

NEW YORK STATE COURTS ELECTRONIC FILING (NYSCEF) GUIDE FOR SUPREME COURT AND COURT OF CLAIMS CASES

The purpose of this document is to help small-business defendants file either an Answer or motion with the New York Housing Courts through the New York Courts Electronic Filing (NYSCEF) system.

Who can appear in an action or file through NYSCEF without a lawyer?

Pro se means to legally represent oneself in court without a lawyer. Under New York State Law, the following types of entities generally cannot appear in an action nor file through the NYSCEF *pro se*: corporations, partnerships, and limited liability companies. Such types of entitles must appear and be represented by an attorney <u>unless</u> they are defending a case in a small claims court¹.

Entity	Ability to Appear in an Action or File through NYSCEF Pro Se
Sole Proprietorship	A sole proprietorship may appear <i>pro se</i> , either as plaintiff or defendant. A sole proprietorship is a type of business entity that has no separate legal existence from its owner. It has only one owner, and this owner does business in his or her own name.
Corporation	A corporation cannot appear <i>pro</i> se in court. A corporation must retain a lawyer to represent the corporation in court.
Limited Liability Company	An LLC may not appear <i>pro</i> se in court, even if the LLC has only one member. You must retain a lawyer to represent your LLC in court.
Partnership	A partnership cannot appear <i>pro se</i> in court. You must retain a lawyer to represent your partnership in court.

DEFINITIONS

Answer. A paper filed in court by the defendant/respondent; the Answer responds to the plaintiff's/petitioner's complaint. In the Answer, the defendant/respondent must admit or deny the statements in the plaintiff's/petitioner's complaint, and briefly state why the plaintiff's/petitioner's claims are incorrect and why the defendant/respondent is not responsible for the plaintiff's/petitioner's injury or loss.

Affidavit in Support of the Motion. A document that contains sworn statements about facts that support the motion.

¹ Small Claims Court is a special section of a court where you can sue for up to \$5000. In NYC you can sue for up to \$10000. You can only sue for money.

This Document was prepared by VOLS in collaboration with members of Fordham Law Small Business Society, Salima Moldokmatova, Lauren Park, Ambar Massiel Graciano Marte, Eva Luong, and Gregory Hom. This Document is for informational purposes only and does not constitute legal advice.



Garnishment: A seizure (or "attachment") of a portion of a debtor's wages or other property to repay the debt. The garnishing party notifies a third party (such as a bank or an employer) to seize something it has possession over belonging to the defendant-debtor, to make disclosure to the court concerning it, and to dispose of it as the court directs.

Index or Claim Number. The Index or Claim number is the number the court assigns to your case so that it may be identified and located easily. Once you have an index number, you must include it on all your communications with the court.

Judgment. The final decision of the judge. It is a determination of the rights and obligations of the parties. In a given lawsuit, a judgment may direct a dismissal of the lawsuit, order payment, or direct one or more of the parties to act.

Memorandum of Law. A document that contains the legal arguments (as opposed to the facts) that support a motion.

Motion. A motion is an application to the court for a specific order or ruling in favor of the person making the motion (the movant).

Motion Day. Specified days on the court calendar when courts hear motions (i.e., the parties see the judge about the motion).

Movant or Moving Party. The person who is bringing the motion.

Notice of Motion. A document that informs the court and all opposing parties that the moving party is seeking a specific ruling or order.

New York State Courts Electronic Filing (NYSCEF). An online program for filing legal papers with the County Clerk and the courts electronically. It can be used for certain case types and designated venues. It can also be used in some instances to serve papers in those cases. Cases may be started using NYSCEF, and cases that were initiated in hard copy form may be converted into NYSCEF matters.

Oral Argument. An appearance in court where the parties present their positions regarding a motion or other court action to the judge in person. Either side may request oral argument, but the judge decides whether there will be oral argument. If oral argument is not requested by either of the parties or the judge, the motion will be decided "on the papers."

Pro Se. To legally represent oneself in court. A pro se litigant represents him- or herself in court without an attorney or counsel.

Proposed Form of Order. A document that must accompany every motion. The judge can use this document to either grant or deny the relief sought in the motion.

Return Date. The date on which the court will begin considering the motion, with or without oral argument.

Motion for Summary Judgment. A motion that asks the court to resolve the case in the moving party's favor without a trial, because there is no dispute over the case's facts and the law supports the moving party's position.



STEPS TO CREATE A USER ACCOUNT

This packet is for unrepresented (*pro se*) litigants. To e-file court papers, you must create a NYSCEF User Name and Password. The process is different if you want to start a new case, or file papers in an existing case. **The account you create can be used for only one case.** If you want to e-file in another case, you will have to create another account.

Create an Account to Start a New Case

STEP 1. Go to

https://iapps.courts.state.ny.us/nyscef/CreateAccountNe w by typing the web address in your browser. Read all information. Press the link to "Create an Account to Start a New Case."

STEP 2. Read and complete the Website Terms of Use Form and press Continue.

STEP 3. Submit your Name, Address and E-mail Address.

STEP 4. After you submit your information, you will get an email back with a User Name and Password. Change your Password.

STEP 5. Login using your Account User Name and new Password.

You now have a NYSCEF Account to e-file documents with the Court over the internet. However, e-filing your documents is not equivalent to formal notice and delivery of the documents to the other party. Formal notice and delivery are usually required to start a case.

Create an Account in an Existing Case

STEP 1. Go to

https://iapps.courts.state.ny.us/nyscef/CreateAccountExi sting by typing the web address in your browser. Read all information. Click the link to "Create an Account in an Existing Case."

STEP 2. Read and complete the Website Terms of Use Form and press Continue.

STEP 3. Complete the form titled "NYSCEF Account Registration Form for Non-Attorneys Representing Themselves (Unrepresented Litigants) / Filing Agent / Pro Hac Vice for Existing Cases."

Your signature must be notarized. Fill out everything as applicable **except** your signature line and the Notary Public section.

STEP 4. Take the NYSCEF Account Registration Form to a licensed Notary Public. Sign the Form in front of the Notary. Remember to bring a photo identification and method of payment.

STEP 5. Scan and email **all 3 pages** of the Form to <u>nyscef@nycourts.gov</u>, or fax to (212) 401-9146. Sending a PDF attachment by email is the preferred method of submission.

STEP 6. Allow 1-2 days to receive an email with your new Account User Name and Password.

If you need your User Name and Password faster, you can ask the Court to speed up the process by writing the words "PLEASE EXPEDITE" across the top of the NYSCEF Account Registration Form.

For any questions or status updates, contact the NYSCEF Resource Center.

- E-mail: <u>nyscef@nycourts.gov</u>
- Phone: (646) 386-3033
- Fax: (212) 401-9146
- Hours of Operation: Monday thru Friday, 8:00 am 6:00 pm



FILING AN ANSWER

It is important to file an Answer as soon as possible. Failure to Answer an eviction petition could lead to a default judgment against you, which eventually can lead to eviction. Your Answer should include any explanations and reasons why the landlord/plaintiff has no valid case against you.

If you are served with a nonpayment petition, you must Answer within 10 days after you have received the notice of petition.²

You may Answer in writing by using a free Civil Court form, or your own form. You may come to the clerk's office and request a Landlord/Tenant Answer In Writing And Verification form from the clerk at the counter. You will be given two duplicate copies of this form.

The (1) Answer in Writing Form (CIV-LT-91b) and (2) Instructions to fill it out are both attached to the end of this packet. The Form is also available online: <u>https://www.nycourts.gov/courts/nyc/civil/forms/civil91b.pdf.</u>

You must fill out the written Answer form and then serve the form to the other side.

If you are served with a Holdover Petition, generally you must Answer orally or in writing in the courtroom on the date of the hearing. However, if the petitioner serves the Notice of Petition at least 8 days prior to the Return Date, the Notice of Petition may ask you to Answer **at least 3 days before the hearing date.**

BASIC STEPS TO FILE AN ANSWER

STEP 1. Log in to your NYSCEF account.

• Under "File Documents" section select "Civil Courts."



² <u>https://nycourts.gov/courts/nyc/housing/answering.shtml</u>

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STEP 2. Select "File to an Existing Case" to file an Answer.

STEP 3. Enter your Index Number. (Enter as LT-NNNNN-YY/NY)

- Select "Landlord and Tenant Division Court" from • the drop-down menu.
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Are you filing a Motion docun

LT-123456-21/N

Yes O No

Cancel

STEP 4. An Answer is a non-motion document.

Select "NO" to the question about whether you • are filing a Motion document.



STEP 5. Select your "Document Type" from the drop-down menu.

• Upload the Answer in PDF format.

e-File: Add Main Document

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NYSCEF Home

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STEP 6. Review Your Filing. As the final step, press "File Documents" to complete the filing process.

STEP 7. Once the NYSCEF system receives filed documents, you will be able to retrieve a confirmation notice.

You must serve a hard copy of the Notice of Electronic Filling along with your commencement documents, all of which must bear your full signature.





Kings County Civil Court - Landlord and Tenant Division The NYSCEF website received the following documents from filing user Filing User327 on 11/16/2021 at 12:49:28 PM. Please keep this notice as a confirmation of this filing.

LT-123456-21/NY

Thomas Smith v. Ellen Jones

-No Judge Assigned-

Docur	ocuments Received		
Doc #	Document Type		
3	ANSWER		

E-mail Service Notifications Sent

Name	E-mail Address
Training Training	eftrain@nycourts.gov
Filing User327	efile@nycourts.gov

E-mail Service Notifications NOT Sent

Role	Party	Attorney	
Respondent	Ellen Jones	No consent on record.	

Filing User

Filing User327 | efile@nycourts.gov | 1234561234 | 125 Jordan rd, troy, NY 12180



BASIC STEPS TO FILE A MOTION

STEP 1. Log in to your NYSCEF account and choose "File to an Existing Case." A case should already exist either because you or another party created it.

Welcome to NYS Courts e-Filing

e-Filing is authorized for certain case types in certain counties and courts. View all <u>Authorized Courts and Case Types</u>.

The e-Filing Resource Center offers Free Hands-On Training for this website.





STEP 2. Enter Case Information.

- Under Case Number, enter Index or Claim number.
- Select the correct court from the drop down menu
- Select the type of motion you are filing under "Motion Documents."
- If you are not a party to the case, or if you are a party that is not formally listed, check the appropriate box under "Additional Options."
- Press Next.



STEP 3. Indicate who you represent by checking the box next to your name or entity. Press Represent.

STEP 4. Add Documents by uploading your motion documents in PDF form. The size of the PDF cannot exceed 100 MB.

- Main Document: NOTICE OF MOTION
- Document 2: MEMORANDUM OF LAW
- Document 3: AFFIDAVIT OR AFFIRMATION IN SUPPORT OF MOTION
- Document 4: EXHIBIT(S)
- For each Document, indicate whether it contains any Confidential Personal Information and whether you redacted such information or left them unredacted.

The Notice of Motion and Memorandum of Law are the two essential documents in a motion. In most instances, you should also file an Affidavit in Support of the Motion, which contains the facts that support your motion. You should also consider adding Exhibits.

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NYS Workers Compensation Board	Plaintiff/Petitioner	NyscefUser5, Student ToroRamos, Griselda Trainee, Ten Trainee, Twelve		
TestName	Defendant/Respondent	Attorney, TEST Buchanan, Robert One, Attorney Rauh, Katelyn Stefaniak, Jaroslaw Trainee, Five Trainee, Five Trainee, Five Trainee, Six Trainee, Six Training, Training		
rst 3rd Party (TestName -v Jones Beac Name	th Inn, Inc) Roie	Consented Attorneys		
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STEP 5. Add Motion Information.

- From the main drop-down menu, select your motion's main relief sought, and if necessary, use the second drop-down menu to select any secondary relief sought.
- Fill in the motion's Return Date. The return date is when the court will consider the motion.
- Check the box if the papers include a CPLR 2214(b) Notice. The CPLR 2214(b) Notice allows you to give the other side extra time to answer your motion papers.
- Press Next.



Documents Ready for Filing

STEP 6. Enter Payment Information to pay the required motion fee.

NOTICE OF MOTION \$45.00 Total Fees \$45.00 **Payment Information** Select your method of payment. (* Required fields apply only for the option that is selected) Credit Card We accept VISA, MasterCard, and American Express VISA 🔜 🚞 Expiration Date Card Number * mm 🛩 / yy 🛩 Last Name * Security Code * First Name * Billing Street Address * Billing Zip Code This is a foreign address For information on how we process credit card transactions and service fees, view our Credit Card Processing O Fee Already Paid Date Paid (mm/dd/yyyy) * Receipt/Invoice No. * Payment Type O No Fee: I have uploaded a "No Fee Authorization" letter (* Required) **Comments Regarding this Payment** Comments Cancel Previous Next Attorney File Number - Optional TestName Filing Acknowledgment 1 acknowledge that I have read and understand the following: GBL 5399-ddd(6), which generally prohibits the filing of a document containing a social security number. When filing a document containing a social security number under a statutory exception. I have checked the appropriate box on the filing page. 2. Except in a matrimonial action, or a proceeding in surrogate's court, or a proceeding pursuant to article B1 of the mental hygiene law, or as otherwise provided by rule or law or court order, and whether or not a sealing order is or has been sough. Za YUCER 8 2002;5(c), which requires filters to arms or redact confidential personal information in documents submitted to the court for filing, including any of the documents or testimony in a matrimonial action protected by PLE 5.236 or velocine case which so referenced in the papers filed in any sther civil action. A matrimonial action shall mean: an action which are attached as exhibits or referenced in the papers filed in any sther civil action. A matrimonial action shall mean: an action which or a doctore, or an action or proceeding for custody, visitation, with of habeus corpus, child support, maintenance or paternity. When filing a document with redacted or unrodected confidential personal information as defined in 22 NYCRR §202.5(c), 1 have checked the appropriate box on the filing page. 3. Except in a matrimonial action, or a proceeding in surrogate's court, or a proceeding pursuant to article 81 of the mental hygiene law, or as otherwise provided by rule or law or court order, Documents filed electronically initiatin action or proceeding in this County will be available for viewing by the public prior to the assignment of an inde number and issuance of a 22 MYCRK §20.2.5-b(d)(3)(ii) notification. Cancel Previous File Documents

STEP 7. Review Your Filing. As the final step, press "File Documents" to complete the motion filing process.



STEP 8. Confirmation Page. You and all of the other participating parties will receive an e-mail notification about the motion.

- In the NYSCEF, each separate motion will be given a **motion number**. If you are filing documents in connection with a motion that has been issued a motion number, the NYSCEF system will ask you to provide the motion number.
- If the Court Clerk takes action on your filing (such as assigning a motion number or assigning a judge), you will receive an e-mail notification.
- If you paid a fee, you will receive an e-mail notification when the County Clerk processes the fee.

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If your case has started and you need immediate help answering your case, you can call Housing Court Answers at (212) 962-4795.