

## **APPELLATE DIVISION: SECOND DEPARTMENT**

### **CHECKLIST - NOTICE OF APPEAL - E-FILED CASES**

Notice of appeal for electronically filed cases, **MUST BE FILED ELECTRONICALLY** with the New York State Courts Electronic Filing System (NYSCEF) located at [www.nycourts.gov/efile](http://www.nycourts.gov/efile)

#### **E-filed cases:**

DOCUMENTS SHALL BE E-FILED IN TEXT-SEARCHABLE PORTABLE DOCUMENT FORMAT. (PDF-A)  
DOCUMENTS SHOULD PASS THE NYSCEF .PDF CHECKER

**THE NOTICE OF APPEAL SHALL BE FILED WITHIN 30 DAYS FROM THE DATE THE ORDER/JUDGMENT WAS SERVED WITH NOTICE OF ENTRY. NOTICE OF ENTRY SHOULD BE PREPARED AND FILED ELECTRONICALLY.**

- A completed informational statement
- A notice of appeal
- A copy of the entered order/judgment appealed from with notice of entry
- Proof of service is only required if any of the parties have opted out of e-filing or if a pro-se litigant didn't opt in for e-filing
- \$65.00 filing fee (credit card or bank card accepted)

\* Each appealed document requires it's own notice of appeal be filed.

Please note that the order /judgment that was uploaded to NYSCEF by the County Clerk (or his or her designee) does not constitute notice of entry thereof by any party.

A party must serve a copy of the order/judgment and notice of its entry (CPLR 5513).

E-Filing Rules provide that such service may be made either by:

- (1) posting the documents to NYSCEF and thereby causing them automatically to be served via NYSCEF on all participating parties in the case, or
- (2) serving them in hard copy by any method authorized by CPLR 2103.  
In the latter case, proof of such hard copy service, clearly denominated as such, must be filed thereafter with the NYSCEF system.

#### **Entry of Contact Information.**

Within 14 days of filing a notice of appeal, counsel for the appellant or the petitioner must:

- Register or confirm registration as an authorized e-filer with NYSCEF; and
- File the notice of appeal on NYSCEF and enter party and case information as prompted.

A case number will be assigned by the court. You will receive notification of the case number.

- Within 7 days of receipt of notification of case number the appellant must serve the notification of case number form upon all parties and upload proof of service to NYSCEF.

Documents submitted via NYSCEF must have one-inch margins at the top, bottom, right and left sides.

An authorized e-filer may designate another person or entity, including an appellate printer, to e-file documents on his or her behalf.

## CHECKLIST - BRIEFS - E-FILED CASES

### THE APPELLATE DIVISION SECOND DEPARTMENT DOES NOT REQUIRE HARD COPIES AT THIS TIME

Briefs must be reproduced on recycled paper and clearly indicate that on the cover.  
No less than 1 inch margins, 8 1/2 x 11 inch paper

Fonts allowed: 14 pt. Times New Roman or 12 pt. Courier

No ALL CAPS or **Bold** are allowed in the body of the brief, but are permitted in point headings.

Formatting is checked and corrected on all briefs at **DICK BAILEY SERVICE**

### **Appellant's Brief—14,000 word limit** *(Footnotes included)*

Due within **six months** of the date of the notice of appeal.

- Cover—Requesting argument or submission and time request.
- Table of Contents (with hyperlinks and bookmarks)
- Table of Authorities (with hyperlinks)
- Questions Presented
- Nature of the case—A concise statement of nature and facts with references to page numbers in the record
- Argument—Divided into points with appropriate headings
- Conclusion—original ink or /s/ signature required on briefs
- Printing Specifications Statement
- Statement Pursuant to CPLR §5531
- Final brief in PDF-A compliance shall be uploaded to NYSCEF or filed on the Court's portal

### **Respondent's Brief—14,000 word limit** *(Footnotes included)*

Due within 30 days (+5 for mail) of filing of the appellant's brief & record. (except where there is a court order or stipulation)

- Cover—Requesting argument or submission and time request
- Table of Contents (with hyperlinks and bookmarks)
- Table of Authorities (with hyperlinks)
- Counterstatement of questions presented (optional)
- Counterstatement of nature of the case (optional)
- Argument—Divided into points with appropriate headings
- Conclusion—original ink or /s/ signature required on briefs
- Printing Specifications Statement
- Final brief in PDF-A compliance shall be uploaded to NYSCEF or filed on the Court's portal

### **Appellant's Reply Brief—7,000 word limit** *(Footnotes included)*

Due within 10 days (+5 for mail) of the filing of the respondent's brief. (except where there is a court order or stipulation)

- Cover—Requesting argument or submission and time requested.
- Table of Contents (with hyperlinks and bookmarks)
- Table of Authorities (with hyperlinks)
- Argument—Clearly divided into points with no repetition of the
- Conclusion—original ink or /s/ signature required on briefs
- Printing Specifications Statement
- Final brief in PDF-A compliance shall be uploaded to NYSCEF or filed on the Court's portal

ARGUMENT REQUEST MUST BE MADE ON THE BRIEF.

Briefs may contain an addendum composed of decisions, statutes, ordinances, rules, regulations, local laws or other similar matter, cited therein that were NOT PUBLISHED or OTHERWISE READILY AVAILABLE. **BRIEFS MUST CONTAIN LINKS TO THE CASES CITED.**

Unless ordered by the court, briefs may not contain maps, photographs or other addenda. Charts are not permitted in the brief.

## CHECKLIST - RECORD ON APPEAL -E-FILED CASES

The record on appeal shall consist of accurate reproductions of the papers and other exhibits from the court of original instance, upon which the judgment or order being appealed was founded.

To the extent practicable, 2 sided printing is encouraged.  
Books must be printed on 8 1/2 x 11 inch recycled paper.  
Volumes may not exceed two inches in thickness.

To be included in the record:

### Appeal From a Final Judgment:

- Cover—*must indicate recycled paper*
- Table of contents (with bookmarks & hyperlinks)
- Statement pursuant to CPLR §5531
- Notice of appeal
- Final Judgment being appealed
- Any opinion or decision in the cause
- Judgment roll
- Corrected/settled transcripts of proceeding (if applicable)
- Exhibits
- Post trial motions
- Statement settling transcript pursuant to CPLR §5525(c)
- Stipulation or order dispensing with reproducing exhibits
- Certification pursuant to CPLR §2105 or stipulation pursuant to CPLR §5532

### Appeal From an Interlocutory Order:

- Cover—*must indicate recycled paper*
- Table of contents (with bookmarks & hyperlinks)
- Statement pursuant to CPLR §5531
- Notice of appeal
- Order being appealed
- Motion papers/order to show cause
- Affidavits in support including exhibits, *if any*
- Affidavits in opposition including exhibits, *if any*
- Reply affidavits including exhibits, *if any*
- Certification pursuant to CPLR §2105 or stipulation pursuant to CPLR §5532

**Appellant's records are due within **SIX months** of the date of the notice of appeal.**

**Materials not submitted to the trial court are not part of the record.**

**Anything dated after the notice of appeal is not part of the record.**

### Notes:

- \$315.00 filing fee is paid directly on NYSCEF and is due upon filing (plus the Court's non-refundable service fee of \$9.42 will be applied to this credit card transaction).
- Transcripts must be settled at least 15 days before the date of filing the record. The court will not accept a record when the transcript has not been appropriately settled.
- Enlargements of time:
  - Appellant's requesting additional time must make an application to the court for 60 days.
  - Respondent's and reply briefs can make an application to the court for 30 days.
  - Respondent's and reply briefs can make an application to the court for 10 days.

All Briefs, records and appendices shall be bound on the left in a manner that will keep pages securely together, however use of any metal fastener or similar hard material that presents a bulky or sharp edge is prohibited.

Each endorsement required by CPLR 2101(d) shall include an e-mail address.

## CHECKLIST - APPENDIX

The appendix shall contain all portions of the record necessary to permit the court to fully consider the issues which will be raised by the appellant and respondent.

To the extent practicable, 2 sided printing is encouraged.  
Books must be printed on 8 1/2 x 11 inch recycled paper.  
Volumes may not exceed two inches in thickness.

If appellant elects the appendix method, a subpoena must be sent to the court of original instance to have the complete record sent to the Appellate Division, First Department.  
Certain lower courts require that subpoena be so ordered by the First Department.

To be printed in the appendix:

- Cover—*must indicate recycled paper*
- Table of contents (including bookmarks & hyperlinks)
- Statement pursuant to CPLR §5531
- Notice of appeal
- Judgment or order appealed from
- Any pleadings relevant to issues to be raised on appeal
- Any opinion or decision in the cause
- Motions with supporting, opposing and reply papers pertinent to issues on appeal
- Material excerpts from transcripts of testimony, such must contain portions upon which the appellant relies and upon which it may be reasonably assumed the respondent will rely.
- Copies of critical exhibits
- Statement settling transcript pursuant to CPLR §5525(c)
- Certification pursuant to CPLR §2105 or stipulation pursuant to CPLR §5532
- A complete copy of the transcript must accompany the appendix if the full transcript is not reproduced within.

**Appellant's appendices are due within SIX months of the date of the notice of appeal.**  
**Materials not submitted to the trial court are not part of the appendix.**  
**Anything dated after the notice of appeal is not part of the appendix.**

The parties need not consult on whether to perfect upon the full Record or Appendix method, unless there is a cross-appeal.

The brief and appendix should not be bound together.

Notes:

- \$315.00 filing fee is paid directly on NYSCEF and is due upon filing (plus the Court's non-refundable service fee of \$9.42 will be applied to this credit card transaction).
- The full set of transcripts must be ordered and settled, even if not reproduced in the appendix
- Enlargements of time:
  - Appellant's requesting additional time must make an application to the court for 60 days.
  - Respondent's and reply briefs can be stipulated to another term of the court. (Cannot stip to the June Term)
  - Respondent's and reply briefs can be stipulated to be filed with a 1 week enlargement and stay on the same term.

# FORMATTING REQUIREMENTS FOR E-FILED DOCUMENTS

## Formatting Requirements for Documents Electronically Filed

1. General. In addition to compliance with the court's general rules for document formatting, e-filed documents filed pursuant to this Part shall
  - a. be identical in content to the hard copy;
  - b. comply with text searchable PDF archival format (PDF/A);
  - c. contain bookmarks linking the tables of contents of briefs and records to the corresponding page of the document;
  - d. be paginated to correspond to the hard copy; and
  - e. be scanned at a resolution sufficient to ensure legibility.
3. Multiple Volumes. Each volume of a multi-volume record or appendix shall be submitted as a separate e-filed document.
4. Corrections. Where the court directs filing of corrected documents, such corrected documents shall be filed electronically and by hard copy.
5. PDF Initial View. The "initial view" of a PDF shall be the Bookmarks Panel and Page.
6. PDF File Size. E-filed documents shall each be no greater than 100MB in size.