



HIGHER COURTS

CIVIL ELECTRONIC DOCUMENT PROTOCOL

12 APRIL 2016

1 Introduction

- 1.1** This protocol is a guideline to be used by counsel and the Courts. It is intended to encourage and facilitate the use of electronic documents for civil cases in the High Court, Court of Appeal and Supreme Court.
- 1.2** This protocol is not intended to effect any change to the requirements of the High Court Rules, the Court of Appeal (Civil) Rules 2005 or the Supreme Court Rules 2004. However, each court may, by practice note, modify the requirements relating to the number of hard copies of documents that must be filed in the event that a document is filed in compliant electronic format.¹
- 1.3** This protocol is subject to modification in particular cases, and as technology evolves and experience is gained in the use of electronic document management.
- 1.4** A party must advise the Registrar if directions are sought to modify, or add to, the default directions set out below.
- 1.5** This protocol does not apply to applications for leave to appeal or other interlocutory applications (unless a court directs otherwise in a particular case).
- 1.6** In this protocol, “casebook” means:
- a) In the High Court, the pleadings, evidence (including briefs of evidence), the common bundle referred to in r 9.4 of the High Court Rules, submissions and authorities;
 - b) In the Court of Appeal, the case on appeal referred to in r 40 of the Court of Appeal (Civil) Rules, submissions and authorities; and
 - c) In the Supreme Court, the case on appeal referred to in r 35 of the Supreme Court Rules, submissions and authorities.
- 1.7** This protocol replaces the protocol issued by the Higher Courts on 10 December 2015.

¹ See Court of Appeal (Civil) Rules 2005, rr 40(1)(a), 41(1), 42(1), 42(1)(a) and 42(2)(a); and Supreme Court Rules 2004, rr 23(1), 35(1) and 37(1).

2 Filing and Service

2.1 The Courts encourage parties to file electronic versions of all documents.

2.2 If electronic versions of documents are to be filed, parties must:

- a) File one set of the electronic documents using a method that will be identified by the Registrar (such as on an encrypted USB flash drive);
- b) Serve one set of the electronic documents on each other party through the use of a suitable portable media device, or in such other manner as may be agreed in advance between the parties. The other party may request a direction that they be served with a hard copy.

2.3 The electronic copy of a document should be filed and served at the same time as the hard copy unless the Court has provided otherwise by practice note, or by direction in a particular case.

2.4 As is standard practice, parties must collaborate on the collation of the casebook:

- a) Parties may use a collaborative cloud site to exchange and store the electronic data set if this is the shared preference and they are satisfied with the security offered;
- b) Alternatively, the parties may exchange documents through a USB flash drive;
- c) Parties must agree on a time after which no further changes will be made to the common bundle or case on appeal, to ensure both parties can hyperlink without disruption;
- d) The completed file should be filed using a USB flash drive.

2.5 Where supplementary documents or exhibits, if any, are to be added after the casebook has been filed, they must be placed in a designated sub folder titled "Supp" (which may contain appropriately labelled sub folders, for example, "Exhibits", "Hand ups"). Refer to the attached Figures 1 and 2.

3 Format

3.1 The electronic version of any document must be the direct equivalent of the hard copy version. An exception to this is large Excel spreadsheets. Converting these to PDFs can make them unwieldy and incomprehensible. Where the electronic version is not the direct equivalent of the hard copy version, this must be noted in any relevant bundle index or table of contents.

3.2 Documents will be contained in electronic folders equivalent to the physical volumes of the hard copy casebooks, and within those folders each separate document will be an individual file (see Figures 1 and 2).

- 3.3** Where practicable, all electronic documents should:
- a) Be in searchable PDF format (scanned text documents must be put through a text recognition process); and
 - b) Use portrait orientation, with each page of an original document or case authority occupying a full A4 page in the PDF format (but the hard copy version may be printed double-sided).
- 3.4** The above format is intended to be technology neutral so that an electronic casebook is usable in that electronic format, able to be printed to produce a hard copy set, and also suitable for importing into software or applications that the parties may separately choose to use.
- 3.5** Electronic documents should be a reasonable size. In general, PDFs consisting of printed, searchable text should average less than 50kB per page. Files containing pictures and diagrams may end up being larger than this. Alternatively, ensuring that documents are at a resolution of 300 dpi usually ensures that they are the appropriate size.²
- 3.6** To avoid compatibility issues, folder or file names must not use the following characters: ‘ ! @ # \$ % ^ & * () + = [] { } < > : ; , ? | ” \ / - _ (and a full stop may only be used before the file extension – i.e., “.pdf”).

4 Folders and folder names

- 4.1** Each folder within an electronic casebook will be named with an appropriate description. If there is more than one volume of a particular bundle of electronic documents, the folder for that bundle will include subfolders for each volume (see Figures 1 and 2).
- 4.2** The top level folder, in which all other folders are located, should be named with the title of the case (or an agreed abbreviation thereof).
- 4.3** An electronic folder for the common bundle will be called “CB” in the High Court and for a case on appeal, “CoA”. If there is more than one volume, the folder will include subfolders called “CB v1” or “CoA v1”, etc.
- 4.4** An electronic folder for legal authorities will be called “Auth”:
- a) If parties have filed separate bundles of authorities, the “Auth” folder will contain subfolders called “Plf Auth”, “App Auth”, etc, or if multiple parties “1st Resp Auth”, “2nd Resp Auth”, etc, as the case may be;
 - b) If a given bundle of authorities contains more than one volume, the folder for that bundle will include subfolders called “Auth v1”, “Auth v2”, etc.
- 4.5** An electronic folder for pleadings in the High Court will be called “Pld”. If there is more than one volume, the folder will include subfolders called “Pld v1”, “Pld v2”, etc.

²

Where exact duplication is necessary (for example where an exhibit is an image), the Adobe PDF output style should be “Searchable Image (Exact)”, which requires higher resolution of 600 dpi.

- 4.6** An electronic folder for the briefs of evidence or affidavits in the High Court will be called “BoE” or “Afdvt” as appropriate:
- a) The plaintiff’s briefs of evidence or affidavits will be in a subfolder called “Plf BoE” or “Plf Afdvt” and the defendant’s briefs of evidence or affidavits will be in a subfolder called “Def BoE” or “Def Afdvt”;
 - b) If a given subfolder of briefs of evidence or affidavits contains more than one volume, that subfolder will include further subfolders called “BoE v1”, “BoE v2”, etc.
- 4.7** Submissions of counsel should be placed in the top level folder for ease of access. They should be titled “Plf Subs” or “App Subs”, etc, as appropriate.

5 Document names

- 5.1** The filenames of electronic documents should be as succinct as possible. The name of each document includes its associated folder path. Care must be taken to ensure that the entire document name, including its folder path and any spaces, does not exceed 150 characters. To assist with keeping names as succinct as possible refer to Schedule 1 for a list of appropriate abbreviations and Schedule 2 for a list of preferred document titles.
- 5.2** When a volume consists of a number of constituent documents, each constituent document should be saved as a separate PDF within a folder equivalent to the appropriate hard copy volume (as discussed in section 4 above).³
- 5.3** Each document will be named with a description that begins with the relevant bundle page or tab number (so that the documents within the folder can be sorted in page or tab order).
- 5.4** The name of each document within a pleadings, common bundle or case on appeal folder must start with the tab number of the document in the hard copy casebook and be followed by a very brief description of the document. For example, “001 Judgment of Bloggs J 28Feb14”; “002 SOC 03Apr14”. When numbering, three digits need to be used for the tab numbers. This will ensure the tabs do not go out of order if the case happens to have more than 10 tabs.
- 5.5** If tabs are not used in the hard copy casebook, then the name of each document within a casebook folder must start with the page number of the document in the hard copy casebook and be followed by a very brief description of the document. For example, “234 SOC 03Apr14” or “CB001”, “CB234”. When numbering, three digits need to be used for page numbers.

³ Some practitioners have suggested that each volume should be a single PDF. This is not normally permitted. The reason for this is that a document by document approach should normally be more efficient in the long run. The protocol envisages that electronic bundles will be compiled at trial by selecting individual documents from electronic discovery and the trial selection will be further refined on appeal to comply with r 39 of the Court of Appeal (Civil) Rules and r 34 of the Supreme Court Rules, which provide that documents that are not relevant to any ground of appeal may not be included in the case on appeal.

- 5.6** The name of each document within an “Auth” volume must start with the tab number of the document in the hard copy volume, and be followed by an abbreviated version of the name of the authority. For example, “001 Property Law Act”; “002 Brown v Wilson”.
- 5.7** The name of each document within a “BoE” folder will start with a number that groups the evidence from any given person together (preferably in the order in which the witnesses are likely to be called), followed by the surname of that witness, “001 Smith Sally.pdf”, “001A Smith Sally Reply.pdf”.

6 Table of contents and indices

- 6.1** A table of contents or index in searchable PDF format, for each type of folder should be included at the highest level in the electronic bundle.
- 6.2** The table of contents for the common bundle or case on appeal folder should be in a format consistent with the common bundle index referred to in r 9.4(5)(c) of the High Court Rules, or the table of contents referred to in r 40(4)(d) of the Court of Appeal (Civil) Rules and r 35(3)(d) of the Supreme Court Rules. (It should list the documents in the order they appear in the common bundle or case on appeal). The names of the documents should be written out in full.
- 6.3** The table of contents for the authorities folder, and for the pleadings and briefs of evidence folders in the High Court, will correspond with the order of the relevant bundle or bundles. For the pleadings this is usually chronological. For the briefs of evidence or affidavits this is usually by party and in the order in which the witnesses are likely to be called.

7 Hyperlinking

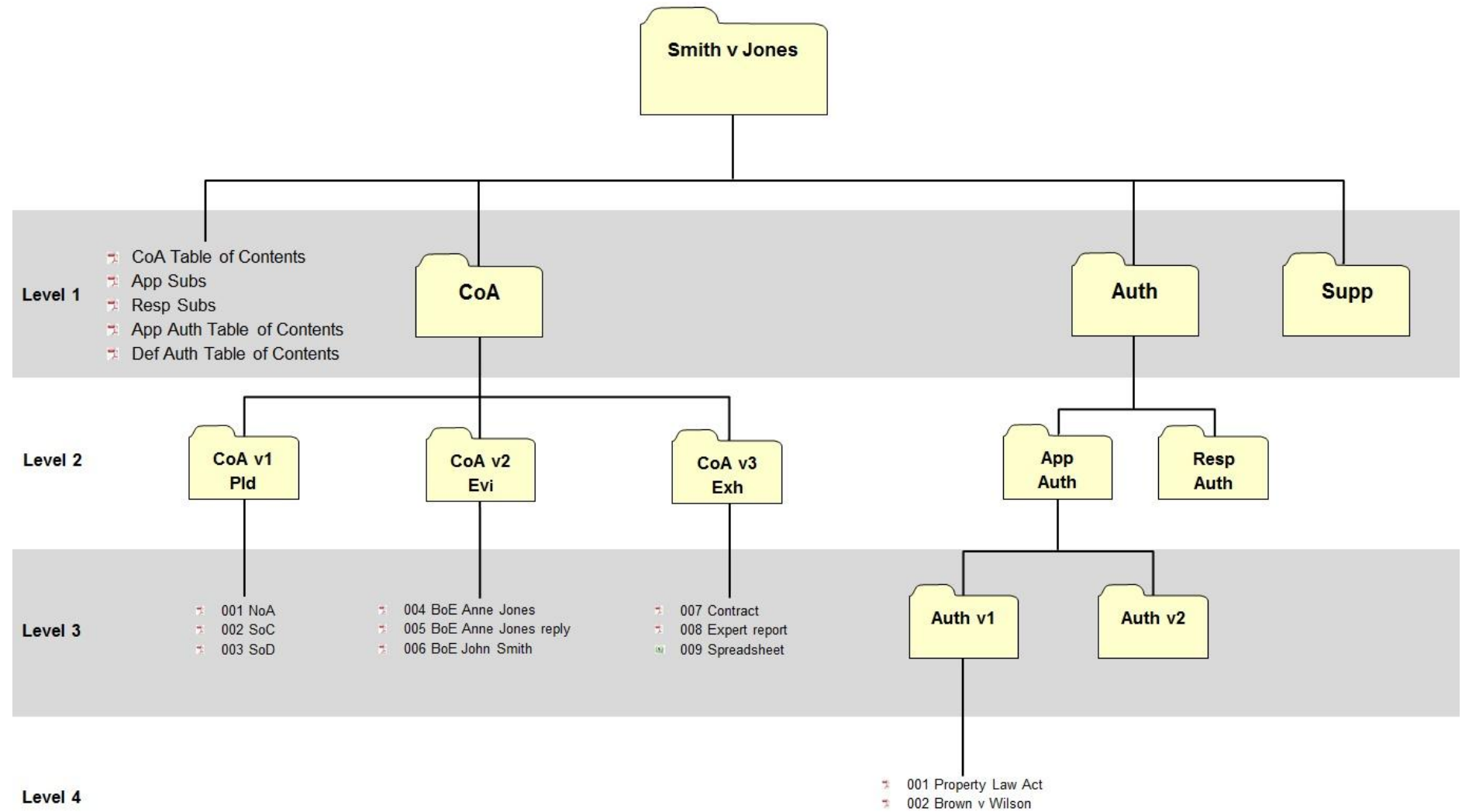
- 7.1** The tables of contents and indices should contain hyperlinks to the relevant documents referred to (and to the relevant pages, where applicable).
- 7.2** The legal submissions and briefs of evidence or affidavits should contain hyperlinks to the relevant documents referred to (and to the relevant pages, where applicable).
- 7.3** Each hyperlink must be relative, meaning that it uses a path starting from the folder where the hyperlinked document is located rather than starting from a specified hard drive (e.g., “Smith v Jones\CB\CB v3\CB234.pdf” in the High Court or “Smith v Jones\CoA\CoA v3\CB234.pdf” on appeal). If absolute hyperlinks are created, they will not work when the electronic bundle is filed and served.⁴

⁴ Hyperlinks created in PDFs using Adobe Pro should normally be relative. Those created in Word may be relative or absolute, depending on the user’s selected settings.

7.4 Example:

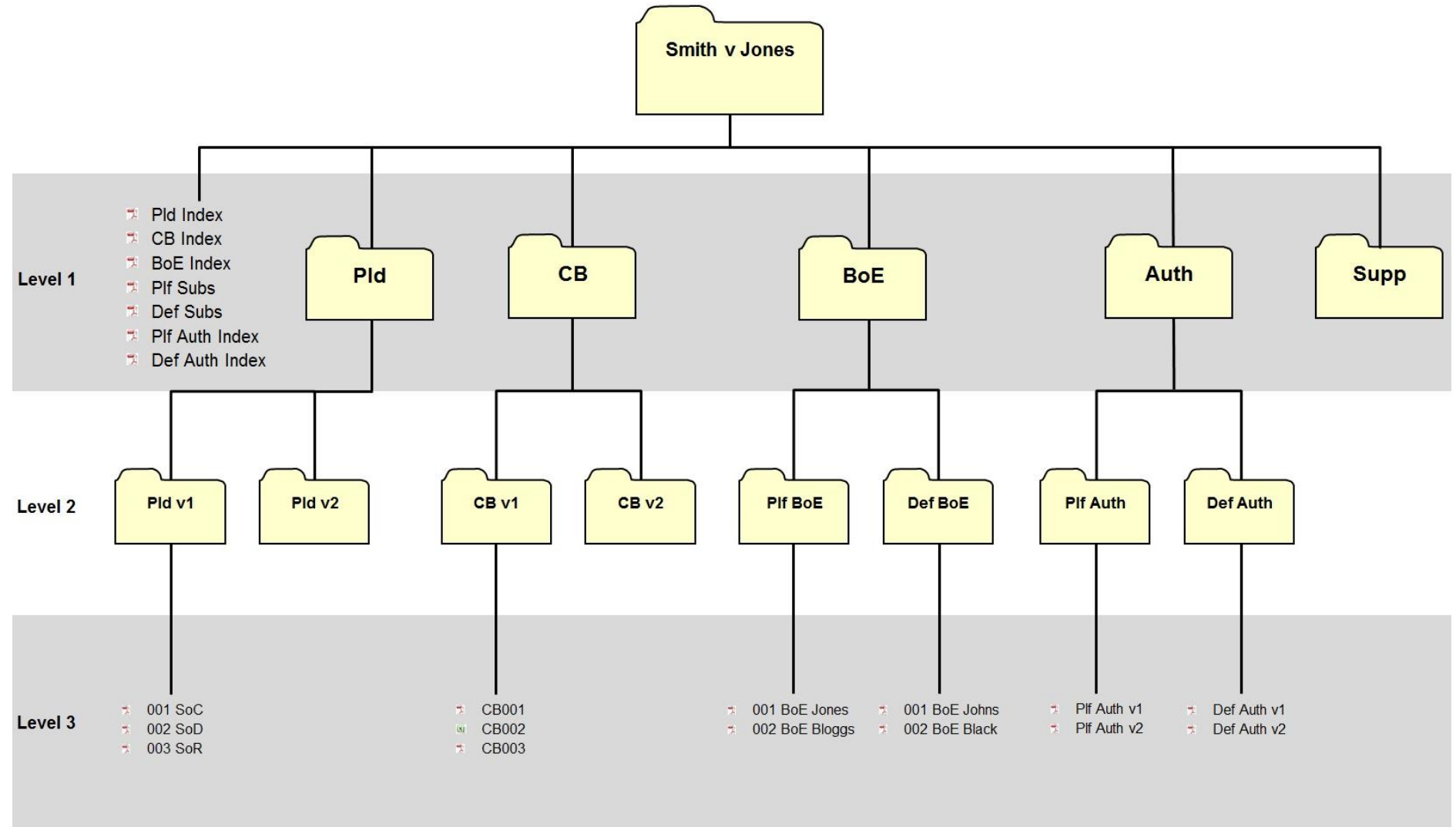
- a) Plaintiff's (or appellant's) counsel files and serves a USB flash drive containing the file structure of folders and subfolders that contains the documents for the casebook.
- b) Plaintiff's (or appellant's) counsel then prepares submissions and authorities which include hyperlinks to the documents in the casebook. When the submissions and authorities are filed, the hyperlinks will work as long as each document is saved in the same relative location in the casebook. The submissions and authorities are placed in the appropriate locations as specified in Figures 1 and 2.
- c) Defendant's (or respondent's) counsel then prepares submissions and authorities (if any) in the same fashion, which are added to the file structure accordingly.
- d) When the casebook is filed the Court replicates this file structure. As long as the hyperlinks are created within the same common file structure, they will continue to work when copied over to the Court drive. So, for example, hyperlinks created in submissions will link to the already-filed casebook. Counsel must not change any file names between filing the casebook and filing submissions.

Figure 1: Folders and document names for a case on appeal



* The yellow boxes represent folders and the titles such as “001 NoA” represent documents within those folders.

Figure 2: Folders and document names for a High Court trial



* The yellow boxes represent folders and the titles such as “001 SoC” represent documents within those folders.

Schedule 1: List of appropriate abbreviations

Full Title	Abbreviation
Affidavit	Afdvt
Appellant	App
	1st App (if applicable)
	2nd App (if applicable)
Authorities	Auth
Brief of Evidence	BoE
Case on Appeal	CoA
Common Bundle	CB
Defendant	Def
	1st Def (if applicable)
	2nd Def (if applicable)
Exhibits	Exh
Memorandum	Memo
Plaintiff	Plf
	1st Plf (if applicable)
	2nd Plf (if applicable)
Pleadings	Pld
Respondent	Resp
	1st Resp (if applicable)
	2nd Resp (if applicable)
Statement of Claim	SoC
Statement of Defence	SoD
Statement of Reply	SoR
Submissions	Subs
Volume	v

Schedule 2: Examples of preferred document titles (tabbed numbering system)

Document type	Preferred titles
Authorities	
Authorities	001 Property Law Act 002 Scott v Green 004 Brown v Wilson 2003 005 Brown v Wilson 2005
CoA	
Pleadings	001 SoC 002 SoD 003 Minute of Judge J 004 Amended SoD 005 Reply to amended SoD
Evidence	006 BoE Jones 007 BoE Bloggs 008 Afdvt Jones
Exhibits	009 Jones A 010 Jones B 011 Bloggs A 012 Bloggs B