AM

Hello,

I would like to suggest a way to have all courts accept documents the way they are provided when one goes onto E-courts. For example the RJI addendum is in landscape mode on the site BUT Suffolk County rejects them, this causes the preparer to have to edit the doc to put it in portrait and the space for info entry is greatly reduced.

Also, a way to have ALL courts work with the filer if there is a mistake to remove an attorney and/or misfiled document.

Regards,

Victoria

Victoria Acevedo

Senior Office Manager

INDEPENDENT PROCESS SERVICE
2545 HEMPSTEAD TPK. SUITE 300
EAST MEADOW NY 11554
P: (516) 233-2180 Ext. 1
F: (516)280-5740

From: Knapp, Albert G.
To: [eFiling Comments](#)
Subject: Suggested Changes to NYSCEF
Sent: 1/2/2025 11:54:13 AM

Mr. Gibson:

I suggest you (1) adjust OCR processing so that it does not remove hyperlinks from electronically-filed pdfs, and (2) allow a filer to file on behalf of multiple parties and non-parties in the same transaction.

Thank you,



Comments from Other Stakeholders

From: [Robert Mizrahi, Esq.](#)
To: [eFiling Comments](#)
Subject: Re: Notice Seeking Comments on Electronic Filing Program
Sent: 12/24/2024 3:53:53 PM

Hello,
Hope all is well.
For Landlord-Tenant matters there is no regular marking when a Warrant is "Issued" (the Warrant Requisition filing on NYSCEF would merely say "processed," yet if the warrant is rejected, it also says "processed").
So, if you came across this "processed" marking, you would then need to check notes to see if there is more information there (as to whether the warrant was issued or rejected), and MOST time there are no notes on whether a warrant is issued or rejected.
Thus, one would then need to bother the court and/or marshal to find out, instead the information being generally available.
Please feel free to reach out to me with any questions or if any clarification is needed.
Thank you,
Robert Mizrahi, Esq.*
Mizrahi Law Offices
160 Broadway, Suite 710
New York, New York 10038
Main: 855-384-2869
Fax: 917-595-5371

* Admitted to Practice Law in: New York; U.S. Court of Appeals, 2nd Circuit; U.S. District Court, Southern District of New York; U.S. District Court, Eastern District of New York; U.S. District Court, District of New Jersey; U.S. District Court, District of Connecticut; New Jersey; Connecticut; and Pennsylvania.



Comments from Other Stakeholders

From: [Ronald Francis](#)
To: [eFiling Comments](#)
Subject: REQUEST
Sent: 12/24/2024 1:28:54 PM

Please make EDDS: E-Document Delivery available for Manhattan (NY County) for filing mechanic's liens.

Thank you,

Ronald Francis, Esq.

30 Broad Street, 37th Floor

New York, NY 10004

Tel (212) 279-6536

rf@ronaldfrancislaw.com

www.ronaldfrancislaw.com



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Comments from Other Stakeholders

From: [Gregory Goodman](#)
To: [eFiling Comments](#)
Subject: Support for Efilng
Sent: 1/17/2025 9:50:56 AM

Good morning,

My law firm strongly support the implementation for efilng in the local courts and specifically e-filing civil matters in the Suffolk District courts
Thank you for your time and consideration

Respectfully yours,

Gregory Goodman, Esq.

The Law Office of Gregory A. Goodman, P.C.

380 North Broadway, Suite 305

Jericho, New York 11753

[\(516\) 597-5840](#) | [\(631\) 656-8180](#) (Office)

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[\(631\) 357-2934](#) (Cell)

ggoodman@gganylaw.com (Email)

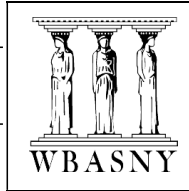
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OF THE STATE



Association

OF NEW YORK

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Linda A. Chiaverini

January 20, 2025

VIA EMAIL

efilingcomments@nycourts.gov

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

Re: Request for Public Comments on the E-Filing Expansion Bill, amending CPLR Article 21-A

Dear Mr. Gibson:

On behalf of the Women's Bar Association of the State of New York ("WBASNY"), I respectfully submit our comments regarding the recently signed law amending CPLR Article 21-A permitting the Chief Administrative Judge to expand e-filing to all the trial courts in New York State. This expansion will significantly enhance the efficiency for court users and improve access to justice, marking a significant step forward in our legal system. Accordingly, WBASNY approves the expansion of the e-filing system to all trial courts in the State.

WBASNY also supports the expansion and retention of current e-filing provisions, including (a) the exemption of unrepresented parties and those attorneys without the technical ability to comply; (b) preserving proper protocols for confidential information; and (c) monitoring by the Clerk of each Court to ensure documents are appropriately uploaded and the assigned Judge and staff receive proper notification. Additional recommendations from WBASNY include offering search capability within NYSCEF drop-down menus and eliminating the \$45.00 fee of a court-appointed guardian or temporary for a short form or *ex parte* order, as similar fees do not apply to court examiners.

Our members appreciate the hard work of your committee and your consideration in reviewing these comments.

Respectfully submitted,

Marea L. Wachsmann
President, WBASNY



January 17, 2025

By Email

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

Re: New York State Courts Electronic Filing Program

Dear Mr. Gibson:

Advocates for Trans Equality (A4TE) submits these comments on electronic filing and the New York State Courts Electronic Filing System (NYSCEF) in support of the NYS Office of Court Administration's 2025 annual e-filing report.

A4TE, formed in 2024 through the merger of the Transgender Legal Defense & Education Fund and the National Center for Transgender Equality, is the nation's largest trans-led advocacy organization. Our Name Change Project, established in 2007, has assisted over 7,000 transgender, gender-nonconforming, and non-binary people seeking name and gender changes nationwide. In New York, our partnerships with 70 law firms have resulted in 2,700 completed name changes across NYC and five counties, while our advocacy efforts helped secure passage of the Gender Recognition Act.

We write to urge the adoption of e-filing for name changes in New York City Civil Court and for greater e-filing privacy protections overall.

Advocates for Transgender Equality
228 Park Ave South, PMB 38268
New York, NY 10003-1502 US

202-642-4542
transequality.org
@transequalitynow

Importance of legal name and gender changes

For many trans people, securing a legal name and gender change is an important step toward making their legal identities match their lived experience. A lack of appropriate identity documents can deter people from applying for jobs, school, immigration status adjustments, public benefits, and can lead to discrimination.

Data from the 2022 U.S. Transgender Survey reveals significant barriers to accurate identification:

- 48% of respondents have no IDs matching their chosen name
- 59% have no IDs matching their gender
- 22% report discrimination, harassment, or denial of services when showing non-matching IDs.¹

A delay in the name change process can have serious consequences for a population that experiences disproportionately high rates of poverty, unemployment and homelessness.² On a happier note, time is also of the essence for people who want name changes completed prior to starting school, graduating, traveling, or getting married so that their documents are in the correct name.

¹ Public Life, 2022 U.S. Transgender Survey, ADVOCATES FOR TRANS EQUALITY EDUCATION FUND, <https://ustranssurvey.org/report/public-life> (last updated Aug. 13, 2024).

² S. E. James, J.L. Herman, S. Rankin, M. Keisling, L. Mottet & M. Anafi, THE REPORT OF THE 2015 U.S. TRANSGENDER SURVEY 3 (2016), <http://www.transequality.org/sites/default/files/docs/usts/USTS%20Full%20Report%20-%20FINAL%201.6.17.pdf> (“Nearly one-third (29%) of respondents were living in poverty, compared to 14% in the U.S. population. A major contributor to the high rate of poverty is likely respondents’ 15% unemployment rate—three times higher than the unemployment rate in the U.S. population at the time of the survey (5%).... [N]early one-third (30%) of respondents have experienced homelessness at some point in their lifetime”); *National Transgender Discrimination Survey—New York Results*, National Center for Transgender Equality and the National Gay and Lesbian Task Force, 2011 http://www.endtransdiscrimination.org/PDFs/ntds_state_ny.pdf (“19% of respondents had a household income of \$10,000 or less, 12% were unemployed at the time of the survey, 18% had become homeless because of their gender identity/expression”).

Recommendations

Recommendation #1 **Allow e-filing of name changes in NYC Civil Court**

We recommend adopting optional e-filing for name and sex designation changes in New York City Civil Court. Currently, it is not possible to e-file name and sex designation changes in NYC Civil Court, where virtually all our New York Name Change Project clients are served. NYC Civil Court allows e-filing only in no-fault cases and in the Landlord and Tenant Division. Although e-filing of name changes is mandatory in Supreme Court, all our NYC participants file in NYC Civil Court because of the vastly lower filing fee (\$65 vs. \$210).

As detailed below, the lack of e-filing creates administrative hurdles and delays in the filing process and creates unnecessary barriers for all name-change petitioners, especially the low-income clients served by the Name Change Project.

1. *Administrative burden on pro bono attorneys and pro-se filers*

Paper filing is an unnecessary administrative burden on our pro bono attorneys and pro-se filers. The law firms that we work with typically do not have other matters pending in NYC Civil Court and clerks or the attorneys themselves must make time-consuming special trips to court to file the matter and obtain certified copies. It is also a burden on pro-se filers who may need to miss work, school, or arrange for childcare in order to travel to court.

Additionally, all our participant's petitions are filed in New York County Civil Court, which uses a paper judicial worksheet (redacted version attached). The worksheet requires the petitioner to verify that the information is correct and must be signed by the petitioner or attorney of record. This verification is needed to confirm that the information from the paper petition was correctly typed into the computer system by the clerk, but errors can still be

overlooked.

Previously, an authorized representative of an organization or law firm was permitted to sign the judicial worksheet at the time of filing. In 2024, however, the clerks instituted a new policy such that now only the petitioner or an attorney of record may sign the judicial worksheet. Requiring the attorney to sign adds a significant barrier to access to name changes by either requiring the attorney themselves to physically file the petition or by requiring the filing clerk to take the unsigned worksheet back to the office, thus requiring two trips to the court to simply file a name change petition.

Clerks in NYC Civil also have a history of imposing burdensome and ever-changing filing requirements for name-change petitioners, which resulted in an Article 78 action and subsequent settlement.³ Unwarranted denials by clerks can result in multiple trips to court just to get a petition filed, which impacts both attorneys and pro-se filers.

A4TE and other legal services organizations in NYC rely on pro bono attorneys to meet the high demand for name-change assistance, and some organizations have had to move away from relying on pro bono attorneys because of on-going challenges with having petitions accepted for filing. This is a loss to the individuals who need legal assistance as well as to the attorneys who want to serve in this way. E-filing would eliminate these barriers and make it easier for both pro bono attorneys assisting with name changes and for individuals to file pro se.

2. Challenges in determining case status

Lack of e-filing means that attorneys and pro-se filers cannot check on the status of the case online. Pending name change matters do not appear in WebCivil Local because pursuant to Section 208.4(5) of the Uniform Rules for the New York City Civil Court, all name changes are sealed at the time of

³ Samantha Max, *NYC just made it easier for people to change their name in court*, GOTHAMIST (July 5, 2024), <https://gothamist.com/news/nyc-just-made-it-easier-for-people-to-change-their-name-in-court>.

filing. Nor will a name change that has been granted permanent sealing appear on WebCivil Local. The court does not notify attorneys or pro-se filers when a name change has been granted or denied, and our pro bono attorneys have reported difficulty reaching a clerk on the phone to find out the case status. There has also been confusion about the court's ability to provide information over the phone due to the matter's sealed status. These unnecessary hurdles would be eliminated by allowing e-filing.

3. Introduction of errors in name-change orders

Ordering certified copies must be done in person and cannot simply be done by mail because of the need to inspect the order for accuracy. NYC Civil Court uses court-generated template orders for name/sex-designation change orders rather than proposed orders. That is useful for pro se petitioners, but errors are frequently introduced because the paper petition must be typed by the clerk into the computer and because the computer system cannot accept accent marks. The accent marks must be handwritten onto the judicial worksheet, and then the judge must notice them and handwrite them onto the order before signing it. All of this could be avoided by e-filing and the use of proposed orders.

Additionally, when it comes to sex-designation change orders, other states may require specific language in the orders in order to correct a birth certificate, and judges currently handwrite the language onto the template order. This could be obviated through e-filing and the submission of proposed orders.

Modernizing the filing of name changes in NYC Civil Court through e-filing would increase access to court-ordered name changes by substantially reducing the burden on the many pro bono attorneys and legal services organizations that assist with hundreds of trans name and gender changes each year. Pro se filers might also find it less burdensome and opt for e-filing.

Recommendation #2
Protect digital privacy of e-filing petitioners

Although we support increased use of e-filing, e-filing raises significant privacy concerns due to third-party court-aggregating websites that use artificial intelligence to rapidly collect and publish court documents. These sites, such as Trellis and UniCourt, can expose sensitive personal information within hours of filing. Courts and the legislature have long recognized the safety concerns with publicizing one's transgender status,⁴ but these concerns extend beyond transgender name-change filings to all e-filed matters.

Aggregators index the documents immediately, potentially making private information permanently discoverable online. Entering person's name in a Google search will often lead directly to case dockets and papers that can be easily opened and downloaded. We have found that sensitive documents have been pulled from numerous name and gender change filings and posted to aggregating websites, even in cases where sealing was ultimately granted.

⁴ New York courts have acknowledged "...risk to one's safety is always present upon public disclosure of one's status as transgender or otherwise gender nonconforming." *Matter of Cody VV. (Brandi VV.)*, 226 A.D.3d 24, 27-28 (3d Dep't 2024). New York's legislature has recognized this safety threat by specifically amending New York's name change statute, Civil Rights Law §64-a, in 2015 to support the holding in *Matter of E.P.L.*, 26 Misc. 3d 336, 339 (Sup. Ct. Westchester Cnty. 2009) (A transgender person "has a right to feel threatened for his personal safety in the event his transgender status is made public."). See N.Y.S. Assembly Bill A02242, signed Chap. 241 (Sept. 22, 2015), https://nyassembly.gov/leg/?default_fld=&leg_video=&bn=A02242&term=2015&Summary=Y&Actions=Y&Memo=Y&Text=Y. See also *Matter of J.A.L.*, No. 10138/2016, 2016 WL 7234140 (Sup. Ct. Suffolk Cnty. Nov. 21, 2016) (granting publication waiver based on the totality of the circumstances even without a particular threat against a transgender name change applicant). These privacy and safety concerns were also sufficient to grant an exception to a policy that would normally require a transgender individual's previous name to be publicly linked to their new name on the New York State Education Department Office of the Professions licensing website. *Matter of John Doe*, [Index Number Redacted by Court], NYLJ 1202601879249, at *4 (Sup. Ct. Westchester Cnty. June 3, 2013).

While an individual can use a sealing order to request removal of the documents, (i) removal requests must be made separately to each aggregating website, (ii) the growing number of aggregating sites makes comprehensive removal an on-going challenge, and (iii) even after document removal from an aggregator site, Google search results that indexed that site may still display sensitive information like previous and new names.

While the December 2024 name-change privacy rule addresses pending petitions,⁵ and permanent sealing protects those who successfully request it, these measures don't address previously scraped data. To resolve these issues, we recommend the courts, governor, and the legislature undertake efforts to address the broad-based privacy concerns raised by sensitive court documents showing up in Internet search results. These measures can include the following:

- Requiring court-aggregating companies to provide blanket opt-out mechanisms for individuals
- Creating liability for companies that publish sealed matters
- Reclassifying all name-change matters as confidential by default, similar to family court and matrimonial proceedings,⁶ which New Jersey has done since 2021.⁷
- Require court-aggregator websites to categorically remove name-change and other sensitive categories of proceedings

Such measures are needed to protect the privacy not only of transgender

⁵ Chief Administrative Judge of the Courts, Administrative Order 286 (Oct. 1, 2024), <https://www.nycourts.gov/LegacyPDFS/rules/comments/orders/AO-286.pdf>. The rule further provides that if permanent sealing of a name change is not granted, the matter will become public, although the petitioner is required to resubmit versions of the documents with confidential personal information removed.

⁶ N.Y. Fam. Ct. Act § 166; N.Y. Domestic Relations Law § 235.

⁷ N.J. Court Rule 1:38-3(f)(10); Executive Order by Governor Murphy ordering that all name changes filed in New Jersey will be exempted from public records request and treated as confidential. <https://nj.gov/infobank/eo/056murphy/pdf/EO-311.pdf> (classifying as confidential all copies of name change orders filed with the NJ Department of the Treasury pursuant to the name change statute) (last visited Jan. 17, 2025).

Comments from Other Stakeholders

A4TE comments on electronic filing

Page 8 of 8

name-change petitioners, but all New Yorkers.

Thank you for considering these comments and working to make the e-filing system more effective, efficient, and safe for all users, including transgender name change petitioners.

Sincerely,



Noah E. Lewis
Name Change Project Legal Coordinator



Ezra Cukor
Co-Interim Legal Director

Enclosure

The extensive submission from **Ravi Batra**, including comments and exhibits, is available in its entirety on the NYSCEF Public Comment Section of the UCS website at <http://www.nycourts.gov/rules/efiling/>.

Public Comments: Annual Report

Public comments received for 2025 Annual Report: addressing users' experience with e-filing in preparation of annual report.

Comments from Other Stakeholders

Civil Court of the City of New York
County of New York

Index Number: NC- -24/NY



In the Matter of the Application of
For Leave to Change Their Name To

**Name and/or Sex Designation Change
Judicial Worksheet**

(First) (Middle) (Last) AKA , AKA to (First) (Last)
(DOB:), residing at

Petitioner verifies that the name and/or sex designation change information in the above caption is correct.

Petitioner signs here: _____

***** JUDGE TO COMPLETE FROM THIS POINT ON *****

[For Name Change] Indicate who should be served a copy of this order with supporting papers:

- ☐ Court that issued the order of spousal support: _____
- ☐ Court that issued the order of child support: _____
- ☐ Child support collection unit: _____
- ☐ Division of Criminal Justice Services
- ☐ Parties: _____
- ☐ Agencies: _____
- ☐ Other: _____

[For Sex Designation Change] Indicate which identity documents should be amended with the new sex designation:

- ☐ The Clerk is directed to seal this proceeding: ☐ at Petitioner's request ☐ sua sponte
- ☐ The Clerk is directed to produce an Order with the above indicated information
- ☐ This application is denied (fully / with leave to renew) for the following reasons: _____

Date: _____

Judge of the Civil Court

Comments from Other Stakeholders

Yvonne Williams
55 Madison Street
Brooklyn NY 11238
January 17, 2025

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

Re: Comments on NYSCEF

NYSCEF, while convenient for its ability to facilitate the filing of thousands of cases in a single day without requiring individuals to travel to the relevant jurisdiction, has significant drawbacks that warrant attention. By utilizing NYSCEF, it becomes impossible to determine whether a document is an original, a photocopy, or a composite of various documents amalgamated to appear as a whole.

I am new to NYSCEF and lack any legal background or experience. My introduction to the system occurred in 2024 when I was involuntarily involved in a lawsuit riddled with forgery and false documentation, including a post-dated judge's order. Although I am not attempting to litigate my case here, I believe it is crucial for the court to be aware of the systemic issues I have encountered with NYSCEF. These issues highlight the need for the system to either be improved to match or surpass the thoroughness of traditional filing systems or to be used solely as a supplementary tool rather than a replacement for more robust systems capable of identifying fraudulent practices. The people of New York deserve better.

On February 29, 2024, my former attorney filed an emergency Order to Show Cause seeking to be relieved as my counsel. She requested a 45-day stay to allow me time to secure new representation. Despite the urgency of an Order to Show Cause, her filing remained pending in NYSCEF for 45 days without being addressed. During this time, the judge and plaintiffs' attorneys continued filing motions and orders while her emergency motion remained untouched. This lack of action led to the defendants, which included me being locked out of NYSCEF, which prevented me from defending myself. Consequently, the plaintiffs obtained a judgment for the sale of my property.

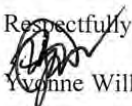
When I attempted to resolve the situation and gain access to NYSCEF, I was informed by a court analyst that my former attorney was still listed as my counsel in NYSCEF. Despite my efforts to explain that she had abandoned my case and been terminated as my attorney, the analyst was unhelpful. Emails to my former attorney, with the analyst copied, went unanswered, and she made no effort to withdraw formally from the case. Only after reaching out to another NYSCEF representative did I receive guidance on how to have her removed. The 45-day delay, which my former attorney warned would prejudice my case, caused irreparable harm.

I later inquired at the court about the prolonged inaction on my former attorney's Order to Show Cause. An ex parte clerk, Antionette, explained that she left the motion pending for 45 days due to understaffing in the ex parte department. Notably, the motion was removed only after I served the plaintiffs' attorneys with my Notice of Appeal, which raises further concerns. Had my former attorney filed the order to show cause in person it would have been handled immediately. I do not know about other jurisdictions but in the Kings County Supreme Civil Court you are nearly forced to file an order to show cause through NYSCEF. If you do so in person the ex parte clerks tell you that you have to file it through NYSCEF especially if you are an attorney. They make you wait all day, I once waited from 10am-4pm just to file an order to show cause. Now even if you do not want to a filing can be forced to be electronic.

Another critical issue with NYSCEF is its inability to detect forged documents. Hard copy filings offer a greater capacity for identifying forgeries. In my case, several forged documents have been submitted to the court, including affidavits containing questionable signatures that appear to be stamps or lifted signatures—a form of forgery. The plaintiffs' attorneys even submitted an affidavit claiming possession of a post-dated judge's order, a deeply troubling assertion. Maintaining hard copies on file with the court could have prevented or exposed such misconduct.

Additionally, NYSCEF permits motions to be decided without in-person appearances before a judge. In my case, it seems the judge has not reviewed my submissions, yet expediently responds to the plaintiffs' letter submissions and emails while ignoring ours. Personal appearances before the judge would have ensured that my position was heard alongside the plaintiffs', rather than being sidelined.

While NYSCEF is undeniably a powerful tool, it should not replace hard copy filings and in-person court interactions. Being a digital system, it remains vulnerable to human manipulation, which can severely undermine the integrity of litigation. Safeguards must be implemented to prevent such outcomes and ensure the system serves its intended purpose without compromising justice.

Respectfully,

Yvonne Williams.

THE LAW FIRM
OF



RAVI BATRA

THE BATRA BUILDING
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212-545-1993

RAVI@RAVIBATRALAW.COM
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January 16, 2025

Via email: efilingcomments@nycourts.gov

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

Re: Responding with Comment, as Publicly Requested on NYSCEF Home Page in re
Expanding NYSCEF to all of NY State's Trial Courts.

Dear Director Gibson:

First, let me congratulate Chief Judge Wilson and his Leaders' team running the Unified Court System for securing the legislation to expand NYSCEF to all trial level courts in NYS and having it signed into law by Gov. Hochul. Further to your Notice inviting comment on same o/o/b January 17, 2025, I write this letter due to latent dangers of AI (which can create authentic-looking false documents: be it a check, a video, or a signed affidavit or worse, a signed court order with NYSCEF "markings"), cyber-hacking by nation and non-nation actors who wish to harm America, and the ever-present possibility of corruption within and without.

I. OCA-provided NYSCEF Is a Jewel of Justice that Enhances Democracy

OCA-provided NYSCEF is a democratic jewel of justice, with multifaceted benefits to promote access to justice, while enhancing public confidence in the noble judiciary. In fact, NYSCEF is a valuable asset in NYS as well as a means to achieve even greater integrity in the machinery of justice, which in turn earns greater public confidence in the noble judiciary. This is why NYSCEF is a jewel of Justice and must be protected at all costs from within and without.

NYSCEF assures the public that documents are received with honesty and integrity, and the date

and time stamp on each filed-document is un-alterable, while making such stamped-documents viewable by the public, and comes with an implicit promise - much like contracts come with the implied covenant of good faith and fair dealing - that such stamped-documents will remain un-molested as to their date and time stamp, free of being subjected to playing “musical chairs,” in violation of their spot in the Queue of Justice, or worse, disappear based upon unlawful official acts by “state” actors - motivated to violate NYSCEF’s regular order - so as to corruptly benefit the private economic interests of a favored or powerful few. The absolute dangers of AI and cyberhacking, while as real as Sars-Cov2 causing Covid, are for those better equipped to assist OCA.

So, I limit my comments based upon actual and very disturbing experiences I had with NYSCEF in Queens Surrogate Court - presided over by the Hon. Peter J. Kelly and his appointed-Chief Clerk Janet Tucker - from December 2023 till end of 2024 in the E/O Malik, File No. 2023-990. Even the fact that I had notified the FBI Public Corruption Unit and EDNY USA Peace, and attached a copy of my January 24, 2024 Letter to then-EDNY USA Peace to my Cross-Motion did not serve to stop the misconduct.

I later discovered that Judge Kelly had a policy and practice of keeping a “Secret Court Docket”; such as, Capell Barnett Matalon & Schoenfeld’s (CBMS) December 14, 2023 proposed OSC with TRO, Sweeny, Reich & Bolz’s (SRB) December 15, 2023 Opposition papers, CBMS’s December 18, 2023 Reply papers and even the December 18, 2023 Judge-Kelly-Signed OSC (with TRO-struck) with a “return date” of January 25, 2024, as well as the December 12, 2023 SRB’s proposed Decree Granting Probate in bold violation of Jud. Law 487 and RPC.

This secret court docket prevented CBMS, the OSC-movant, from seeking a CPLR 5704 Review in AD2D, and worse, prevented the undersigned, as counsel for the OSC-Target Client, Brandon Bishunauth, to be able to upload his timely Cross-Motion on NYSCEF. Since there was no Motion (OSC) on NYSCEF, no Cross-Motion could be filed against it (even as NYSCEF was willing to accept my cross-motion only if it was a new fresh motion, not a cross-motion).

A simple analogue trick - court keeping a secret docket - thwarted digital NYSCEF: Judge Kelly’s unlawful secret court docket. The simplicity of this corruption will tempt others to stray and shame the bench. This must not be allowed to occur. Hence, the institutional interests of justice urgently needs a Grand Jury empaneled by a Special Prosecutor, who has been appointed by Gov. Hochul, to investigate Queens Surrogate Court ASAP! As of now, there is no individual deterrence, let alone general deterrence. Separately, there would be no accounting or turnover of said OSC \$45-motion fee to NYS treasury from Queens Surrogate Court, as the OSC is its secret court docket and does not exist on NYSCEF. Even the ever-capable NYS Comptroller DiNapoli would not be able to discover that NYS’ general fund has been cheated, as that Court was essentially maintaining a “second set of books,” as crooked businesses do.

This singular act - molesting NYSCEF - violates federal separated powers regime and destroys

NYS Constitutional scheme of as-of-right appellate review, by making *nisi prius* trial courts' orders unconstitutionally "final" and unlawfully-free of appellate review. No American judge in 2023 or 2024 can be allowed to act as an imperial king, merely by interfering and blocking NYSCEF, as has repeatedly occurred in Queens Surrogate Court File no. 2023-990 (see, related appeals to AD2D Docket #2024-01452 and #2024-01453; while the legal issues on appeal are for AD2D, but for violating my client's 14A right to Equal Protection of the Law (EPL) and Equal Due Process (EDP) that is for a future lawsuit to be filed in EDNY, to *inter alia* hold NYS and OCA liable for the theft by SRB of the estate-assets using an unlawfully obtained Decree Granting Probate).

Sadly, my client's 14A right to *inter alia* EDP was violated by NYS and OCA as NYSCEF is easy to defeat and sidestep from inside the court system. This case ought to ring a "five-alarm" bell in NYS and OCA, noisily crying out for help to protect the machinery of justice and avoid a federal monitor being requested to put the NYS court system under federal court supervision. After all, federal court's have their companion ECF to NY's NYSCEF, and can well comprehend what occurred is beyond the pale and must not be allowed to ever occur given federal constitutional guarantees vested in Brandon and his family, which includes his uncle, Nicholas "Nick" Galafano (brother of the deceased, and Yasmin Malik's Victim #1 when their Father died in 2006 and Yasmin, with undue influence, poisoned Mohammad Malik against his younger brother, Nicholas Galafano, so as to steal his intestate share in Pakistan from their father's estate and falsely informed the Government of Pakistan that the still-alive Nick Galafano is dead without spouse or issue. Brandon was Yasmin's Victim #2 in 2015 and 2023 deathbed will).

Date & time is critical for honoring court mandates, as it is for statute of limitations to apply. History has shown that on rare occasions, a court clerk may back-date a summons and complaint to fraudulently save a fatally-late case for a corrupting party or counsel. Indeed, decades ago DCAJ Joan B. Carey conducted such an investigation. Indeed, the primary benefit of NYSCEF is that it is mechanized, and hence expected to be incorruptible and always ready to correctly stamp the date & time of filing; and its filed-documents are public, as befits NYS' public courts.

II. NYSCEF is NYS' and OCA's 14A Equal Due Process Obligation

Indeed, NYSCEF is intended to be a rock-solid pedestal - visibly level and straight to the naked eye - upon which the very "Scales of Justice" sit, thereby permitting NYS to better honor it's second of two Fourteenth Amendment's obligation: Equal Protection of the Law. And, if NYSCEF, the pedestal, is tampered with, Justice *ip so facto* becomes a travesty of justice seriously injuring the core institutional interests of justice. Accordingly, it is part of NYS's and Unified Court System's promise to every New Yorker that NYSCEF is part of its Fourteenth Amendment (14A) "Equal Due Process" obligation of equal "access to justice," so NYS and UCS can honor its more difficult 14A obligation-sibling: "Equal Protection of the Law."

Equal Protection of the Law implicates involvement of the appellate courts to over-rule *Nisi Prius* courts, and requires that the self-policing function of the bench and bar to be working properly to ensure the machinery of justice is protected by lawyers, as officers of the court

honoring Rules of Professional Conduct, and the noble judiciary, honoring Code of Judicial Conduct. If either of the two - separate from court clerks - violate the guard rails, Justice becomes a travesty. For there to be proper Appellate review, there is a non-negotiable requirement that the higher appellate court have access to an accurate record-on-appeal on NYSCEF, which is unmolested, to permit the Appellate Court to do justice.

Unlike Equal Due Process, Equal Protection of the Law requires greater consumption of public confidence as reasonable minds can differ as to what the law really means; this, then means, EPL consumes more public confidence the Courts have “banked.” In Equal Due Process, which is simpler, the public has every right to expect that “regular order” will be followed for everybody, rich or poor, Black or White, young and old. And as such, NYS and OCA must maintain NYSCEF honestly and faithfully, in equal measure, for each and every New Yorker - as a legendary Bob Morgenthau would say - without fear or favor. To which, I add: and blindly, befitting Lady Justice.

While cameras in the courts remain largely on the drawing board, filing of documents - from Summons & Complaint to final Judgment - is transparent and public thanks to NYSCEF. So, NYSCEF is a transparent digital doorway for NYS courts: permitting any litigant or counsel to file papers on a 24/7/365 basis, or to see them, no matter who filed them (with rare exceptions, such as in child custody or sexual abuse cases being confidential). NYS has a history of fighting to keep Justice honest and above-board, free of human corruption, be it of a litigant, lawyer, clerk or higher. Indeed, the late great Benjamin Cardozo was so motivated for transparent greatness that he became Chief Judge of NY courts and then a Justice of the Supreme Court of the United States occupying the legendary seat of Mr. Justice Oliver Wendell Holmes Jr. What motivated him was his father’s corruption-based disgrace as a Manhattan Supreme Court Justice. NYS and OCA must embrace Justice Cardozo’s similar motivation, and help free the machinery of justice from political control and make its corruption-proof, as much AI and revised protocols can achieve. Perhaps, automatic loss of state pensions and minimum jail sentences of twenty five years for those who act corruptly as well as those who aid and abet corruption in the courts. Luckily, over 300 years of NYS courts, there have been few who were convicted for corrupting the machinery of justice. But one corrupt clerk or judge is one too many. Recently re-elected President Trump, with 77 Million voters, secured a nationwide “jury nullification” of sorts from “Lawfare,” a term he coined to impeach Justice deemed to be unjust. Hence, public confidence in the courts needs to be restored with all due speed, if “due administration of justice,” as President George Washington wanted from his first department of justice, is to be the firmest pillar of good government.

III. Actual Record of NYSCEF Being Molested to Help a Private Party Rob Over \$330M

I incorporate by reference, the actual papers filed in Queens Surrogate Court via NYSCEF (before they were “moved,” “impounded,” “deleted” or *inter alia* even the signed-OSC of December 18, 2023 which was never uploaded by the court to prevent appellate review or for the target of the OSC to respond via NYSCEF), as well as the now-fully briefed appeals to AD2D. I include actual documents as exhibits, so you and the talented Leaders - of NYS and the Court

System - can better divine solutions to protect the machinery of justice from being so easily compromised, as it was repeatedly in Queens Surrogate's Court, without fear of penal law applying to them as they are intoxicated with a disturbing cocktail of political-hubris and daring chutzpah:

- Ex 1. Appellant's Main Brief
 - Ex. 2. Limited pages from Record on Appeal (which has many printouts of NYSCEF at varying times documenting misconduct), R1 to R52¹ and R 568 - R619²;
 - Ex. 3. Respondent's Opposing Brief;
 - Ex. 4. Appellant's Reply Brief;
 - Ex. 5. "*In Fight Over Fortune, a Young Man Takes on the Kingmakers of Queens*" by Chris Bragg January 6, 2025 (with hyperlinks);
 - Ex. 6. Questions asked by Chris Bragg to Judge Kelly;
 - Ex. 7. J. Kelly's Response - using his official court email id - in excess of the Code of Judicial Conduct and law of *per se* libel applicable to extra-judicial activity;
 - Ex. 8. Ravi Batra's Response to J. Kelly's unbecoming personal attacks, motivated by malice and predicated upon falsity;
 - Ex. 9. Additional Questions by Chris Bragg;
- and
- Ex. 10 "*Five Key Takeaways From Our Investigation Into the Queens Surrogate's Court*" by Chris Bragg January 7, 2025.

IV. Policy Recommendations: Need to Build a Firewall so NYSCEF is Corruption-Proof
NYSCEF must be upgraded to prevent judges or clerks from having imperial authority to override NYSCEF's 14A-Protected "regular order." To prevent such bold molestation, as documented in this case, OCA ought establish a "Judicial Knapp Commission" to better document NYSCEF weaknesses, refer for prosecution those who committed crimes, and initiate curative reforms to NYSCEF to make it bullet-proof from such banal corruption (secret docket or willy-nilly deleting, impounding, or making "markings" disappear as if the courts were in the business of assisting crimes and Justice was merely a Kabuki play) as is documented in this case.

In addition, NYS Governor Hochul ought appoint a person - free of political roots or control - capable of being an independent Special Prosecutor to look at Queens Surrogate Court and those who fancy themselves as controlling it. The Courts are the last bastion of democracy, because

¹ R1-R52: Table of Contents, Notices of Appeal from Sealing Order and Decree Granting Probate, Transcript of December 5, 2023 and Emails between J. Kelly's Chambers and lawyers at Cappell, Barnett, Matalon & Schoenfeld and Sweeney, Reich & Bolz (the full record on appeal is available at AD2D, which includes the NYSCEF printouts that document their corrupt molestation.

²R568 - R619: Notice of Settlement of Transcript of January 25, 2024, with some of its exhibits.

they have the last word. The Third Branch must protect itself, before it can provide justice for the yearning public.

What this Letter documents is that NYS' and OCA's NYSCEF in Queens Surrogate Court has violated Deuteronomy 16:20: "Justice, justice you shall pursue." Still, it is a mandate that is core to being my heart and soul, just as it has to be OCA's Mission Statement: to assist justice to be done honestly and with integrity, in equal measure for all. In the case I cited, NYSCEF was disarmed and made useless, so as to empower a *nisi prius* trial court to act as if it's unlawful mandates and NYSCEF-alterations and obstructions were written by the hand of God on Moses' Tablet as a new 11th Commandment. That is how bold the misconduct is - as the checks and balances were politically neutralized - for these powerful "state" actors, who believe and act (*mens rea* and *actus reus*) that they are "above the law" due to the needs of electoral politics. This cannot be tolerated, as no private person or entity can own the court.

It bears noting, that during the gauntlet that I had to traverse just to get a transcript of the January 25, 2024 Court proceeding or to settle its transcript, I put OCA Counsel Nocenti and OCA IG Porter on notice, while seeking out then-DCAJ Deborah Kaplan to protect OCA's NYSCEF from the assault by Chief Clerk Janet Tucker and the Hon. Surrogate Judge Peter J. Kelly, merely acting as an administrator of that Court, and not as a judge on the bench issuing Orders that grant him absolute judicial immunity for "judicial acts." True "regular order" was never restored to Queens Surrogate Court Clerk's office, as it fancies itself free of oversight by anyone. That said, I deeply appreciate OCA's organizational chart, including DCAJs, for the honest oversight provided to protect the institutional interests of justice, even during times of internal strife and breach of protocols.

This Letter-Affirmation is duly submitted under penalty of perjury, as permitted by CPLR 2105.

Respectfully,

Ravi Batra

Encl: 10 Exhibits

C: Brandon Bishunauth, and his non-party family relatives, Nicholas Galafano
Hon. Deborah Kaplan, OCA Counsel Nocenti, OCA IG Porter
FBI Public Corruption Unit, and EDNY USA
NYS AG Tish James, NYS Comptroller DiNapoli
D.A. Alvin Bragg, D.A. Melinda Katz
Chris Bragg, Albany Bureau Chief, of *New York Focus*

\\ec\dc\Public Comment on OCA re NYSCEF.011625

NYSCEF: Peter Kijewski Comments Filed 1/12/2025 Page 1 of 46

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

Dear Reviewer,

January 12, 2025

Peter Kijewski NYSCEF personal experience has been documented in response to December 16, 2024, Notice for 2025 Annual Report on Electronic Filing. A printed document will be mailed.

A NYS Court 60606/2015 case review is presented, since multiple NYSCEF deficiencies substantially contributed to attorney violations of "RULE 3.2: DELAY OF LITIGATION: In representing a client, a lawyer shall not use means that have no substantial purpose other than to delay or prolong the proceeding or to cause needless expense." Tracking Justices of the Supreme Court Orders, viewable in NYSCEF content, failed to occur, since NYSCEF automated case issue tracking systems have not been implemented. December 9, 2015, Hon. Paul I. Marx, J.S.C. No. 1 of 7 PENDENTE LITE DECISION AND ORDER NYSCEF No. 59: "The award shall be taxable to Plaintiff, as she does not specify any basis for departing from "the norm envisioned by current Internal Revenue Code provisions."" Internal Revenue Code compliance prevents recurring "Required Minimum Distribution" (RMD) disbursement "hold".

I. June 19, 2015, 60606/2015 NYSCEF No 1 & 2 – July 24, 2023, NYSCEF No. 553 Filings Expose IRS Internal Revenue Code & "Employee Retirement Income Security Act of 1974" (ERISA) Violations

3.8 Years TIAA: March 6, 2018 - December 16, 2021, TIAA Law & Compliance lawyers enforced Peter Kijewski tax-deferred retirement plans and IRA \$0.00 retirement income, inexplicably including \$0.00 "Required Minimum Distribution" (RMD) disbursements and \$0.00 United States Treasury and MA-DOR tax withholding and tax payments. The TIAA enforcement action resulted in illegal omitted RMD "Investment Experience" and stiff RMD 50% penalties.

December 16, 2021 - December 27, 2021, TIAA released tax years 2018, 2019, 2020 and 2021 TIAA tax-deferred retirement plans and IRA savings benefits mandatory \$439,826 balloon retirement income disbursement, including in arrears mandatory \$150,376 balloon United States Treasury and MA-DOR tax withholding and tax payments. TIAA also included tax years 2018, 2019, 2020 and 2021 mandatory 457(b) \$57,267 "Wages, salaries, tips, etc. Attach Form(s) W-2". October 26, 2021, Plan Administrator, MSKCC retirement plans sponsor, thwarted Ms. Maureen A. Dunn Injunction/Restraining Order and prevented tax year 2021 additional stiff

NYSCEF: Peter Kijewski Comments Filed 1/12/2025 Page 2 of 46

\$93,840 RMD 50% penalty. March 2024 Social Security income due to tax year 2021 TIAA "Required Minimum Distribution" (RMD) balloon disbursement: \$1.00.

5.4 Years Vanguard: January 1, 2018 - May 15, 2023, Vanguard Office of the General Counsel lawyers enforced Peter K. Kijewski tax-deferred Vanguard IRA \$0.00 retirement income, inexplicably including \$0.00 "Required Minimum Distribution" (RMD) disbursements and \$0.00 United States Treasury and MA-DOR tax withholding and tax payments. The Vanguard enforcement action resulted in illegal omitted RMD "Investment Experience" and stiff RMD 50% penalties. There was NO need for tax years 2018, 2019, 2021 and 2022 Vanguard \$61,449 RMD 50% penalties and tax years 2018, 2019, 2020, 2021, 2022 and 2023 Vanguard balloon \$188,547 retirement income disbursement. Tax year 2023 total US and MA tax withholding and tax payments due to Vanguard "Required Minimum Distribution" (RMD) balloon disbursement: \$115,229.

2.2 Years BNY Mellon Pershing: June 25, 2015 - September 20, 2017, BNY Mellon Pershing Legal Department lawyers enforced Peter K. Kijewski IRA \$0.00 retirement income, inexplicably including \$0.00 "Required Minimum Distribution" (RMD) disbursements and \$0.00 United States Treasury and NYSDTF tax withholding and tax payments, except when divorce lawyer Mitchell Y. Cohen or Maureen A. Dunn, "Required Minimum Distribution" (RMD) disbursement consent received. Opposing Johnson & Cohen lawyers used the AUTOMATIC ORDERS to justify the enforcement action, subverting the tax-deferred retirement savings "in pay status" exception.

0.2 Years TIAA & Vanguard: April 18, 2017 - July 17, 2017, TIAA Law & Compliance lawyers and Vanguard Office of the General Counsel lawyers enforced Peter K. Kijewski tax-deferred retirement plans and IRAs \$0.00 retirement income, inexplicably including \$0.00 "Required Minimum Distribution" (RMD) disbursements and \$0.00 United States Treasury and NYSDTF tax withholding and tax payments. Opposing divorce litigators falsely affirmed Peter K. Kijewski flight risk to Germany, transferring retirement assets to a foreign country. July 1, 2017, Peter Kijewski retirement: TIAA, Vanguard and BNY Mellon Pershing lawyer enforcement \$0.00 retirement plans and IRAs income.

A. Verification

TIAA Law & Compliance lawyers, Vanguard Office of the General Counsel lawyers and BNY Mellon Pershing lawyers are in the possession of documents and financial statements to perform verification unprecedented IRS Internal Revenue Code & "Employee Retirement Income Security Act of 1974" (ERISA) violations occurred.

B. Paul Cowie, TIAA CFP Portfolio Advisor WMA

[PAUL BRIAN COWIE - Broker at TIAA-CREF INDIVIDUAL & INSTITUTIONAL SERVICES, LLC](#) managed Peter Kijewski Portfolio Advisor IRA, Portfolio Advisor

NYSCEF: Peter Kijewski Comments Filed 1/12/2025 Page 3 of 46

investment account and tax-deferred 403(b) & 457(b) retirement plans and TIAA Bank account and therefore has comprehensive information about IRS Internal Revenue Code & "Employee Retirement Income Security Act of 1974" (ERISA) violations.

C. Peter Kijewski NYSCEF Filings

EXHIBIT 1 lists Peter Kijewski NYSCEF filings, including "Additional Document Information" about document content. The purpose of the documents was to add information specifically about recurring "Required Minimum Distribution" disbursement "hold". Documents attorneys failed to file are marked.

D. Attorney AUTOMATIC ORDERS

June 24, 2015, Mr. Cohen reviewed Peter Kijewski retirement plans and IRA financial account listing and June 25, 2015, Mr. Cohen wrote letters to TIAA, Vanguard, BNY Mellon Pershing and Lincoln Financial about AUTOMATIC ORDERS restrictions. TIAA, Vanguard and BNY Mellon Pershing consented terminating Peter Kijewski "Required Minimum Distribution" disbursements, violating retirement plans and IRAs AUTOMATIC ORDERS "tax-deferred funds in pay status exception" since May 10, 2011:

June 25, 2015 - September 20, 2017, AUTOMATIC ORDERS Recurring \$0.00 RMD Disbursements						
Date	Days	Charge	Process Notes	Time	Invoice	Peter
4/25/2013	-791	MYC	Agreement "Attorney's signature" + "Client's signature"			
6/24/2015	-1	MYC	Review financial account listing	0.1	\$47.50	Pro Se
6/24/2015	-1	MYC	Telephone conference with client	0.2	\$95.00	Pro Se
6/25/2015	0	MYC	Dictation of letter to TIAA-CREF	0.2	\$95.00	Pro Se
6/25/2015	0	MYC	Dictation of letter to Pershing Advisor Solutions LLC	0.2	\$95.00	Pro Se
6/25/2015	0	MYC	Dictation of letter to Vanguard	0.2	\$95.00	Pro Se
6/25/2015	0	MYC	Dictation of letter to Lincoln Financial	0.2	\$95.00	Pro Se
6/25/2015	0	MYC	Telephone conference with client	0.2	\$95.00	Pro Se
MYC Cohen, Mitchell Y. Johnson & Cohen, LLP						

EXHIBIT 2 lists attorneys Process Notes and Invoices NYSCEF filings.

E. Lincoln Financial "RMD WITHDRAWAL OF INCOME"

Lincoln Financial disbursed "RMD WITHDRAWAL OF INCOME", since IRS Internal Revenue Code compliance supersedes Mr. Cohen AUTOMATIC ORDERS "Required Minimum Distribution" (RMD) disbursement restrictions:

NYSCEF: Peter Kijewski Comments Filed 1/12/2025 Page 4 of 46

Lincoln Financial: RMD WITHDRAWAL OF INCOME			
Date	Days	Type of Activity	Amount
11/7/2014	-230	RMD WITHDRAWAL OF INCOME	(\$1,616.50)
11/6/2015	134	RMD WITHDRAWAL OF INCOME	(\$2,207.60)
11/8/2016	502	RMD WITHDRAWAL OF INCOME	(\$2,277.47)
11/14/2017	873	RMD WITHDRAWAL OF INCOME	(\$2,338.17)
11/13/2018	1,237	RMD WITHDRAWAL OF INCOME	(\$2,411.60)
11/12/2019	1,601	RMD WITHDRAWAL OF INCOME	(\$2,474.18)
5/5/2020	1,776	WITHDRAWAL OF PRINCIPAL	(\$1,089.33)
5/5/2020	1,776	WITHDRAWAL OF INCOME	(\$25,595.13)
8/26/2020	1,889	WITHDRAWAL OF PRINCIPAL	(\$1,891.23)
8/26/2020	1,889	WITHDRAWAL OF INCOME	(\$11,342.71)
8/26/2020	1,889	WITHDRAWAL OF PRINCIPAL	(\$8,233.64)
8/26/2020	1,889	WITHDRAWAL OF INCOME	(\$88.16)
Liquidation			(\$48,240.20)

F. June 22, 2022, TIAA Letter to Peter Kijewski

EXHIBIT 3 June 22, 2022, TIAA letter to Peter Kijewski, listing key dates:

"Qualified Domestic Relations Order (QDRO) and Required Minimum Distribution (RMD)

On July 1, 2015, April 18, 2017 and March 22, 2018, TIAA received an order to restrain withdrawals, transfers, and prevent any status changes of your retirement plan accounts until the necessary QDRO had been executed, processed, and funds distributed to the plaintiff. As a result of these orders, TIAA placed a restriction on your retirement accounts."

G. June 19, 2015, No-Fault Action for a Divorce 60606/2015 NYSCEF No. 1 & 2: Justices of the Supreme Court Writing Orders

Justices of the NYS Supreme Court never write Orders causing "tax fraud activity": "failure to withhold", "failure to pay tax", "failure to follow the tax laws" and "a false or altered document":

Comments from Other Stakeholders

NYSCEF: Peter Kijewski Comments Filed 1/12/2025 Page 5 of 46

WebCivil Supreme 60606/2015 Appearance Information:

Appearance Date	Time	Court Date Purpose	Fully Virtual	Court Date Type	Outcome Type	Justice Part	Remarks	Motion Seq
7/24/2023	09:00 AM	Conference-Status	No	None	Held	Hyer, Hon. James L.	In Person Appearances Courtroom 1003	-
2/24/2023	10:00 AM	Motion-Order to Show Cause (Returnable)	No	None	Adjourned	Quinones, Hon. Thomas	TEAMS	12
12/14/2021	09:30 AM	Motion-Order to Show Cause (Returnable)	No	None	Adjourned	Koba, Hon. Nancy Quinn		12
8/7/2019	09:30 AM	Motion-Order to Show Cause (Initial Application)	No	Courtroom	Decided	Trovini, Josephine	CPO 9/4/19	8
5/15/2019	09:30 AM	Motion-Order to Show Cause (Returnable)	No	Courtroom	Granted	Lubell, Hon. Lewis Jay	APPEARANCES REQUIRED	11
7/18/2017	09:45 AM	Motion-Other	No	None	Rescheduled	Malone, Hon. Janet C. Janet C. Malone - Motion Part		3
9/9/2016		Conversion-Other	No	None	Settled	Colangelo, Hon. John P. John P. Colangelo		-
3/29/2016		Conversion-Other	No	None	Held	Ratner, Irene Ratner, Irene - Contested Matrimonial Part		-
12/3/2015		Motion-Other	No	None	Decided	Marx, Hon. Paul I. Paul I. Marx		1

The extensive submission from **Peter Kijewski**, including comments and exhibits, is available in its entirety on the NYSCEF Public Comment Section of the UCS website at <http://www.nycourts.gov/rules/efiling/>.

Public Comments: Annual Report

Public comments received for 2025 Annual Report: addressing users' experience with e-filing in preparation of annual report.





NEW YORK STATE BAR ASSOCIATION
**COMMITTEE ON COURTS OF
APPELLATE JURISDICTION**

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