



COURT OF APPEAL

Notice Regarding Modified Filing Directions in Civil and Criminal Appeals

Dated and Effective 16 December 2021

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1. Introduction

This Notice provides directions on filing documents in civil and criminal appeals. It replaces the Notice dated and effective 20 August 2021.

The directions given in this notice supersede Court forms and the requirements of the *Court of Appeal Rules*, including the e-filing Rule, 54.1(5) and Practice Directives and Notes to the extent they are inconsistent.

Major changes in this notice include: changes to requirements for condensed books, the time to file paper copies of appeal records, factums, and statements after e-filing, permitted filing methods, and revised explanations on how to properly page number documents.

2. Requirements at a Glance

- ✓ **Criminal Appeals:** E-filing is optional for all, but its use is encouraged.
- ✓ **Civil Appeals:** E-filing is mandatory for lawyers and encouraged for self-represented parties.
- ✓ **All E-Filings:** Must be made through Court Service Online (CSO), be in unsecured PDF form, be descriptively bookmarked and have an index (if more than 25 pages), have physical and electronic page numbers that match, and must be under 100MB in size.
- ✓ **Chambers Documents:** The same e-filing requirements apply, but documents that are more than 300 pages in size must be submitted in paper.
- ✓ **Paper Appeal Records, Factums and Statements:** If you have e-filed these records (mandatorily or otherwise), provide the registry three (3) stamped paper copies previously e-filed. You must do this no more than two (2) weeks after e-filing.
- ✓ **Large Appeals (expected to be or are more than 8000 pages):** Notify the Registry in writing. These appeals must be case-managed by the Registrar.

3. Who Must E-File

The chart below describes the different filings methods available to different parties in civil and criminal appeals:

CRIMINAL APPEALS	CIVIL APPEALS
lawyers = optional e-filing or paper filings in person	lawyers = mandatory e-filing only
self-represented parties = optional e-filing, paper filings in person, by fax, and some documents by email (see Section 6 below)	self-represented parties = optional e-filing, paper filings in person, by fax, and some documents by email (see Section 6 below)

For those who elect or who are required to e-file, note the exceptions described below in section 5.

4. How to E-File

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

Parties who have never used electronic filing (e-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 by email at

Courts.CSO@gov.bc.ca for assistance. Please **do not** contact the registry for assistance with electronic filing. The registry will not be able to assist you.

4.2 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:

- ✓ **True Copies:** Must be 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](#) as much as possible, understanding that some minor modifications may be required to e-file. Use the provided MS Word factum and statement templates in [civil](#) and [criminal](#) appeals;
- ✓ **Page Numbered:** Electronically and physically page number all documents at the top centre of the page, even if not provided for in the applicable Court form. PDF page numbering must be updated for searching (i.e. a judge working with the electronic PDF can enter page “25” in Adobe and display the same page as a judge working in paper who turns to the physical page labeled “25”). This requires a PDF tool to update page numbers once the content has all been compiled and cover pages and indexes inserted or once you have saved a Word document as a PDF. Instructions and sample books may be [found here](#).
- ✓ **Avoid Scanning & Enable OCR:** Avoid scanning if possible. Do not scan factums, submissions or documents that are created in MS Word – save them as PDFs instead. If you must scan, you must have optical character recognition (OCR) on so the PDF created can be copied and pasted into another document;
- ✓ **Remove Security Settings:** Disable any security settings in your PDF document;
- ✓ **Index and PDF Bookmarks:** Where a document is over 25 pages in size create an index and proper bookmarks. In addition to page numbering, this is a critical requirement because some judges may print your document and some may work electronically. Your bookmarks and index must consistently, meaningfully, and clearly describe the individual documents or sections of the document. For instance, do not state “Exhibit 1,” Exhibit 2” etc. The bookmarks and index should describe the contents of each section: e.g.: “Exhibit 1 – Letter from John to Jane Doe.”
- ✓ **Books of Authorities:** When e-filing, the Court requires a complete PDF book of authorities. Do not hyperlink to external sources because they cannot be marked up in PDF. Include a cover page, index, bookmarks, sequential page numbering (bates numbering) and OCR when scanning (see above).

Court of Appeal guides for using Adobe DC Pro to meet these requirements are [available here](#), though other software may also be used. **Anyone** preparing PDF documents to file with the Court of Appeal can email the Canadian Bar Association BC branch at members@cbabc.org for assistance.

4.3 Changes to Court Rules and Directives for e-Filed Documents

E-filing has changed rules and requirements related to filing for civil appeals. For greater certainty, the following changes are in effect:

- ✓ **Volumes:** There is no need to split files less than 100 megabytes into 300/200 page “volumes.” Instead, split the documents into volumes of 100MB;
- ✓ **No Signatures:** 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 may use a condensed book as described below;
- ✓ **No Coloured Covers:** Coloured covers of books or documents are not required for electronic filings;
- ✓ **Retaining Paper:** 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.
- ✓ **Providing Electronic Copies of Paper Factums and Statements:** For those who have filed paper copies of factums or statements, the requirement to provide an electronic version in [Submission of Electronic Factums and Statements \(Civil & Criminal Practice Directive, 02 July 2019\)](#) remains in effect.

5. Documents That Should Not be E-filed

5.1 No e-Filing for Documents that Exceed 300 Pages in Civil or Criminal Chambers

No document that exceeds 300 pages may be electronically filed in chambers. If the document exceeds 300 pages, it must be filed in paper.

5.2 No e-Filing Documents Exceeding 100MB

[Court Services Online \(CSO\)](#) has a 100MB limit on the size of electronically filed documents. Documents exceeding this size must be divided into 100MB volumes or be filed in paper. Where possible, compress your PDF documents using the compression function in Adobe Pro or other software.

5.3 Mandatory Paper Appeal Records & Factums & Optional Condensed Books

Paper Appeal Records, Factums and Statements: If you have e-filed these records (mandatorily or otherwise), provide the registry three (3) stamped paper copies previously e-filed. You must do this no more than two (2) weeks after e-filing.

Optional Condensed Books: Parties may hand up paper condensed books as described in [Condensed Books \(Civil & Criminal Practice Directive, 19 September 2011\)](#) or file them in advance if they are appearing by Zoom. This practice is strongly encouraged for appeals with larger records and with transcript evidence, as full civil transcripts are not always before the Court.

The purpose of a condensed book is to include *excerpts* of relevant portions of the appeal book, transcripts or authorities you wish to show the Court at the hearing. Condensed books should be bound, double-sided, tabbed, indexed, and retain the page numbering from the original source. It is no longer necessary to include full copies of the authorities in a condensed book.

5.4 Sound and Video Exhibits

Rarely, there may be a need to include electronic media in appeal books or stand-alone affidavits, such as audio or video recordings. These PDFs are not currently supported through e-filing. Instead, parties must indicate in the appeal book index that electronic media is being submitted separately and must file the electronic media by providing three (3) identical memory sticks (labeled with the appeal file number #CAXXXXX).

5.5 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.

6. Filing by Paper, Fax and Email Where Permitted

As described above, lawyers and self-represented litigants in criminal appeals are encouraged, but not required, to e-file and may continue to file records in paper. Because e-filing is mandatory for lawyers in civil appeals, the registry will only accept the following civil court records in paper from counsel:

- ✓ a record in chambers exceeding 300 pages (required, see section 5.1 above);
- ✓ any record exceeding 100MBs (see section 5.2 above);
- ✓ an appeal record (if provided in addition to e-filed version, see section 5.3 above);
- ✓ a factum or statement (if provided in addition to e-filed version, see section 5.3 above);
- ✓ a condensed book (optional, see section 5.3 above);
- ✓ sound or video exhibits on memory sticks (required, see section 5.4 above).

Self-represented litigants only in criminal and civil appeals have two additional filing methods:

- ✓ **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, and appeal books only, by sending PDF copies less than 25MB by e-mail to CACounter@bccourts.ca. Any emailed documents must observe all e-filing formatting requirements. Other documents will not be filed or responded to unless a party has received permission to use this email address from the registry.

7. At the Hearing

At the hearing of the appeal or chambers matter, judges will either work in paper or electronically, or both. With the exception of the full transcript in civil appeals, the Court will have the filed books before them in either format. In appeals with large records, however, the use of paper condensed books is highly encouraged, as judges working in paper may not print and bring everything to the courtroom. At the hearing, it is acceptable to provide the Court with references to documents they may need to examine after the hearing, including references to lengthy transcripts and appeal books.

8. 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, not less than 90 days prior to the appeal hearing.

9. 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:**

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

Dated 16 December 2021 at Vancouver, British Columbia, by direction of the Chief Justice



Chief Justice of British Columbia