



Notice to the Public and Profession regarding Use of the File Transfer Server – Insolvency Proceedings

COVID-19 Notice No. 44

Date: June 7, 2021

I. Introduction

The Supreme Court has created a File Transfer Server (FTS) to allow parties in remote hearings to transmit documents electronically to the Court so that they can be accessed by presiders.

As a pilot project, effective immediately, the Supreme Court is making the FTS available for use at the request of parties or counsel **only in insolvency matters**. After evaluation of this initial pilot, use of the FTS at the request of parties will be extended to other types of matters.

However, a presider may exercise their discretion to request or direct use of the FTS in any matter.

Parties must be aware that **uploading documents using the FTS is not equivalent to filing documents** under the *Supreme Court Criminal, Civil or Family Rules*. It is equivalent to handing up documents in court. If there are documents that must be filed pursuant to the *Rules*, such filing must still also be done either in person at court registries or through Court Services Online.

Parties are responsible for providing their own electronic devices and internet connection to upload documents to the FTS.

II. Use of the FTS

Parties may contact the Supreme Court Scheduling (SCS) Virtual Coordinator by email at FileTransfer@bccourts.ca to request access to the FTS for their matter. The SCS Virtual Coordinator will provide parties/counsel with all the information they need to upload documents.

At present, it takes approximately 30 minutes to set up the folders and log-in identities for parties, therefore arrangements need to be made in advance of hearings. If there is a high demand for use of the FTS, SCS may experience backlogs and counsel may have to expect longer wait times.

Parties granted access can create subfolders and, if desired, nest other subfolders within them. Parties are advised to follow the guidelines below with respect to folders and document formats, unless the presider directs otherwise.

Parties who have been granted access to folders are not alerted when documents by opposing parties are added and will need to check the folder.

The FTS is to be used for transmitting documents to the judiciary. Parties are expected to exchange documents as they normally would in litigation.

III. Materials that may be uploaded (subject to the required standards)

The materials that may be uploaded to the FTS include:

- Application or hearing records
- Documents relevant to the hearing **filed** in accordance with the *Supreme Court Criminal, Civil or Family Rules*
- Books of authorities
- Draft orders
- Insolvency reports
- Written submissions or other documents requested by the presider

IV. Standards for application records and books of authorities

Application records should conform to the standards set out below.

Any documents uploaded outside of the period permitted for filing under the *Supreme Court Criminal, Civil or Family Rules* must indicate "Uploaded Subject to Approval by Presider" on the cover page.

A. Application and hearing records

- i. *Numbered index*: Each application or hearing record must have a numbered index listing the documents submitted in the order that they would appear if submitted in binders.
- ii. *Order*: Documents should be uploaded and their file names numbered to correspond with the "tabs" listed in the index, with the index itself numbered 0.

- iii. *Searchable PDFs*: Documents in the application or hearing record should be submitted as **separate, searchable, bookmarked PDFs, unless the presider directs otherwise**. (“Bookmarks” are links in a PDF, often in the index, that the reader can click to quickly jump to another section of the document or to an individual file in a PDF of combined documents.) In some cases, presiders may request documents such as written submissions in Word format.
- iv. *Hyperlinks*: Presiders may also explicitly request that certain documents such as written submissions contain hyperlinks to authorities.
- v. *File names*: Each document must be saved with a name that allows the presider to identify it. The document name should include the:
 - 1) Number from the application or hearing record index, starting with 1 (e.g., Tab 3 or 3).
 - 2) Type of document (e.g., Notice of Civil Claim, Response to Civil Claim, Notice of Application, Affidavit, etc.).
 - 3) Description (e.g., Report of Dr. Smith), if applicable.
 - 4) Date the document was filed or submitted, as applicable.

If the document is an affidavit or an exhibit, it must include a short description (e.g., Affidavit 2 of John Doe sworn May 18, 2020; Exhibit A to Affidavit 2, Report of Dr. Smith, January 4, 2019).

Examples of file names would be:

“Tab 3 - Application Response (Wilson), August 30, 2017”

“12. Affidavit 1 of Mary Jones re Notice of Constitutional Question, June 4, 2016”

- vi. *Searchable electronic format*: Parties must submit documents that have been created electronically, not scanned. Scanned image PDFs are not acceptable. All PDFs must be fully searchable (“OCR’d”, or created using software with optical character recognition enabled. Some versions of Adobe Acrobat refer to this format as an “enhanced scan”).
- vii. *Numbered paragraphs*: Originating documents must have numbered paragraphs.
- viii. *Page numbers*: All documents must have page numbers.

B. Authorities

- i. For books of authorities, parties should submit an index hyperlinked to each case, statute, legal article, or textbook excerpt cited. Parties should not submit the individual authorities themselves.

- ii. Parties should hyperlink to an open online database such as Canlii.org, rather than a proprietary database that requires a subscription and log in.
- iii. In the event that cases, statutes, articles, or textbook excerpts are not available through an online database, they may be submitted by uploading them to the FTS. Any such documents should be searchable electronic versions, not printed and scanned image files, unless searchable electronic versions are not available.

V. Retention of the FTS folder

Only documents necessary for a specific hearing may be uploaded.

FTS folders will not be monitored by Court staff for documents uploaded after a decision has been given or after the particular stage in the proceeding to which the documents pertain has ended.

The FTS folder for a specific case will remain accessible for 30 days after reasons for judgment for the specific hearing are released, unless the presider or parties explicitly request that the folder be retained for a longer period. For insolvency matters, if a longer retention is desired, parties must inform the SCS Virtual Coordinator when setting up the folders to retain the folder until notified by the parties.

After reasons for judgment are released or at the end of the period agreed to, the folder and all contents will be deleted.

Parties will NOT be notified prior to deletion of folders. If there are reasons why parties require that the folder be retained beyond the period originally agreed to, parties must notify the SCS Virtual Coordinator by email in advance of the end of the retention period and as *early as possible* to request that the folder continue to be made available for a specified period of time.

THE FOREGOING IS SUBJECT TO CHANGE. ANY UPDATED DIRECTIONS WILL BE POSTED ON THE COURT'S WEBSITE.

Dated June 7, 2021, at Vancouver, British Columbia

By Direction of Chief Justice Christopher E. Hinkson
Supreme Court of British Columbia