

Electronic bundle protocol

This protocol does not apply to the conduct of a full electronic courtroom.

The use of an electronic bundle should be considered whenever the trial is likely to involve reference to a significant number of documents.

1 Civil cases

- 1.1 An electronic bundle consists of documents in electronic form that is to be presented to the Court. These documents will include pleadings and interlocutory documents of continuing significance at the trial, affidavits, briefs, exhibits, submissions and authorities.
- 1.2 Before the first case management conference and as part of the discovery checklist discussions, parties will discuss whether an electronic bundle is appropriate for trial, and the form that bundle should take (including any hardware, software and training requirements and how such costs will be met).
- 1.3 At the first case management conference the parties will address the issue of an electronic bundle, and the Court may make such directions as are considered appropriate.
- 1.4 At the pretrial conference, if the trial is likely to involve reference to a significant number of documents or a number of documents of significant length, and no directions have been made as to an electronic bundle, the parties will address the issue of an electronic bundle, and the Court may make such directions as are considered appropriate.
- 1.5 An electronic bundle will be presumed to be appropriate when the common bundle is likely to exceed 100 documents.
- 1.6 If an order is made for an electronic bundle the following directions will apply unless the order varies them:
 - (1) The duty of parties under rule 9.4 to co-operate in the preparation of the common bundle should be treated as including:
 - (a) an obligation, if requested, to provide electronic copies (multi-page images in PDF format) of any documents to be included in the bundle that were discovered by that party;
 - (b) an obligation, where it is fair and cost efficient to do so, to agree a format for the electronic bundle and indexes that will be compatible with any litigation support or other software intended to be used by any party;
 - (2) The party who is to file and serve the electronic bundle for trial should:
 - (a) file one hard copy set that complies with the format requirements in rule 9.4;
 - (b) file one electronic set on a portable media device or hardware device (such as an electronic tablet) as arranged in advance with the Judge or the Registrar;

- (c) serve one electronic set on each other party on a CD, DVD, USB flash drive or any other portable media device; and
 - (d) serve one hard copy set on any other party that so requests, subject to that other party paying the reasonable photocopying costs;
 - (3) When practicable, and except as expressly noted in any relevant bundle index, the electronic bundle should be equivalent to the hard copy bundles in all material respects;
 - (4) Subject to subclause (1)(b), the electronic bundle should comply with the default format specified in the Schedule to this protocol.
- 1.7 All court documents, such as pleadings, affidavits, lists of documents and interrogatories, should continue to be filed in hard copy.
- 1.8 The rules as to pleadings, evidence, exhibits and bundles apply to all documents in electronic form, and the Court may direct that inadmissible material be removed from the electronic bundle.
- 1.9 Rule 9.4 applies whether or not an electronic bundle is used.
- 2. Criminal cases**
- 2.1 The parties should discuss before callover when the fixture is allocated, whether an electronic bundle is appropriate for the trial, and the form that bundle should take.
- 2.2 At callover when the fixture is allocated the parties should address the issue of an electronic bundle, and the Court may make such directions as are considered appropriate.
- 2.3 If an electronic bundle is being considered in a criminal trial, the following issues should be addressed:
- (a) The scope and nature of the documents proposed to be included in the electronic bundle.
 - (b) The documents the prosecution intends to produce as exhibits.
 - (c) Any documents the defence may wish to refer to or produce as exhibits.
 - (d) What documents will need to be in paper form.
 - (e) The conversion of all documents, or those that are agreed, into electronic form.
 - (f) Fair trial issues and, if applicable, the effect on a jury.
- 2.4 The electronic bundle should be constructed so that documents such as new exhibits can, when appropriate, be added.
- 2.5 All court documents should continue to be filed in hard copy.
- 2.6 The rules as to pleadings, evidence, exhibits and bundles apply to all documents in electronic form, and the Court may direct that inadmissible material in the electronic bundle be removed.
- 2.7 The electronic bundle is to be usable by prosecution and defence.
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Schedule – Default format for electronic bundle

The purpose of this schedule is to assist the parties by specifying an acceptable method for preparing an electronic bundle for civil hearings in accordance with the Electronic bundle protocol. It will apply unless varied or superseded by an order of the court.

1 Format

- 1.1 The electronic bundle must consist of electronic folders equivalent to the physical volumes of the hard copy bundles, and within those folders each separate document must be a multipage image in PDF format (see Figure 1).
- 1.2 When practicable, all documents in the electronic bundle must be searchable images.
- 1.3 The above format is intended to be technology neutral so that the electronic bundle is usable in that electronic format, able to be printed to produce a hard copy set, and also suitable for importing into other litigation support software or applications that the parties may separately choose to use.

2 Folders and folder names

- 2.1 Each folder within the electronic bundle must be named with an appropriate description. If there is more than one volume of a particular type of bundle, the folder for that type of bundle must include subfolders for each volume (see Figure 1) –
 - (a) The electronic folder for the pleadings must be called "Pleadings". If there is more than one volume, the "Pleadings" folder must include subfolders called "Pleadings v1", "Pleadings v2" etc;
 - (b) The electronic folder for the documentary evidence must be called "Exhibits". If there is more than one volume, the "Exhibits" folder must include subfolders called "Exhibits v1", "Exhibits v2" etc;
 - (c) The electronic folder for the witness statements or affidavits must be called "Briefs" or "Affidavits" as appropriate. That folder must contain a subfolder for the evidence of each party called "Plaintiff's Briefs", "Defendant's Briefs" etc.
 - (d) The electronic folder for legal authorities must be called "Authorities". If there is more than one volume, the "Authorities" folder must include subfolders called "Authorities v1", "Authorities v2" etc.
 - (e) The electronic folder for written submissions by each party must be called "Submissions".

3 Document names

- 3.1 Each document must 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) –
 - (a) The name of each document within a "Pleadings" folder must start with the relevant tab number (or pagination

- number of the bundle if it does not contain tabs) and then an appropriate description, "1 Statement of claim.pdf", "2 Statement of defence.pdf" etc;
- (b) The name of each document within an "Exhibits" folder must correspond with the pagination number of the first page of that document, "Ex 001.pdf", "Ex 234.pdf" etc (or tab number if the bundle is not paginated);
 - (c) The name of each document within a "Briefs" or "Affidavits" folder must 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, "1 Smith Sally.pdf", "1A Smith Sally Reply.pdf";
 - (d) The name of each document within an "Authorities" folder must start with the relevant tab number (or pagination number of the bundle if it does not contain tabs) and then an appropriate description of the legal authority, "1 Donoghue v Stevenson.pdf" etc;
 - (e) The name of each document within the "Submissions" folder must start with the relevant tab number (indicating the relative chronological order in which it was filed or presented) and then an appropriate description, "1 Plaintiff's opening submissions.pdf".

4 Indexes

- 4.1 Each folder type should include an index in searchable PDF format, with that index located at the highest relevant folder level for that bundle type:
- (a) The index to the "Pleadings" folder must list the documents within that folder or subfolders, corresponding with the order of the pleadings bundle or bundles (chronological);
 - (b) There should be two indexes to the "Exhibits" folder or subfolders, one corresponding with the order of the exhibits bundles (usually chronological), and the other sorted by docid;
 - (c) The index to the witness statements or affidavits in the "Briefs" or "Affidavits" folder must correspond with the order of the relevant bundle or bundles (usually by party and in the order in which the witnesses are likely to be called);
 - (d) The index to the "Authorities" folder must correspond with the order of the relevant bundle or bundles.

5. Hyperlinking

- 5.1 When practicable, the witness statements or affidavits, legal submissions and indexes should contain hyperlinks to the relevant documents referred to.
- 5.2 Each hyperlink must be relative (e.g. "Exhibits\Exhibits v3\Ex 234.pdf"), meaning that it uses a path starting from where the hyperlinked document is located rather than starting from a specified hard drive.

6. Consolidated exhibit bundle

- 6.1 The parties may also agree to include in the "Exhibits" folder a consolidated single pdf document of the entire common bundle.
- 6.2 Such a document should:
 - (a) have the relevant Exhibit bundle volume stamped in the header of each page;
 - (b) be navigable by page number, which would correspond with the relevant common bundle page reference, e.g. page number 234 of the consolidated document would be "Ex 234" of the common bundle.

Figure 1: Folders and document names

