

NASSAU COUNTY SURROGATE'S COURT
E-FILING PROTOCOL

HON. MARGARET C. REILLY
SURROGATE

The Administrative Judge of the 10th Judicial District, the Surrogate of Nassau County, and the Chief Clerk of the Nassau County Surrogate's Court hereby promulgate local Protocols to assist users of the New York State Courts E-Filing System (hereinafter referred to as "NYSCEF") implemented in the Nassau County Surrogate's Court in accordance with the program established by the Chief Administrator of the Courts pursuant to Uniform Rules 207.4a and 207.4aa. These Protocols provide guidance regarding Nassau County Surrogate's Court's practice and procedures for Electronic Filings (E-filings), fees and court calendaring. Users should also review the NYSCEF website (www.nycourts.gov/efile). These Protocols do not supersede any statutory or regulatory provisions regarding E-filing, as those are controlling and take precedence.

1) **Case Types Eligible for E-Filing:**

• **Mandatory E-Filing:**

Beginning on December 22, 2021, in the Nassau County Surrogate's Court, E-filing is mandatory in Administration, Voluntary Administration (Small Estates), Probate and Miscellaneous proceedings. All such proceedings must be commenced by filing with the Court electronically through NYSCEF and, except in limited circumstances, all subsequent documents filed by participating parties must be E-filed.

Accounting and Guardianship proceedings, although not mandatory proceedings, may be E-filed.

Adoption proceedings **are not** permitted to be filed through the E-filing system.

• **Exemptions:**

An attorney who certifies in good faith that he/she lacks the equipment or knowledge needed to E-file, or has no staff person under their direction who has such knowledge or equipment may opt out of E-filing in a mandatory case by filing a "Notice of Opt-Out Form from Participation in Proceeding Subject to Mandatory Electronic Filing Form" with the Clerk [*see* NYSCEF forms]. Attorneys may also be exempted by the Court for good cause shown.

- **Per Uniform Rule 207.4-aa(e)(1)**, an unrepresented litigant, proposed intervener or other non-party seeking relief from the Court, who is unrepresented, is exempt from having to file and serve documents electronically.

- **Documents Must be E-Filed:**

Unless otherwise provided in the E-filing rules, this Protocol, by Court Order or where a special exemption is granted (e.g., Oversized Exhibits in Section 3, below) all documents to be filed with the court in a NYSCEF case must be filed with the NYSCEF system.

2) **E-Filing Documents in Surrogate's Court:**

- **Essential Step Prior to E-Filing:**

Prior to entering any information into an initial filing, the user should run an inquiry on the decedent's last name, using the first initial, to determine if a file is already open. Due to the numbering system in Surrogate's Court, an inquiry based on the file number alone may not produce accurate results. In addition, you must contact the Court to ascertain whether there may be another will for the decedent on file with the Court (e.g., filed for safekeeping).

- **Initial Entering of Case Information:**

Any error in the initial entry of case information can significantly delay the proceeding. Please double check to be sure to select the same county as is shown on your papers.

The case name must be entered as follows:

- Initial entry must be identical to the signature on the will;
- If the name on the death certificate is different, that becomes an "AKA";
- If the name on the will does not match the signature, that becomes an "AKA";
- No punctuation or spaces should be used when entering the name or an "AKA".

- **Notice of Hard-Copy Submission:**

As enumerated in the E-filing rules, when an attorney or an unrepresented litigant who is not participating in E-filing, submits a document in hard copy to the Court, the document must bear a "Notice of Hard Copy Submission - E-filed Proceeding". [see NYSCEF forms] Attorneys who are exempt from E-filing are required to attach this form to all hard copy filings, while unrepresented litigants who are not participating in E-filing are not so required.

- **Request for Surrogate's Court Action:**

This Court requires the Request for Surrogate's Court Action. [see NYSCEF forms] As the **first document uploaded** with each filing. This form is to be filed as a stand-alone document. Do not scan any other documents with the Request. Please provide contact information on this form. For subsequent filings, do not re-use the original Request form. Prepare a new form for each filing with the appropriate information entered. If requesting Court certified documents or Certificates of Appointment, use a Request for Surrogate's Court Action Non-Proceeding Relief. Do not submit a blank Request for Surrogate's Court Action form.

- **Petition:**
When filing a Petition, upload the Petition as the **second document**.
- **Death Certificate(s):**
A Death Certificate is required to be scanned by the filer. In addition to E-filing a Death Certificate, a hard copy original **must** be filed with the Court within two (2) business days of E-filing.
- **Will(s):**
A Will is required to be scanned by the filer. **DO NOT UNSTAPLE THE WILL**. File the original will within two (2) business days of E-filing.
- **Medicals and Birth Certificates:**
In Guardianship proceedings, medicals and birth certificates are required to be scanned by the filer. In addition to E-filing any medicals and birth certificates, the original medicals and birth certificate must be filed with the Court within two (2) business days.
- **Citations:**
E-File proposed citations through NYSCEF only. The Court will complete the citation and upload the completed version to NYSCEF. If your proposed citation requires amendment, you will be notified. Otherwise, an email notification will be sent when the completed citation is posted to NYSCEF. After receipt of the notification, print the citation and serve it, in accordance with the SCPA. Service of the citation should be accompanied by a Notice Regarding Availability of Electronic Filing.
- **Decrees and Orders:**
E-File proposed decrees and orders through NYSCEF only. Once the decree or order is signed, the Court will upload the signed version to NYSCEF. Users who have requested a certified copy of the decree or order and have paid the appropriate fee via NYSCEF will receive the certified copy by regular mail. The Court will try to accommodate requests for a signed duplicate original decree of judicial settlement, but users must make that request in the “Comments” section of NYSCEF.
- **Stipulations:**
Stipulations submitted for purposes of being “so ordered” by the Court must be E-filed. If the Court requires a working copy, the filer must attach proof that the stipulation has been E-filed (e.g., the thank you page or the email notification) to the back of the stipulation when it is submitted to the Court.
- **Exhibits:**
When possible, upload all exhibits together in one document.
- **Working Copies:**
The Court requires hard copies of E-filed **trusts, motions, memorandums of law, non-guardianship accountings, and wrongful death compromise proceedings** [“working copies”]. The filer must attach proof that the document has been E-filed (e.g., the thank you page or the email notification) to the front of all working copies submitted to the Court.

Working copies must be exact hard copy duplicates of the E-filed documents. They do not become part of the official record and will be destroyed by chambers at the disposition of the case. At the Court's discretion, original documents may be required at any time.

3) **Payment:**

This court accepts payment of fees required by the SCPA by credit card directly through NYSCEF or by payments (attorney check, postal money order, certified check or cash) made at the court (in person or by mail). Fees are calculated in accordance with SCPA § 2402 based on the documents filed with NYSCEF and the representation of the filing user regarding the value of the estate assets. Review by the Court may result in a modification of the fees initially anticipated or charged in connection with this transaction. In the event of any such modification, the Court will contact the filing user by e-mail with the proper amount and request an additional fee, if applicable. The Nassau County Surrogate's Court will not allow the filing of additional documents by the filer if the filer owes an outstanding fee in that proceeding.

- If choosing to pay by credit card at time of filing on the NYSCEF website, enter credit card information directly on the website. You must input the credit card information with each filing; your credit card will be charged at the time of filing. Make sure credit limit is large enough to cover anticipated filings. A non-refundable service fee of 2.99% of the payment amount will be assessed on all credit card payments.
- If choosing to pay at the court, be aware that documents are not "filed" until payment is received. The court cannot process the filing until payment is received in full and will delete the filing if payment is not made within (5) five business days after E-filing.

4) **Notifications:**

Notification of defective filings will be sent out by the Nassau County Surrogate's Court via email or by telephone.

5) **Return of Requested Documents:**

To ensure rapid return of documents you have requested from Surrogate's Court, a pre-paid self-addressed, envelope must be provided. When filing your Request for Surrogate's Court Action, you should indicate that the item should be returned to you in the pre-paid self-addressed envelope sent to the Court.

6) **Certificates and Letters:**

Upon request made via NYSCEF, the Court will mail out Certificates and Letters. Users must request and pay for certificates in advance in any E-filed proceeding.

7) **General Correspondence:**

All general correspondence must be E-filed.

- 8) **Adjournments and Conference Requests:**
All adjournments must be made via email to nassausur.calendar@nycourts.gov 48 hours before the scheduled Court appearance. Conference requests must be emailed to the Calendar Clerk at nassausur.calendar@nycourts.gov. **DO NOT USE NYSCEF** for adjournment or conference requests.
- 9) **Motions:**
All Motions/Orders to Show Cause (OTSC) shall be made via NYSCEF. A working copy of all motions and exhibits shall be filed with the Court, in addition to the filing through NYSCEF. Any questions on motions should be made to the Motion Clerk at Nassausurrogatemotions@nycourts.gov.
- 10) **Signatures:**
Documents requiring signatures must be considered to be signed under the circumstances outlined in Uniform Rule 207.4-a(f). When E-filing a document bearing an actual signature, the E-filer is responsible for maintaining the original, executed document pursuant to Uniform Rule 207.4-a(f)(2).
- 11) **In Camera Documents:**
Documents submitted to the Court for in camera review should be delivered to the Court in a sealed envelope conspicuously marked “FOR IN CAMERA REVIEW BY THE COURT” with a Notice of Hard Copy Submission form attached. [see NYSCEF forms] **DO NOT E-FILE DOCUMENTS FOR IN CAMERA REVIEW.**
- 12) **Signed Decisions, Orders and Decrees:**
Decisions, Orders and Decrees will be signed in hard copy by the Surrogate and forwarded to a Surrogate Court Clerk for filing and scanning into the NYSCEF system, which will then transmit notification to all parties. However, the notification does not constitute service of notice of filing upon any party (*see*, Uniform Rule 207.4-a[h]). Original Court issued Letters and Certificates of Appointment will be provided in hard copy to the filer via regular mail.
- 13) **NYSCEF Resource Center Information:**
NYSCEF Resource Center
NYSCEF@NYCOURTS.GOV
Phone: 646-386-3033
Hours of Operation:
Monday - Friday (8:00 a.m. - 6:00 p.m.)