

COURT NOTICES

AMENDMENT OF RULE Rules of the Chief Administrator

Pursuant to the authority vested in me, I hereby amend, effective immediately, Part 118 of the Rules of the Chief Administrator (22 NYCRR) to add sections 118.3 and 118.4, relating to the registration of in-house counsel, to read as follows:

Section 118.3 Filing requirement

(a) Every in-house counsel approved by an Appellate Division for registration in New York State shall file an initial registration statement with the Chief Administrator of the Courts within 30 days of the date of receipt notice of such approval. During each alternate year thereafter, each such in-house counsel shall file a subsequent registration statement within 30 days after the in-house counsel's birthday, for as long as the in-house counsel remains eligible for registration pursuant to Part 522 of the Rules of the Court of Appeals.

(b) The initial registration statement shall be filed by ordinary mail addressed to:

State of New York
Office of Court Administration
General Post Office
P.O. Box 29327
New York, NY 10087-9327

Subsequent registration statements shall be filed by an online program established for that purpose.

(c) The registration statement shall be on a form provided by the Chief Administrator and shall include the following information, attested to by affirmation:

- (1) name of in-house counsel;
 - (2) date of birth;
 - (3) name when first registered;
 - (4) law school from which degree granted;
 - (5) year of initial registration;
 - (6) judicial department of registration as in-house counsel;
 - (7) office addresses (including department);
 - (8) home address;
 - (9) business telephone number;
 - (10) social security number;
 - (11) e-mail address;
 - (12) race, gender, ethnicity and employment category (optional);
- and
- (13) compliance with child support obligations.

(d) In the event of a change in any of the information required to be provided pursuant to subdivision (e) of this section, the in-house counsel shall file an amended statement within 30 days of such change.

(e) Failure by any in-house counsel to comply with the provisions of this section shall result in administrative termination of the registrant's status as in-house counsel pursuant to Part 522 of the Rules of the Court of Appeals, as well as disciplinary action by the Appellate Division of the Supreme Court.

Section 118.4 Public access to in-house counsel registration information

(a) Except as otherwise provided in this section, the information contained in the registration statement filed pursuant to section 118.3 of this Part shall be made available to the public upon submission of a

written request and the payment of a charge for production, pursuant to the following schedule:

(1) Information for individual registered in-house counsel by name:

- (i) no charge for single inquiry;
- (ii) \$2.50 for each additional name.

(2) Names and business addresses of registered in-house counsels by geographical area:

- (i) \$25.00 for 100 or fewer names;
- (ii) \$1.00 for each additional 100 names;
- (iii) \$100.00 for list of all registered in-house counsels.

Other requests may entail additional fees as circumstances warrant. Fees may be waived for requests by government agencies. Written requests for information shall be made to the Attorney Registration Unit, Office of Court Administration, 25 Beaver Street, New York, NY 10004.

(b)(1) The home address of an in-house counsel shall be made available to the public only in the following circumstances:

- (i) where no office is listed, the home address will be made public;
- (ii) where an office address is listed, but a request for information alleges that the in-house counsel cannot be located at that address, the home address will be made public only if the Chief Administrator determines, by independent inquiry, that the in-house counsel cannot be located at the listed office address.

(2) The social security number, race, gender, ethnicity and employment category of the in-house counsel shall not be made available to the public.

(c) All information relating to a particular in-house counsel will be provided to that in-house counsel or, on the in-house counsel's written request, to any person or agency.

(d) All information will be available at all times to the attorney discipline committees of the Appellate Divisions.

AMENDMENT OF RULE

Rules of the Chief Administrator of the Courts

Pursuant to the authority vested in me, and upon consultation with the Administrative Board of the Courts, I hereby amend, effective immediately, sections 122.5(d) and 122.8 of the Rules of the Chief Administrator of the Courts [22 NYCRR], relating to Judicial hearing Officers panel assignments and compensation, to read as follows:

Section 122.5. Panels

* * *

(d) Unless the Chief Administrator directs otherwise, a[A] judicial hearing officer who requests that his or her name be removed from any panel of judicial hearing officers during the course of a term of office may not be redesignated to that panel for the duration of that term.

* * *

Section 122.8. Compensation

A judicial hearing officer shall receive \$300 per day for each day or part thereof at which such judicial hearing officer actually performs assigned duties in a courtroom or other facility designated for court appearances. There shall be no compensation for out-of-court work performed by such hearing officer. Such hearing officer shall be

reimbursed for out-of-pocket expenses reasonably and necessarily incurred in the performance of his or her duties in accordance with the provisions of Part 102 of these rules. *With the approval of the Chief Administrator, a judicial hearing officer may serve voluntarily without compensation.*

AMENDMENT OF RULE

Uniform Civil Rules for the Supreme and County Courts

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby amend, effective immediately, section 202.5-b of the Uniform Civil Rules for the Supreme and County Courts, relating to electronic filing of actions in the Supreme Court, to read as follows:

* * *

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

(a) Application.

(1) [There is hereby established a program in which,] *On consent, documents may be filed and served by electronic means in Supreme Court in such civil actions and in such counties as shall be authorized by order of the Chief Administrator of the Courts. Documents may be filed or served by such means and only to the extent and in the manner [authorized] provided in this section.*

(2) Definitions. For purposes of this section:

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

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

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

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

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

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

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

(viii) “party” or “parties” shall mean the party or parties to an action or counsel thereto; and

(ix) “Resource Center” shall mean the NYSCEF Resource Center, the e-filing help center available at 646-386-3033 or efile@courts.state.ny.us and through the NYSCEF site.

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

(1) Commencing an action by electronic means. A party may commence any action in the Supreme Court in any county (provided that e-filing has been authorized in that county and in the class of actions to which that action belongs pursuant to paragraph (1) of subdivision (a) of this section) by electronically filing the initiating documents with the County Clerk through the NYSCEF site.

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

(i) Consent of the parties required. After commencement of an action wherein e-filing is authorized, documents may be electronically filed and served, but only by, *and electronic service shall be made only upon, a party or [if and when all] parties who have consented thereto [or, if fewer than all parties have so consented, only by and between consenting parties with the permission of the court]. A party’s failure to consent to participation in electronic filing and service shall*

not bar any other party to the action from filing documents electronically with the County Clerk and the court or serving documents upon any other party who has consented to participation. A party who has not consented to participation shall file documents with the court and the County Clerk, and serve and be served with documents, in hard copy.

(ii) Consent to e-filing; how obtained. A consent to e-filing in an action shall state that the party providing it agrees to the use of e-filing in the action and to be bound by the filing and service provisions in this section. *A party who has commenced an action electronically shall serve upon the other parties together with the initiating documents a notice regarding availability of e-filing in a form approved by the Chief Administrator. A party who seeks to use e-filing in a pending action shall serve said notice upon all other parties. When the notice is served, a copy shall be transmitted to the court.* [Consent shall be obtained by stipulation, or a party who seeks to use e-filing in a pending action may serve upon all other parties to the action a notice regarding availability of e-filing in a form approved by the Chief Administrator.] Service of such a notice shall constitute consent to e-filing in the action by the party causing such service to be made. A party served with such a notice [may consent to e-filing in the action not later than ten days after receipt of such service, either by filing with the court and serving on all parties of record a consent to e-filing or if such party or the attorney of record therefor is an authorized e-filing user, by filing the consent electronically in the manner provided at the NYSCEF site; provided, however, the court, in its discretion, may permit a consent to e-filing at any time thereafter] *shall promptly file with the court and serve on all parties of record either a consent or a declination of consent. An authorized e-filing user may file a consent electronically in the manner provided at the NYSCEF site. Consent may also be obtained by stipulation.* The filing of a consent to e-filing hereunder shall not constitute an appearance in the action.

(iii) [Filing and service after consent to e-filing in an action. Once an action is made subject to e-filing, all documents filed and served by consenting parties shall be served and filed in accordance with this section.

(iv)] Documents previously filed with the court; termination or modification of e-filing procedures. When an action becomes subject to e-filing, the court may direct that documents previously filed in the action in hard copy be filed electronically by the parties. The court may at any time order discontinuation of e-filing in such action or modification of e-filing procedures therein in order to prevent prejudice and promote substantial justice. [Where a court orders discontinuation of e-filing in an action, the court may direct the clerk to convert into hard copy those documents comprising the case file which had been received electronically.]

(c) Authorized E-filing Users, Passwords and Registration [Other Information].

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

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

(i) Who may register. An attorney admitted to practice in the State of New York, or a person seeking to serve as an authorized e-filing agent on behalf of attorneys of record in an e-filed action or actions (hereinafter “filing agent”) may register as an authorized e-filing user of the NYSCEF site. [Such registration is required to permit the registrant to e-file documents on behalf of parties in actions in which e-filing is permitted or required pursuant to this section.] An attorney admitted pro hac vice in an action, a party to an action who is not represented by an attorney, or a person who has been authorized in writing by an owner or owners of real property to submit a petition as provided in section 730 of the Real Property Tax Law and who has been licensed to engage in such business *as required* by the jurisdiction in which the business is operated (hereinafter “small claims assessment review filing agent”) may also register as an authorized e-filing user, but solely for purposes of such action or, in the case of a small claims assessment review filing agent, solely for those proceedings under section 730 of the Real Property Tax Law in which he or she has been authorized to submit a petition.

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

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

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

(d) Electronic Filing of Documents.

(1) Electronic Filing of Documents. (i) *Electronic filing required; statement of authorization.* In any action subject to e-filing, all documents required to be filed with the court by a party that has consented to such e-filing shall be filed *and served* electronically, except as provided in *this section* [herein]. [Each document to be filed electronically by a] *A* filing agent (other than one employed by a governmental entity) shall *e-file* [be accompanied by] a statement of authorization from counsel of record *in an action*, in a form approved by the Chief Administrator, *prior to or together with the first e-filing in that action by the agent on behalf of that counsel.* (ii) *Emergency exception; other hard copy filings. Documents that are required to be filed and served electronically in accordance with this section or paragraph (1) of subdivision (c) of section 202.5-bb of these rules may nevertheless be filed and served in hard copy where permitted or required by statute or court order, or provided they are accompanied by the affirmation or affidavit of the filing attorney or party stating that: (i) a deadline for their filing and service fixed by statute, rule or order of the court will expire on the day the documents are being filed and served or on the following business day; and (ii) the attorney, party or filing agent therefor is unable to file and serve such documents electronically because of technical problems with his or her computer equipment or Internet connection. In the event a filer shall file and serve documents in hard copy pursuant to this paragraph, each such document shall include the notice required by this paragraph, and the filer shall file those documents with the NYSCEF site within three business days thereafter.* (iii) *Form of notice required on hard copy filing.* Where an action is subject to e-filing and a party or attorney seeks to file a document therein in hard copy, such document shall include, *on a separate page firmly affixed thereto*, a conspicuous notice [on the first page thereof] that *the party or attorney: (A) [the party or attorney] is authorized to and does withhold consent to e-filing [and has withheld such consent], (B) [the party or attorney] is exempt from having to e-file, or (C) [the party or attorney] is authorized or required to file such document in hard copy pursuant to an [emergency] exception provided in this paragraph [(2) of subdivision (b)] or paragraph (2) of subdivision (b) of section 202.5-bb of these Rules or an exception for technical failure provided in subdivision (i) of this section.*

(2) Payment of Fees. Whenever documents are filed electronically that require the payment of a filing fee, the person who files the documents shall provide *therewith*, in payment of the fee: (i) such credit [or debit] card information as shall be required at the NYSCEF site to permit a card to be charged [or debited] by the County Clerk; or (ii) the form or information required by the County Clerk to permit him or her to debit an account maintained with the County Clerk by an attorney or law firm appearing for a party to the action; or (iii) *such information as shall be required at the NYSCEF site to permit an automated clearing house debit to be made; or (iv) any other form of*

payment authorized by the Chief Administrator. Notwithstanding the foregoing, *where permitted by the County Clerk*, an authorized e-filing user who electronically files documents that require the payment of a filing fee may cause such fee to be paid thereafter [in person] at the office of the County Clerk.

(3) Filing and receipt of documents; confirmation; secure information.

(i) When documents are filed. Documents may be transmitted at any time of the day or night to the NYSCEF site. *A [D]document[s are] is [deemed] filed when [on the date on which their] its* electronic transmission is recorded at that site, provided, however, that where payment of a fee is required upon the filing of a document, the document *is [will] not [be deemed] filed until transmission of the document and the information or form or information as required in (i), [or] (ii) or (iii) [, respectively,] of paragraph (2) of this subdivision has been [is] recorded at the NYSCEF site; or, if no [such] transmission of that information or form or information is recorded, until payment is [physically] presented to the County Clerk.*

(ii) Confirmation. No later than the close of business on the business day following the electronic filing of a document, a confirmation notice shall be transmitted electronically by the NYSCEF site to the person filing such document. When documents initiating an action are filed electronically, the County Clerk shall assign an index number or filing number to the action and shall cause that number to be transmitted to the person filing such documents as part of the confirmation notice. If, *where permitted*, payment is submitted [in person] after the initiating documents have been transmitted electronically, the County Clerk shall assign the number upon presentation of that payment.

(iii) Secure information. When electronically filing a document, the *filer* [person filing such document] shall indicate whether it contains any of the following: individually identifiable health information, a social security number (*where filing of such number is allowed by General Business Law § 399-dd(6)*), a credit card or [number, a] bank account number, an individual’s date of birth[, an individual’s] or home address, a minor child’s name, or trade secrets. If such person indicates that any of this information is contained in the document, access to it on the NYSCEF site *will [may] be restricted to consenting parties to the action, the County Clerk and the court and, if the filer is a filing agent, to the agent.* The document will, however, be available for public inspection at the office of the County Clerk unless sealed by the court.

(4) Official record; *maintenance of files*; working copies. When a document has been filed electronically pursuant to this section, the official record shall be the electronic recording of the document stored by the clerk. *The County Clerk may scan and e-file documents that were filed in hard copy in an action subject to e-filing or maintain those documents in hard copy form. Where a document that was filed in hard copy is thereafter e-filed, the filing date recorded in NYSCEF shall be the date of hard copy filing.* The court may require the parties to provide working copies of documents filed electronically. In such event, each [such] working copy shall include, [as a cover page] firmly affixed [fastened] thereto, a copy of the confirmation notice received from the NYSCEF site pursuant to subdivision (d)(3)(ii) of this section upon the electronic filing of such document.

(5) *Decisions, [O]orders and judgments.* Unless the court directs otherwise, any document that requires a judge’s signature shall be transmitted electronically and in hard copy to the court. Unless the Chief Administrator authorizes use of electronic signatures, *decisions, orders and judgments signed by a judge shall be signed in hard copy[, and] All signed decisions, orders and judgments shall be converted into electronic form and transmitted to the NYSCEF site by the appropriate clerk.*

(6) Exhibits in hard copy. Notwithstanding any other provision of this section, the clerk may permit a party to file in hard copy an exhibit which it is impractical or inconvenient to file electronically.

(e) Signatures.

(1) Signing of a document. An electronically filed document shall be considered to have been signed by, and shall be binding upon, the person identified as a signatory, if:

(i) it bears the physical signature of such person and is scanned into an electronic format that reproduces such signature; or

(ii) the signatory has electronically affixed the digital image of his or her signature to the document; or

(iii) it is electronically filed under the User ID and password of that person; or

(iv) in a tax certiorari action in which the parties have stipulated to this procedure, it is an initiating document that is electronically filed without the signature of the signatory in a form provided above in this subparagraph, provided that, prior to filing, the document is signed in *full in hard copy* [form] (which hard copy must be preserved until the conclusion of all proceedings, including appeals, in the case in which it is filed) and the electronic record of the document bears the word "Signed" typed on the signature line; or

(v) it otherwise bears the electronic signature of the signatory in a format conforming to such standards and requirements as may hereafter be established by the Chief Administrator.

(2) Compliance with Part 130. A document shall be considered to have been signed by an attorney or party in compliance with section 130-1.1-a of the Rules of the Chief Administrator (22 NYCRR § 130-1.1-a) if it has been signed by such attorney or party as provided in paragraph (1) of this subdivision and it bears the signatory's name[, address and telephone number].

(3) Certification of Signature. A *judge*, party or attorney may add his or her signature to a stipulation or other filed document by signing and filing, *or causing to be filed*, a Certification of Signature for such document in a form prescribed by the Chief Administrator.

(f) Service of Documents.

(1) Service of initiating documents in an action. Initiating documents may be served in hard copy pursuant to Article 3 of the CPLR, or, in tax certiorari cases, pursuant to the Real Property Tax Law, or by electronic means if the party served agrees to accept such service. A party served by electronic means shall, within 24 hours of service, provide the serving party or attorney with an electronic confirmation that the service has been effected.

(2) Service of interlocutory documents in an e-filed action.

(i) E-mail address for service. Each party in an action subject to electronic filing that has consented thereto shall identify on an appropriate form an e-mail address at which service of interlocutory documents on that party may be made through notification transmitted by the NYSCEF site (hereinafter the "[e-mail service address]"). Each *filing user* [attorney of record and each self-represented party] shall promptly notify the *Resource Center* [appropriate clerk] in the event [he or she] *of a change[s] in his or her e-mail service address.*

(ii) How service is made. Where parties to an action have consented to e-filing, upon [the] receipt of an interlocutory document, [by] the NYSCEF site[, the site] shall automatically transmit electronic notification to all e-mail service addresses in such action. Such notification shall provide the title of the document received, the date received, and the names of those appearing on the list of e-mail service addresses to whom that notification is being sent. Each party receiving the notification shall be responsible for accessing the NYSCEF site to obtain a copy of the document received. The electronic transmission of the notification shall constitute service of the document on the e-mail service addresses identified therein, except that such service will not be effective if the filing party learns that it did not reach the address of the person to be served. Proof of such service will be recorded on the NYSCEF site. A party may, however, utilize other service methods permitted by the CPLR provided that, if one of such other methods is used, proof of service shall be filed electronically.

(g) Addition of Parties or Proposed Intervenors in a Pending E-Filed Action. A party to be added in an action subject to e-filing shall be served with initiating documents in hard copy together with the notice regarding *availability* [use] of e-filing specified in paragraph (2)(ii) of subdivision (b) of this section, to which response shall be made as set forth in that paragraph. A proposed intervenor or other non-party who seeks relief from the court in an action subject to e-filing, if consenting to e-filing, shall promptly file and serve a consent [to e-filing]. If an added party or intervenor does not consent to e-filing, subsequent documents shall be served by and on that party or intervenor in hard copy but the action shall continue as an e-filed one as to all consenting parties.

(h) Entry of Orders and Judgments and Notice of Entry.

(1) Entry; date of entry. In an action subject to e-filing, the County Clerk or his or her designee shall file orders and judgments of the court electronically, which shall constitute entry of the order or judgment. The date of entry shall be the date on which transmission of the order or judgment is recorded at the NYSCEF site. *Notwithstanding the foregoing, if the County Clerk receives an order or judgment and places a filing stamp and date thereon reflecting that the date of receipt is the date of filing but does not e-file the document until a later day, the Clerk shall record at the NYSCEF site as the date of entry the date shown on the filing stamp.*

(2) Notice requesting entry of judgment. The County Clerk may require that a party seeking entry of judgment electronically serve upon the County Clerk, in a form specified by the County Clerk, a request for entry of judgment.

(3) Notification; service of notice of entry by parties. Upon entry of an order or judgment, the [County Clerk, his or her designee, or the] NYSCEF site shall transmit to the e-mail service addresses a notification of such entry, which shall not constitute service of notice of entry by any party. A party shall serve notice of entry of an order or judgment on another party by serving a copy of the notification received from the [County Clerk, his or her designee or the] NYSCEF site, a copy of the order or judgment, and an express statement that the transmittal constitutes notice of entry. Service may be made through the [e-filing Internet] NYSCEF site, or by any other service [methods] method permitted by the CPLR, provided that, if one of such other methods is used, proof of service shall be filed electronically.

(i) Technical Failures. The [appropriate clerk shall deem the] NYSCEF site *shall be considered to be subject to a technical failure on a given day if the site is unable to accept filings or provide access to filed documents continuously or intermittently over the course of any period of time greater than one hour after 12:00 noon of that day.* [The clerk shall provide] Notice of all such technical failures *shall be provided on the site.* When e-filing [by electronic means] is hindered by a technical failure, a party may file with the appropriate clerk *and serve in hard copy.* With the exception of deadlines that by law cannot be extended, the time for filing of any document that is delayed due to technical failure of the site shall be extended for one day for each day on which such failure occurs, unless otherwise ordered by the court. *In the event an attorney or party shall file and serve documents in hard copy pursuant to this paragraph, each such document shall include the notice required by paragraph (1) of subdivision (d) of this section, and the filer shall file those documents with the NYSCEF site within three business days after restoration of normal operations at that site.*

(j) Electronic Filing of Discovery Materials. In any action subject to e-filing, parties and non-parties producing materials in response to discovery demands may enter into a stipulation, *which shall be e-filed*, authorizing the electronic filing of discovery responses and discovery materials to the degree and upon terms and conditions set forth in the stipulation. In the absence of such a stipulation, no party shall file electronically any such materials except in the form of excerpts, quotations, or selected exhibits from such materials as part of motion papers, pleadings or other filings with the court.

(k) Copyright, Confidentiality and Other Proprietary Rights.

(1) Submissions pursuant to e-filing procedures shall have the same copyright, confidentiality and proprietary rights as paper documents.

(2) In an action subject to e-filing, any person may apply for an order prohibiting or restricting the electronic filing in the action of specifically identified materials on the grounds that such materials are subject to copyright or other proprietary rights, or trade secret or other privacy interests, and that electronic filing in the action is likely to result in substantial prejudice to those rights or interests. Unless otherwise permitted by the court, a motion for such an order shall be filed not less than ten days before the materials to which the motion pertains are due to be produced or filed with the court.

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AMENDMENT OF RULE

Uniform Civil Rules for the Supreme and County Courts

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby

amend, effective immediately, section 202.5-bb of the Uniform Civil Rules for the Supreme and County Courts, relating to electronic filing of actions in the Supreme Court, to read as follows:

* * *

§ 202.5-bb. Electronic Filing in Supreme Court; Mandatory Program.

(a) Application.

(1) There is hereby established a pilot program in which all documents filed and served in Supreme Court [in the following civil actions (in the counties specified)] shall be filed and served by electronic means: *in*

[(i) commercial actions in New York County;

(ii) commercial actions and tort actions in Westchester County;

[and]

(iii)] such classes of actions *and such counties* as shall be specified by order of the Chief Administrator [of the Courts] *in accordance with chapter 367 of the laws of 1999, as amended by chapter 416 of the laws of 2009 and chapter 528 of the laws of 2010* [(excluding matrimonial actions as defined by the Civil Practice Law and Rules, Election Law proceedings, proceedings brought pursuant to Article 78 of the Civil Practice Law and Rules, and proceedings brought pursuant to the Mental Hygiene Law) in any additional counties outside the City of New York as authorized by said statute.]

Except to the extent that this section shall otherwise require, the provisions of section 202.5-b of these rules shall govern this pilot program.

(2) For purposes of this section:[.]

(i) “commercial actions” shall mean actions in *which at least one claim of the types* described in subparagraph (1) of paragraph (B) of subdivision (b) of section 6 of chapter 367 of the laws of 1999, as amended by chapter 416 of the laws of 2009 *and chapter 528 of the laws of 2010, is asserted* [except for (A) actions where the amount in controversy (exclusive of punitive damages, interest, costs, disbursements and counsel fees claimed) is less than or equal to \$100,000, or (B) actions expressly excluded by the terms of such subparagraph (1)].

(ii) “tort actions” shall mean actions (*excluding a commercial action defined as set forth above or a claim expressly excluded from “commercial actions” but without regard to the amount in controversy*) in which only money damages are sought and in which at least one claim is asserted that arises out of or alleges:

(A) a motor vehicle accident, product liability, injury to person or property from tortious conduct, wrongful death, mass tort, or medical, dental or podiatric malpractice;

(B) other professional malpractice;

(C) damages to persons or property from environmental conditions; and

(D) negligence, defamation, intentional infliction of emotional distress or other intentional harm.

(b) Commencement of Actions Under this Section.

(1) Mandatory commencement in general. Except as otherwise provided in this section, every action specified in paragraph (1) of subdivision (a) of this section shall be commenced by electronically filing the initiating documents with the County Clerk through the NYSCEF site.

(2) Emergency exception. Notwithstanding paragraph (1) of this subdivision, an action otherwise required to be commenced electronically *may or shall be commenced by the filing of initiating documents in hard copy where permitted or required by statute or court order, and may be so commenced* [by the filing of initiating documents in hard copy] provided such documents are accompanied by the affirmation or affidavit of the *filing* attorney or party [filing those documents] stating that: (i) the statute of limitations will expire on the day the documents are being filed or on the following business day; and (ii) the attorney, [or] party *or filing agent therefor* is unable to electronically file such documents because of technical problems with his or her computer equipment or Internet connection. In the event a *filer* [an attorney or party in an action] shall file initiating documents in hard copy pursuant to this paragraph, *each such document shall include the notice required by paragraph (1) of subdivision*

(d) of section 202.5-b of these rules, and the filer [he or she] shall file those documents with the NYSCEF site within three business days thereafter. For purposes of this section, such an action shall be deemed to have been commenced electronically.

(3) Service of initiating documents. Personal service of initiating documents upon a party in an action that must be commenced electronically in accordance with this section shall be made as provided in Article 3 of the Civil Practice Law and Rules, or by electronic means if the party served agrees to accept such service. Such service shall be accompanied by a notice, in a form approved by the Chief Administrator, advising the recipient that the action is subject to electronic filing pursuant to this section. A party served by electronic means shall, within 24 hours of service, provide the serving party or attorney with an electronic confirmation that the service has been effected.

(c) Filing and Service of Documents After Commencement in Actions Under this Section.

(1) All documents to be filed and served electronically. [(i)] Except as otherwise provided in this *section* [subdivision], filing and service of all documents in an action that has been commenced electronically in accordance with this section shall be by electronic means.

[(ii)] All provisions of section 202.5-b of these rules that would apply to an action in which the parties thereto have consented to electronic filing shall apply to an action that is subject to this section, except that a court may not order discontinuation of e-filing pursuant to section 202.5-b(b)(4)].

(2) Addition of parties after commencement of action. Notwithstanding any other provision of this section, a party to be added in an action that has been commenced electronically in accordance with this section shall be served with initiating documents in hard copy together with the notice specified in paragraph (3) of subdivision (b) of this section. A proposed intervenor or other non-party who seeks relief from the court in such an action shall make his or her application for such relief by electronic means *as provided by the NYSCEF system*.

(3) Emergency exception; *other hard copy filings*. Notwithstanding paragraph (1) of this subdivision, where documents are required to be filed and served electronically in accordance with such paragraph (1), such documents may nonetheless be filed and served in hard copy *where permitted by paragraph (1) of subdivision (d) of section 202.5-b of these rules* [provided they are accompanied by the affirmation or affidavit of the attorney or party filing and serving those documents stating that: (i) a statutory deadline for their filing and service will expire on the day the documents are being filed and served or on the following business day; and (ii) the attorney or party is unable to electronically file and serve such documents because of technical problems with his or her computer equipment or Internet connection]. In the event a filer [an attorney or party in an action] shall file and serve documents in hard copy pursuant to this paragraph, *each such document shall include the notice required by paragraph (1) of subdivision (d) of section 202.5-b, and the filer* [he or she] shall, *as required*, file those documents with the NYSCEF site within three business days thereafter.

(d) County Clerk and Clerk of Court Not to Accept Hard Copies of Documents for Filing Where Electronic Filing Is Required. As provided in section 202.5(d)(1) of these Rules, a County Clerk and a Chief Clerk of Supreme Court, as appropriate, shall refuse to accept for filing hard copies of documents sought to be filed in actions where such documents are required to be filed electronically.

(e) Exemption From the Requirement of Electronic Filing. Notwithstanding the foregoing, an attorney or a party who is not represented by an attorney in an action that is required to be commenced electronically, or a person who is a proposed intervenor or other non-party who seeks relief from the court in such an action, may claim exemption from having to file and serve documents electronically in accordance with this section by filing with the County Clerk and the clerk of the court in which the action is or will be pending a form, to be prescribed by the Chief Administrator, on which:

(1) if [he or she is] an attorney, he or she certifies, in good faith *that he or she*:

(i) [that he or she] lacks the computer hardware and/or connec-

tion to the Internet and/or scanner or other device by which documents may be converted to an electronic format; or

(ii) [that he or she] lacks the requisite knowledge in the operation of such computers and/or scanners necessary to comply with this section (for purposes of this paragraph, the knowledge of any employee of an attorney, or any employee of the attorney’s law firm, office or business who is subject to such attorney’s direction, shall be imputed to the attorney); or

(2) he or she indicates that he or she is not represented by an attorney and [he or she] wishes to be exempt from having to file and serve documents electronically in accordance with this section.

Nothing in this section shall prevent a judge from exempting an attorney from having to file and serve documents electronically in accordance with this section upon a showing of good cause therefor.

Where an attorney, party, proposed intervenor or other non-party who seeks relief from the court in an action that is subject to this section is exempt from having to file and serve documents electronically in accordance with this section, he or she shall serve and file documents in hard copy, provided that each such document shall include *the notice required by paragraph (1) of subdivision (d) of section 202.5-b of these rules* [on a cover page firmly fastened thereto, a conspicuous notice that the person filing or serving the document is exempt from having to file and serve it electronically]. Notwithstanding the foregoing, all other attorneys, parties and others seeking relief from the court in such action shall continue to be required to file and serve documents electronically, except that, whenever they serve documents upon a person or party who is exempt from having to file and serve documents electronically in accordance with this section, they shall serve such documents in hard copy *and shall file electronically proof of such service.*

AMENDMENT OF RULE

Uniform Civil Rules for the Supreme and County Courts

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby amend, effective immediately, section 202.6(b) of the Uniform Civil Rules for the Supreme and County Courts (22 NYCRR 202.6[b]), and sections 202.70(d)(1) and (2) of the Uniform Rules of the Supreme and County Courts (22 NYCRR 202.70[d][1], [2]), relating to the filing of requests for judicial intervention, to read as follows:

§ 202.6 Request for Judicial Intervention.

(b) [The filing of a request for judicial intervention and payment of the fee required by CPLR 8020(a) for said filing shall not be required with respect to an] *A request for judicial intervention shall be filed, without fee, for any application not filed in an action or proceeding, as well as for a petition for the sale or finance of [church] religious/not-for-profit property, an application for change of name, a habeas corpus proceeding where the movant is institutionalized, an application for default judgment to the clerk pursuant to CPLR 3215(a), an application under CPLR 3102(e) for court assistance in obtaining disclosure in an action pending in another state, a retention proceeding authorized by article 9 of the Mental Hygiene Law, a proceeding authorized by article 10 of the Mental Hygiene Law, an appeal to a county court of a civil case brought in a court of limited jurisdiction, an application to vacate a judgement on account of bankruptcy, a motion for an order authorizing emergency surgery, or within the City of New York, an uncontested action for a judgment for annulment, divorce or separation commenced pursuant to article 9, 10 or 11 of the Domestic Relations Law.*

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22 NYCRR § 202.70(d):

(d) Assignment to the Commercial Division

[1] A party seeking assignment of a case to the Commercial Division shall indicate on the Request for Judicial Intervention (RJI) [that the case is “commercial.” A party seeking a designation of a special proceeding as a commercial case shall check the “other commercial” box on the RJI, not the “special proceedings” box] *the ap-*

propriate Nature of Action or Proceeding category and shall attach a completed Commercial Division RJI Addendum certifying that the case meets the jurisdictional requirements for Commercial Division assignment set forth in subdivisions (a), (b) and (c) of this section.

[2] The party shall submit with the RJI a brief signed statement justifying the Commercial Division designation, together with a copy of the proceedings.]

AMENDMENT OF RULE

Uniform Civil Rules for the Supreme and County Courts Uniform Rules for the Court of Claims

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, I hereby amend, effective June 29, 2011, (1) section 202.56 the Uniform Civil Rules for the Supreme Court and the County Court, relating to medical, dental, and podiatric malpractice actions, by adding a new subsection (c); and (2) the Uniform Rules for the Court of Claims, by adding a new section 206.12-a, to read as follows:

§ 202.56. Medical, Dental and Podiatric Malpractice Actions; Special Rules

(c) *Settlement conferences.*

(1) *The court shall hold a settlement conference in accordance with CPLR 3409 within 45 days after the filing of the note of issue and certificate of readiness or, if a party moves to vacate the note of issue and certificate of readiness and that motion is denied, within 45 days after denial of the motion.*

(2) *Where parties are represented by counsel, only attorneys fully familiar with the action and authorized to dispose of the case, or accompanied by a person empowered to act on behalf of the party represented, shall appear at the conference.*

(3) *Where appropriate, the court may order parties, representatives of parties, representatives of insurance carriers or other persons having an interest in any settlement to attend the settlement conference in person, by telephone, or by other electronic media.*

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§ 206.12-a. *Medical, Dental and Podiatric Malpractice Actions; Settlement Conference*

(a) *Settlement conferences.*

(1) *In every medical, dental and podiatric malpractice action subject to this part, the court shall hold a settlement conference within 45 days after the filing of the note of issue and certificate of readiness or, if a party moves to vacate the note of issue and certificate of readiness and that motion is denied, within 45 days after denial of the motion.*

(2) *Where parties are represented by counsel, only attorneys fully familiar with the action and authorized to dispose of the case, or accompanied by a person empowered to act on behalf of the party represented, shall appear at the conference.*

(3) *Where appropriate, the court may order parties, representatives of parties, representatives of insurance carriers or other persons having an interest in any settlement to attend the settlement conference in person, by telephone, or by other electronic media.*

AMENDMENT OF RULE

Uniform Rules for the Family Court

Pursuant to the authority vested in me, and with the advice and consent of the Administrative Board of the Courts, effective immediately, I hereby revise sections 205.7a and 205.12, and promulgate a new section 205.29, of the Uniform Rules for the Family Court regarding, respectively, electronic transmission of orders of protection, conferences, and transfers of juvenile delinquency proceedings for disposition, to read as follows:

Section 205.7a. Electronic transmission of orders of protection

(a) [The Family Courts in Albany, Erie, Kings, Monroe, Nassau, New York, Onondaga, Richmond and Westchester Counties are authorized to implement pilot projects for the electronic transmission of orders of protection and temporary orders of protection through the

execution of memoranda of understanding with sheriff's offices, police departments or other law enforcement agencies as set forth in this section.

(b) Unless the party requesting [the] *an* order of protection or temporary order of protection states on the record that he or she is making alternative arrangements for service or is delivering the order to the law enforcement agency directly, the Family Court may transmit the order of protection or temporary order of protection, together with any associated papers to be served simultaneously, to such agency by facsimile or other electronic means, as defined in subdivision (f) of rule 2103 of the Civil Practice Law and Rules, [for] *so that such agency may provide* expedited service in accordance with subdivision (c) of section 153-b of the Family Court Act *and subdivision (3-a) of section 240 of the Domestic Relations Law.*

(b). Proof of service must be provided to the court pursuant to subdivision (d) of [such] section [and no] *153-b of the Family Court Act and subdivision (3-a) of section 240 of the Domestic Relations Law.* No fees may be charged by the agency for such service. Such transmission shall constitute the filing required by section 168 of the Family Court Act.

[(c) The Family Court shall keep a record of the numbers of orders of protection and temporary orders of protection transmitted electronically to law enforcement agencies pursuant to the pilot project, the numbers of orders transmitted electronically for service by such agencies and the length of time between issuance of the orders and service of the orders by the law enforcement agencies, as indicated in the proof of service submitted by such agencies.]

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§ 205.12. Conference

(b) The matters which may be considered at such conference may include, [among other things] *but are not limited to:*

- (1) completion of discovery;
- (2) filing of motions;
- (3) argument or hearing of motions;
- (4) fixing [of] a date for fact-finding [hearing] *and dispositional hearings;*
- (5) [simplification] *clarification* and limitation of issues;
- (6) amendment of pleadings or bills of particulars;
- (7) admissions of fact;
- (8) stipulations as to admissibility of documents;
- (9) completion or modification of financial disclosure;
- (10) possibilities for settlement; and
- (11) [limitation] *identification* of [number of] expert *and fact* witnesses.

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§ 205.29. Transfers of proceedings for disposition; required documents

Whenever the court makes an order pursuant to section 302.3 of the Family Court Act transferring a juvenile delinquency proceeding for disposition to the Family Court in the county where the respondent resides, the clerk of the sending court shall immediately transmit by electronic means all available records concerning the case, including, but not limited to, the petition, order of fact-finding, any reports regarding the respondent contained in the court file, the transcript of the plea allocation by the respondent, the court activity reports and any other orders made by the sending court. Any documents or orders not immediately available for such transmission shall be expeditiously prepared and forwarded by the sending court no later than forty-eight (48) hours from the date of the order of transfer.

AMENDMENT OF RULE

Uniform Civil Rules for Surrogate's Court

Pursuant to the authority vested in me, and upon consultation with and approval by the Administrative Board of the Courts, I hereby amend, effective immediately, section 207.4-a of the Uniform Civil Rules for Surrogate's Court, relating to electronic filing, to read as follows:

§ 207.4-a. Surrogate's Court E-filing [Pilot Program] Rules

1. (a) Application. [There is hereby established in designated Surrogate's Courts a pilot program in which] *D[d]ocuments may be filed or served electronically [in Probate or Administration proceedings, miscellaneous proceedings related thereto, or such other types of proceedings as the court may permit. This pilot program shall apply] in Surrogate's Court in [Chautauqua, Erie, Monroe, Queens, and Suffolk Counties.] proceedings and counties as specified by order of the Chief Administrator of the Courts.*

AMENDMENT OF RULE

Uniform Rules for the New York State Trial Courts

Pursuant to the authority vested in me, and in consultation with the Honorable Luis A. Gonzalez, Presiding Justice of the Appellate Division, First Department, and the Honorable A. Gail Prudenti, Presiding Justice of the Appellate Division, Second Department, I have established programs for the mandatory use of electronic means for the filing and service of documents ("e-filing"), in the manner authorized pursuant to L. 1999, c. 367, as amended by L. 2009, c. 416, and L. 2010, c. 528, in the counties, courts, actions, and circumstances set forth in Appendix A attached hereto. Such programs shall be subject to section 202.5-bb and, as provided therein, section 202.5-b of the Uniform Rules for the New York State Trial Courts.

This order is effective on June 1, 2011, and on that date shall supersede AO/430/11, which shall thereafter be without further force or effect.

APPENDIX A

(May, 2011)

County	Authorized Mandatory E-Filing Program Courts	Implemented Mandatory E-Filing Programs (and effective date)
New York	Supreme Court	Commercial actions (5/24/2010)
Westchester	Supreme Court	Commercial actions (2/1/2011) Tort actions (3/1/2011)
Rockland	Supreme Court	All newly-commenced matters other than CPLR Article 78 proceedings, Mental Hygiene Law proceedings, matrimonial actions, and Election Law proceedings (6/1/2011)

I. For purposes of the e-filing program, the following definitions, restrictions, and conditions shall apply.¹

1. "Commercial actions" with threshold amount in controversy requirement. "Commercial actions" shall mean actions which both (a) exceed the threshold amount in controversy requirement set forth in sec. 2 infra; and (b) address at least one of the following claims or transactions:

(1) in matters arising out of business dealings (including but not limited to sales of assets or securities, corporate restructuring, partnership, shareholder, joint venture, and other business agreements, trade secrets; restrictive covenants; and employment agreements, not including claims that principally involve alleged discriminatory practices), claims of:

- (i) breach of contract (with a threshold amount in controversy requirement in New York County only);
- (ii) breach of fiduciary duty;
- (iii) fraud, misrepresentation, business tort (including but not limited to actions involving claims of unfair competition); and
- (iv) statutory and/or common law violation;

(2) transactions governed by the uniform commercial code (exclusive of those concerning individual cooperative or condominium units);

(3) transactions involving commercial real property, including Yellowstone injunctions and excluding actions for the payment of rent only;

(4) business transactions involving or arising out of dealings with commercial banks and other financial institutions;

(5) internal affairs of business organizations;

- (6) malpractice by accountants or actuaries;
- (7) legal malpractice arising out of representation in commercial matters;
- (8) environmental insurance coverage; and
- (9) commercial insurance coverage (including but not limited to directors and officers, errors and omissions, and business interruption coverage).

2. Amount in controversy requirement in certain commercial actions. The threshold amount in controversy requirements described in sec. 1(a) supra are as follows, exclusive of punitive damages, interest, costs, disbursements and counsel fees claimed:

- a. New York County: \$100,000.00.
- b. Westchester County: \$ 100,000.00.

3. “Commercial actions” without threshold amount in controversy requirement. In addition to the actions described in sec. 1 supra, “commercial actions” shall include actions that assert at least one claim arising from the following, without regard to the amount in controversy:

- (1) breach of contract (in Westchester);
- (2) shareholder derivative actions;
- (3) commercial class actions;
- (4) dissolution of corporations, partnerships, limited liability companies, limited liability partnerships and joint ventures; and
- (5) applications to stay or compel arbitration and affirm or disaffirm arbitration awards and related injunctive relief pursuant to article 75 of the civil practice law and rules involving any of the commercial issues enumerated in sec. 1 and this section.

4. Exclusions from commercial actions. “Commercial actions” shall not include:

- (1) actions to collect professional fees;
- (2) actions seeking a declaratory judgment as to insurance coverage for personal injury or property damage;
- (3) residential real estate disputes, including landlord-tenant matters, and commercial real estate disputes involving the payment of rent only;
- (4) proceedings to enforce a judgment regardless of the nature of the underlying case;
- (5) first-party insurance claims and actions by insurers to collect premiums or rescind non-commercial policies; and
- (6) attorney malpractice actions except as otherwise provided in par. 1 above.

5. Tort actions. “Tort actions” are actions that (a) seek only monetary damages; and (b) assert at least one claim (other than a commercial action claim described in pars. 1 and 3 supra, or a claim expressly excluded from commercial actions as described in par. 4 supra) that arises out of or alleges:

- (1) a motor vehicle accident, product liability, injury to person or property from tortious conduct, wrongful death, mass tort, and medical, dental or podiatric malpractice;
- (2) other professional malpractice;
- (3) damages to persons or property from environmental conditions; or
- (4) negligence, defamation, intentional infliction of emotional distress or other intentional harm.

6. Commercial and Tort Claims in a Single Action. An action which meets both the definition of “commercial action” and “tort action” shall be treated as a tort action in Westchester County for e-filing purposes.

¹ If any definition, restriction or condition set forth in this Administrative Order conflicts with L. 1999, c. 367, as amended by L. 2009, c. 416, and L. 2010, c. 528, or sections 202.5-b and 202.5-bb of the Uniform Rules of the Trial Courts, the statutory provision or Uniform Rule shall apply.