

### Service and Filing Guide – Housing Repair Study group

- I. Create a NYSCEF account (if you don't have access to one already)
  - 1. Go to <a href="https://iapps.courts.state.ny.us/nyscef/HomePage">https://iapps.courts.state.ny.us/nyscef/HomePage</a>
  - 2. Select 'Create an Account' under 'Login.'
  - 3. Select 'Create Attorney Online Services Account.'
  - 4. You will be re-routed to NYS Unified Court System page enter your attorney registration number and create your profile.
- II. Prepare the documents for filing after pleadings are prepared, signed, and notarized
  - 5. Remember, the Petitioner (your client) must notarize the **final** version of the petition so your client's notarized signature page must **post-date** your attorney signature page and dated exhibits like the HPD property registration and violation report (obtain a PDF from <u>https://hpdonline.nyc.gov/hpdonline/</u> and filter by apartment #). Make sure your petition is finalized and signed by the attorney *before* sending to your client to be signed and notarized.
  - 6. Once your client returns the notarized verification pages to the petition and the signed inspection request form, you are ready to prepare the documents for filing (See "Roadmap" for tips on helping your client verify and notarize their pleadings).
  - 7. Create individual PDFs of your OSC, verified petition (signed by client and notarized) and exhibits, a PDF of your CPLR 1101 fee waiver affirmation, and the inspection request form (signed by client).
    - Add the verification date to the Order to Show Cause after you have a verified signature page from your client.
    - The court date and service deadline in the OSC will be added by the Court so leave these blank.
    - If you are requesting the inspection of more than 10 conditions, you should use as many inspection request forms as necessary, add "1/3, 2/3..." at the top to indicate pagination. You should only include one condition per line.
- III. File
  - 8. Go to <u>https://iapps.courts.state.ny.us/nyscef/HomePage</u> and log in to your NYSCEF account.
  - 9. At the 'Welcome' page, under 'File Documents' select 'Civil Court.'

- 10. Select 'Start a New Case.'
- 11. Select 'Civil Court Landlord Tenant Division' and the appropriate borough.
- 12. For case type select 'Landlord and Tenant Pre-OSC Procedure (HP Action)' from the drop-down menu.
- 13. Enter property address.
- 14. Enter information for parties. Your client is the Petitioner.
- 15. For Respondents, you will include each individual respondent-landlord with their mailing address that appears on the HPD property registration page

(<u>https://hpdonline.hpdnyc.org/HPDonline/provide\_address.aspx</u>), as well as HPD (the Department of Housing Preservation and Development, Housing Litigation Bureau, 100 Gold Street, New York, NY 10038). Add additional respondents as necessary.

- 16. Select "Petition" to upload your verified petition and exhibits.
- 17. You will be prompted to upload the Order to Show Cause as Document 2.
- 18. Select "Add another document" and select "Application to Waive Filing Fee" from the dropdown menu to add your CPLR 1101 fee waiver affirmation.
- 19. Select "Add another document" and select "Inspection Request" to add your tenant's request for inspection form.
  - Under "Additional Document Information," write "Please print and append to OSC for Judge to review and order inspection."
- 20. Submit your documents.
- 21. The next page will be your case page profile. You should check this regularly over the next 1-5 days to monitor the uploading of a So-Ordered Order to Show Cause and a signed Inspection Request form.
- 22. The court will upload a signed copy of your Order to Show Cause ("So-Ordered OSC") with a court date and a deadline for service and an inspection order with a date for the inspection.
  - If either of these are not uploaded after 3 days notify your LSNYC mentor and reach out to the Court: Brooklyn: "KI-HOUSING-409@nycourts.gov", (718) 466-3060; Bronx: "BX-HOUSING-390@nycourts.gov", (718) 466-3070; Manhattan: "NY-HOUSING-583@nycourts.gov", (646) 386-5530; Queens: "QN-HOUSING-403@nycourts.gov", (718) 262-7317.
- 23. You should also be prompted to prepare a Notice of Electronic Filing form for each Respondent to include in your mailing

https://iappscontent.courts.state.ny.us/NYSCEF/live/forms/notice.of.availability.civil.pdf

#### IV. Serve – after the Court so-orders the OSC

24. Print out a copy of the so-ordered OSC, verified petition and exhibits and create a PDF.

- Do not include the fee waiver or inspection order. The copy of the pleadings that get served on the Respondents will just include the so-ordered OSC + verified petition + exhibits.
- 25. Arrange with your managing attorney's office, filing clerk or mail room for the so-ordered OSC + verified petition + exhibits to be mailed via certified mail, return receipt requested\* to each Respondent-Landlord. Check the service provision of your so-ordered OSC service must conform with what is ordered in this provision. The Court occasionally adds additional instructions and you MUST comply with those instructions.
  - \*Again, <u>check the service provision</u> of your so-ordered OSC and ask your LSNYC mentor if you have any questions. While HMC § 2115(j) sets forth first class, certified mail, return receipt requested as sufficient for services, the Court may order additional methods of service. Some judges prefer certificate of mailing to certified mail. If we fail to comply with the service provision service is defective and you will need to refile.
  - Each Respondent needs to receive an individual mailing addressed to them even if two or more respondents share the same registered address on HPD's website (or in the managing agent row there is both a company and a person), send individual mailings to each of them.
  - Notify your LSNYC mentor if one of the Respondents is registered at a PO Box, as the Court does not recognize service at a PO Box.
  - Whoever puts the pleadings in the mail has to complete and sign the Affidavit/Affirmation of Service (see Step V).
  - Retain copies of the completed certified mail receipt with return receipt requested to annex to the Affidavit/Affirmation of Service.
    - i. Copies of the certified mail receipt will be our Proof of Service. Under "Extra Services & Fees," "Return Receipt (hardcopy) should be selected and the "Total Postage and Fees should reflect that the sender paid for certified mail with return receipt requested (usually \$3.75 for certified mail and \$3.25 for return receipt requested on top of the standard cost of mailing). You must retain the certified mail receipt and submit it with the affidavit/affirmation of service. Your certified mail receipt must reflect that both certified mail and return receipt requested were selected and paid for. Please discuss this with the people performing service for you as this is frequently overlooked.
    - ii. See "Appendix II" for example of how your certified mail receipt should look.
  - HPD accepts email service to <u>ServeHPD@hpd.nyc.gov</u>

### 26. If your client's case is against NYCHA, service can be accomplished entirely via email. Send a PDF of

the Verified Pleadings to <a href="mailto:ServiceECF@nycha.nyc.gov">ServeHPD@hpd.nyc.gov</a> and <a href="mailto:ServeHPD@hpd.nyc.gov">ServeHPD@hpd.nyc.gov</a>

- Identify the case caption and index number in the subject line and email body, and explain what you are sending.
- Explain that you are "representing Petitioner [Client's Name] in their HP action."
- CC your client's email address (if applicable) and the email address for your client's file at LSNYC. Do not CC you LSNYC mentor.

### V. Create and File Affidavit/Affirmation of Service

- 27. Whoever performed service on the Respondents-Landlords should complete and sign the Affidavit of Service (a New York state-licensed attorney can use an Affirmation of Service).
- 28. Upload the completed Affidavit (or Affirmation) of Service with annexed Proof of Service to the NYSCEF case profile.
  - Select "File Document to this Case" from your case profile.
  - **Proof of Service is the completed certified mail receipt with return receipt selected** you do not need to wait for/include the returned return receipt from the Landlord-Respondents.

# 29. If your client's case is against NYCHA, simply create a PDF of your email to NYCHA and HPD and include it along with other final documents in the final email to your client (it is not necessary to upload proof of service to NYCHA/ HPD to NYSCEF, these agencies do not contest service).

### **Appendix I: Screenshots of Filing Process**

Appendix II: Sample Affirmation of Service with Proof of Service

## **Appendix I: Screenshots of Filing Process**



| e-File: Add Parties   |   |                     |   |                |            |     |   |          |   |
|---|---|---------------------|---|----------------|------------|-----|---|----------|---|
| Court: Kings County Civil Court - Landlor   | d and Tenant Division - Housing Part  |                     |   |                |            |     |   |          |   |
| Case Type: Landlord and Tenant - Pre-OS   | C Procedure (HP Action)   |                     |   |                |            |     |   |          |   |
| Parties Added   |   |                     |   |                |            |     |   |          |   |
| Name  | Role  | Action              |   |                |            |     |   |          |   |
| 200 23rd Street, Brooklyn, NY 11232   | Respondent  | Edit                |   |                |            |     |   |          |   |
|   |   |                     |   |                |            |     |   |          |   |
| Enter a petitioner and a respondent. An   | address is required for each respondent.  |                     |   |                |            |     |   |          |   |
| Petitioner  |   |                     |   |                |            |     |   |          |   |
| First Name Middle Last Name   | Suffix Business/Organization Name   | - (04-4-1-2         |   |                |            |     |   |          |   |
|   | -or-  | e/Status            |   |                |            |     |   |          |   |
| Add Another Petitioner  |   |                     |   |                |            |     |   |          |   |
| Respondent  |   |                     |   |                |            |     |   |          |   |
| First Name Middle Last Name   | Suffix Business/Organization Name   |                     |   |                |            |     |   |          |   |
|   | -or- Department of Housing Preservati   | e/Status            |   |                |            |     |   |          |   |
| Undertenant<br>This respondent is the undertenar  | nt  |                     |   |                |            |     |   |          |   |
| Address   |   |                     |   |                |            |     |   |          |   |
| Check this box to use the prope   | rty address -OR- enter a different address below.   |                     |   |                |            |     |   |          |   |
| Street Address  | City State Zip  |                     |   |                |            |     |   |          |   |
| 100 Cold Street   | New York     NY v     10038     Add A   | nother Address      |   |                |            |     |   |          |   |
|   |   |                     |   |                |            |     |   |          |   |
|   |   |                     |   |                |            |     |   |          |   |
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### Appendix II: Sample Affirmation of Service with Proof of Service

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CIVIL COURT OF THE CITY OF NEW YORK COUNTY OF NEW YORK: HOUSING PART B

Petitioner - Tenant

-against-

CHATSWORTH REALTY CORP., as Building Owner; FIRST SERVICE RESIDENTIAL, as Managing Agent; RSP Properties, a/k/a RSP Companies as Apartment Owner; C72 LLC as Apartment Owner; MARIA AULETTA, as Managing Agent; ROBERT SORIN, as Head Officer; MARC KOTLER, as Officer. Promicacy DI

Index No. HP 308081/22

AFFIRMATION OF SERVICE

Respondents - Landlords

NEW YORK CITY DEPARTMENT OF HOUSING PRESERVATION AND DEVELOPMENT,

Respondents - HPD.

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Jim McCormick, an attorney duly admitted to the practice before the courts of the State

of New York, affirms the truth of the following statements under the penalties of perjury:

- I am an attorney at Legal Services NYC located 40 Worth Street, Suite 606, NY, NY 10013, attorneys for Petitioner
- 2) I am over the age of 18 and am not a party to this proceeding.
- 3) On June 2, 2022, I served a true copy of the within "Order to Show Cause and Verified Petition" upon Respondents-Landlords at the addresses listed below, the said addresses being the addresses designated by the addressee for that purposes, by first class certified mail, return receipt requested, by depositing a true copies of said documents enclosed in a post-

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paid properly addressed wrapped in an official depository under the exclusive care and

custody of the United States Postal service within New York State, receipts enclosed herein.

I served the same jupon Respondents-HPD by email service to ServeHPD@hpd.nyc.gov.

Chatsworth Realty Corp. 340 W 72nd St. New York, NY 10023

First Service Residential 622 Third Ave., 14<sup>th</sup> Fl. New York, NY, 10017

RSP Properties a/k/a RSP Companies 3 Columbus Circle, 15th Fl. New York, NY 10019

Marc Kotler 622 Third Ave., 14<sup>th</sup> Fl. New York, NY, 10017 C72 LLC c/o M. Safra & Co., Inc., 767 Fifth Avenue, 46<sup>th</sup> Floor New York, NY 10153

Maria Auletta 622 Third Ave., 14th Fl. New York, NY, 10017

Robert Sorin 622 Third Ave., 14<sup>th</sup> Fl. New York, NY, 10017

Dated: June 24, 2022 Brooklyn, New York

Jim McCormick, Esq. Legal Services NYC 40 Worth Street, Suite 606 New York, NY 10013 (646) 442-3618 jhmccormick@lsnyc.org



