



COURT OF APPEAL

Notice Regarding Modified Filing Directions in Civil and Criminal Appeals

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**1. Introduction**

This Notice provides modified directions on filing documents in civil and criminal appeals during the COVID-19 pandemic. It rescinds and replaces all previous versions of this Notice. The updated information in this Notice focuses on allowing e-filing in criminal matters, minor changes to formatting of documents, and eliminating restrictions on e-filing for sealed appeals or appeals involving publication bans.

For civil appeals, despite Rule 54.1(5), all documents must be e-filed by lawyers using [Court Services Online \(CSO\)](#). For criminal appeals, e-filing is optional for all. Paper, fax, or email filings as contemplated by Section 3.7 of this Notice will be accepted only in the following cases:

- ✓ In criminal appeals, where parties are encouraged but not required to use the e-filing system;

- ✓ In civil appeals, where self-represented litigants are also encouraged but not required to use the e-filing system;
- ✓ Any document in civil or criminal chambers that exceeds 300 pages;
- ✓ Any document in civil or criminal appeals that is larger than 100MB in size;
- ✓ Mandatory condensed books filed in advance of the hearing of an appeal in accordance with Section 3.5 below;
- ✓ Any other documents to be filed in paper as directed by the Registrar (particularly in case managed appeals where the record exceeds, or is expected to exceed, 8,000 pages).

## 2. Overview of the E-filing Process in Civil & Criminal Appeals

### *2.1 Getting Started: Obtain a [Court Services Online \(CSO\) Account](#)*

Parties who have never used electronic filing must [create a BCeID account](#) (either a Basic or Business account) or [a BC Online account](#) and register it with Court Services Online. Anyone having difficulty with electronic filing should contact Court Services Online Support either by email [Courts.CSO@gov.bc.ca](mailto:Courts.CSO@gov.bc.ca) or call toll free within Canada 1-800-663-6102 for assistance. Please **do not** contact the registry for assistance with electronic filing. The registry will not be able to assist you.

### *2.2 Formatting Requirements for e-Filed Documents*

All documents filed through [Court Services Online \(CSO\)](#) must be in Portable Document Format (PDF) and must comply with the following requirements:

- ✓ **Be Less than 100MB in Size:** Current limitations to the e-filing system do not allow documents larger than 100MB to be filed;
- ✓ **True Copies:** Provide a legibly reproduced true representation (i.e., an identical or true copy) of the original document, whether that original is scanned from paper or saved into PDF from another program, such as Microsoft Word;
- ✓ **Comply with Court Forms:** Format documents in accordance with [court forms](#) , except for certain paper-based requirements that are dispensed with as described below in Section 2.3;
- ✓ **Page Numbered:** Number pages so that the PDF page numbering matches the actual page numbering of the document (e.g. PDF page “25” of the electronic appeal book brings up page “25.” To achieve this, do not assign page numbers to the title page and index, instead assign “page 1” to the first page of argument/content). Place PDF page numbers in the top centre of each page and number all pages in the document sequentially in this manner, even if the Court form does not require it;

- ✓ **Avoid Scanning:** Only scan documents where necessary. Do not scan factums, submissions or other documents that have been created electronically. If scanning is necessary because the original document is in paper, the scan must be Optical Character Recognized (OCR'ed) so that text in the PDF can be copied and pasted into another document;
- ✓ **Do not Enable Security Settings:** Do not incorporate any file properties or activate any security settings that might restrict or prevent the Court from viewing, printing, saving, annotating, or searching the electronic document;
- ✓ **Hyperlinked Index and PDF Bookmarks:** Appeal books, appeal records, factums, transcripts, motion books, books of authorities, written arguments and any other documents over 25 pages in size must include an index and PDF bookmarks, regardless of whether the current court form prescribes this requirement. Such bookmarks must consistently, meaningfully, and clearly describe the individual documents or sections of the document. For example, it is not acceptable in an affidavit to bookmark to “Exhibit 1,” Exhibit 2” etc. The index should describe the contents of each section: e.g.: “Exhibit 1 – Letter from John to Jane Doe.” The document must be set to open the bookmarks automatically on opening the file. There is no requirement to internally hyperlink different filings (e.g. hyperlink a factum to an appeal book) and the e-filing system does not currently support this capability;
- ✓ **Books of Authorities:** Case authorities in factums, statements or submissions may continue to be hyperlinked to external databases (e.g. CanLII), so long as login to those databases is not required. However, the Court also requires a complete PDF book of authorities that is not linked to an external database, with an index and bookmarks (as stated above).

Court of Appeal guides for using Adobe DC Pro to meet these requirements are [available here](#). There are also many low-cost or free alternatives to the Adobe software. Additionally, **anyone** preparing PDF documents to file with the Court of Appeal can email the Canadian Bar Association BC branch at [members@cbabc.org](mailto:members@cbabc.org) for assistance using Adobe software to meet the above requirements.

### *2.3 Changes to Court Rules and Directives for e-Filed Documents*

This Notice changes several rules and requirements related to service and filing for civil appeals. All requirements set out in the Rules and Practice Directives (civil and criminal) that cannot be met when documents are filed electronically, (e.g. requirements to file copies of documents, or to bind documents like the factum in specific ways) are suspended.

For greater certainty, the following requirements are suspended:

- ✓ **Volumes:** There is no need to split files less than 100 megabytes into 300/200 page “volumes.” For example, a book of authorities should be a sequentially numbered single PDF file of less than 100MB, not split into multiple 200 page files;

- ✓ **Use Alternative Forms of Signature:** Except for affidavits, orders, and statutory declarations, documents filed solely with a typewritten signature (e.g., "Joan Smith") satisfy the signature requirement. Alternatively, scanned signatures are acceptable for all documents, including affidavits, orders and statutory declarations;
- ✓ **No Transcript Extract Books:** Do not file a Transcript Extract Book under civil Rule 27. The parties must use the condensed book process described in section 3.5;
- ✓ **No Coloured Covers:** Coloured covers of books or documents are not required;
- ✓ **Limited Retention of Paper Versions:** The requirement to retain the paper version of the document submitted electronically under Rules 54.1 (6), (7), or (9) is modified. If the party can prove, to the satisfaction of the Court, that the record has been securely kept in electronic format (such as PDF/A), the party only needs to retain the electronic version.

In addition, the following Practice Directives do not apply to electronic filings:

- ✓ [Preferred Filing Registry \(Civil & Criminal Practice Note, 19 September 2011\);](#)
- ✓ [Submission of Electronic Factums and Statements \(Civil & Criminal Practice Directive, 02 July 2019\);](#)
- ✓ [Use of Facsimile in the Court of Appeal \(Civil & Criminal Practice Directive, 19 September 2011\);](#)

### 3. How and When to E-File

#### *3.1 Optional E-filing for All in Criminal Appeals*

In criminal appeals, all lawyers and self-represented litigants are encouraged to use the e-filing system, but may also continue to file in accordance with section 3.7.

#### *3.2 Optional E-Filing for Self-Represented Litigants in Civil Appeals*

In civil appeals, lawyers must e-file. Self-represented litigants are encouraged to e-file, but may also continue to file in accordance with section 3.7.

#### *3.3 No e-Filing for Documents that Exceed 300 Pages in Civil or Criminal Chambers*

No document may be electronically filed in chambers if that document exceeds 300 pages. If the document exceeds this size, it must be filed in paper (in person or by courier/agent) in accordance with Section 3.7 below.

#### *3.4 No e-Filing Documents Exceeding 100MB*

[Court Services Online \(CSO\)](#) has a 100MB limit on the size of electronically filed documents. This size limitation will cover about 80% of the Court's electronic filings. If the document is larger than 100 MB,

the material cannot be electronically filed and must be submitted in paper in accordance with Section 3.7 below. Do not attempt to file multiple volumes of a document through the e-filing system or file a portion electronically and a portion in paper. For larger appeals in excess of 8,000 pages, see Section 4 below.

### ***3.5 Mandatory Condensed Books***

In appeals where statements, factums, transcripts, authorities, or appeal books have been e-filed, parties must file paper copies of a condensed book for the Court to use in the appeal hearing.

Parties should file three (3) copies and serve their condensed books on the opposing parties at least seven (7) business days before the hearing of the appeal. The requirement in [Condensed Books \(Civil & Criminal Practice Directive, 19 September 2011\)](#) that they be handed up in Court is dispensed with.

The Condensed Book may contain documents essential to the hearing, but only those that must be physically shown to the Court, including those excerpts from transcript, appeal book and full case authorities that the party will refer to in its oral argument. The Court does not find excerpts of authorities useful.

### ***3.6 E-filing Sound and Video Exhibits***

Rarely, there may be a need to include electronic media in appeal books, such as audio or video recordings. The process for doing this with paper filings is described in [Electronic Media in Appeal Books \(Civil & Criminal Practice Directive, 13 May 2016\)](#). Presently, the e-filing system will not allow parties to embed multimedia within PDF documents. Accordingly, parties must indicate in the appeal book index that electronic media is being submitted separately and must submit the related electronic media by providing three identical memory sticks (labeled with the appeal file number #CAXXXXX). These may be submitted in accordance with Section 3.7 below.

### ***3.7 Filing by Paper, Fax and Email (Only Where Permitted by Sections 3.1 – 3.6)***

For those exceptions outlined in sections 3.1 to 3.6 only, parties may file documents in the following ways:

- ✓ **By Fax:** In the case of filings that are less than 20 pages, by fax in accordance with [Use of Facsimile in the Court of Appeal \(Civil & Criminal Practice Directive, 19 September 2011\)](#), with the understanding that the prohibition on filing bound materials does not apply;
- ✓ **By Email:** For factums, statements, transcripts, appeal records, authorities and appeal books only, by sending PDF copies less than 25MB by e-mail to [CACounter@bccourts.ca](mailto:CACounter@bccourts.ca). Any emailed documents must observe all requirements in Section 2.2 above, including those filed by self-represented litigants.
- ✓ **Paper Copies in Person or by Mail/Courier/Agent:** Please [check here](#) to determine whether the registry counter is open for business or closed due to Covid-19 restrictions.
  - If the registry counter is open, documents must be filed at 400 – 800 Hornby Street.

- If the Registry counter is closed, documents must be filed at 206 - 800 Smithe Street. Note the registry may not process these filings for at least 24 hours, given COVID-19 risks, but will backdate documents to the date they were postmarked or delivered. Please do not deliver any copies besides those required by the Court. You will receive an email attaching a scan of the stamped cover page as confirmation that the document is filed and, for that purpose, you must provide an email address on the cover of the document to be filed. You should serve the remaining copies of your document together with a copy of the stamped cover page.

### *3.8 Processing Times for E-Filed Documents*

In accordance with Rule 54.1(13), e-filed documents will be backdated to the date upon which they were filed. The Court will try to process all e-filings each day; however, it may require up to 24hrs.

## 4. Case Management of Large Appeals

If an appeal involves, or is anticipated to involve, more than 8,000 pages of material, parties must seek directions from the Registrar as soon as possible and not less than 90 days prior to the hearing of the appeal.

## 5. Registry Contact Information

General Inquiries: 604.660.2468  
Maria Littlejohn, Court Scheduler: 604.660.2865  
Matthew Soo, Chambers Scheduler: 604.660.2859  
Kristine Dhamrait, Registrar Scheduler: 604.660.2729  
Fax filings: 604.660.1951

Mail or Courier to the **Vancouver Registry** (check [here](#) to see if the Registry is open or closed during regular hours)

If the **Registry Counter** is open:

BC Court of Appeal  
The Law Courts  
400 – 800 Hornby Street  
Vancouver, British Columbia  
V6Z 2C5

If the **Registry Counter** is closed due to COVID-19:

BC Court of Appeal  
The Law Courts  
206 - 800 Smithe Street  
Vancouver, British Columbia  
V6Z 2E1

Dated 9 April 2021 at Vancouver, British Columbia,

By Direction of Robert J. Bauman



Chief Justice of British Columbia