



## **AMENDED PRACTICE DIRECTION REGARDING THE ELECTRONIC CONDUCT OF MATTERS DURING THE COVID-19 EMERGENCY<sup>1</sup>**

**(“Practice Direction – Electronic Conduct of Matters – COVID-19 – Amended July 2020”)**

**July 13, 2020**

**Given the exceptional and evolving circumstances concerning COVID-19, and subject to any further Practice Direction that may issue, this Amended Practice Direction Regarding the Electronic Conduct of Matters During the COVID-19 Emergency applies until further notice:**

1. No in-person hearings will be conducted during the COVID-19 emergency. All matters (appeals and motions) will proceed by remote appearance, or in writing, as set out below.
2. Subject to any order of the court, all matters to be heard on or after April 14, 2020 will be conducted pursuant to this Practice Direction.
3. The requirements of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, the *Criminal Appeal Rules*, S.I./93-169, the *Family Law Rules*, O. Reg. 114/99, and all existing Practice Directions and Guidelines requiring the filing of hardcopy documents, and respecting the conduct of oral hearings, in the Court of Appeal for Ontario are dispensed with for the period of time during which this Practice Direction is in effect, unless otherwise stated herein or ordered by the court.
4. All documents that are required for the hearing of any matter are to be filed in electronic format only. If hardcopy materials have already been filed, parties must file electronic copies of all materials necessary for the hearing of any matter, as

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<sup>1</sup> “Amended Practice Direction Regarding the Electronic Conduct of Matters During the COVID-19 Emergency” was revised July 17, 2020.

set out below, and in accordance with the times set out in the court's practice directions concerning the reinstatement of times prescribed. The practice directions concerning the reinstatement of times prescribed can be accessed on the court's website under the banner "Practice Directions and Notices regarding COVID-19" at <https://www.ontariocourts.ca/coa/en/notices/covid-19/>.

5. In the event that an affidavit of service cannot be commissioned due to COVID-19, the affidavit must still be completed, signed and e-filed, accompanied by either an acknowledgment from the document(s) recipient or an explanation as to why the acknowledgment could not be obtained.
6. Subject to an order dispensing with this requirement, documents filed electronically are to be filed in accordance with the [Guidelines for Filing Electronic Documents at the Court of Appeal of Ontario](#) with the following amendments:
  - i. All documents containing text must be filed in text-searchable PDF (e.g., using an Optical Character Recognition format for scanned PDF documents) only.
  - ii. All documents must be filed either by email or through delivery of a USB key by mail or courier. The email or USB key must be labelled with the court file number. The court office will automatically acknowledge receipt of email filings. If there are problems with any electronic filing, the court office will contact the affected party.
  - iii. Parties may use any document transmission service that provides shared links to online or cloud drives to serve and file documents. Parties bear responsibility for ensuring that any such services employ necessary safety, security and confidentiality protocols. Not all cloud-based, file sharing applications can be accessed by the Court of Appeal for Ontario's network due to firewall restrictions. Examples of popular file share programs that currently cannot be accessed through the [coa.e-file@ontario.ca](mailto:coa.e-file@ontario.ca) shared inbox are OneDrive folders and WeTransfer folders. Please be prepared to resubmit your documents either through another file sharing service that does not require two-stage verification or online registration, or as attachments in separate emails should the court advise that an alternative format is necessary.
  - iv. Electronic service under this Practice Direction shall constitute proper service unless the affected party shows otherwise.
  - v. All documents must also be labelled with the court file number using the appropriate naming convention as set out in the existing [Guidelines for Filing Electronic Documents at the Court of Appeal of Ontario](#).

- vi. Documents being filed electronically that are not covered by the naming conventions in the existing Guidelines shall be given a naming convention that will identify their contents with sufficient clarity.
7. The size of filing by email is limited to 35MB. Documents that are larger than 35MB must be divided into smaller parts and labelled accordingly, e.g. Appeal Book Part I, Appeal Book Part II, etc. Parties should be aware that their internet service/email provider may have stricter limitations on the permitted size of attachments.
8. Any documents being filed for a matter in which there is a publication ban in effect must carry an appropriate caution as part of the particular naming convention.
9. Any documents that require filing under seal shall be password-protected. The party filing the sealed documents shall communicate the password by telephone to the Deputy Registrar and Manager of Court Administration (416-327-6017). This is a confidential phone line only accessible by the Deputy Registrar.
10. If there are any particular concerns regarding sealed documents, parties should seek direction from the court.
11. Rather than filing books of authorities, the preference is for parties to hyperlink their factums to the judgment databases found on the websites of Canadian courts or [www.canlii.org/en/index.html](http://www.canlii.org/en/index.html), and where not available on these, to LexisNexis Quicklaw or WestlawNext Canada. However, if this is not possible or feasible, then books of authorities are to be filed electronically in accordance with paragraph 6 above. If books of authorities are filed electronically, then each authority must be bookmarked and hyperlinked to the index, and relevant passages must be highlighted.
12. Documents in appeal books and exhibit books must be bookmarked and hyperlinked to the index. Where possible, factums should contain hyperlinks to the documents or authorities cited. In making references to page numbers, whether in the factum or in argument, counsel shall refer to the pages as they appear in the PDF version of the appeal book or any compendium. Before the hearing, parties are encouraged to file an electronic “Compendium for Argument” comprised of only those documents and case extracts to which reference will be made during argument. The Compendium for Argument should be filed at least 5 days in advance of the date scheduled for the hearing and should be hyperlinked to the original materials.
13. Hearings in the matters that will proceed will be conducted remotely. Instructions regarding remote appearances are linked on the court’s website under the banner “Practice Directions and Notices regarding COVID-19” at <https://www.ontariocourts.ca/coa/en/notices/covid-19/>.

14. Counsel will not be required to gown for remote appearances at this time.
15. "Practice Direction Regarding the Electronic Conduct of Matters During the COVID-19 Emergency" is revoked and replaced effective July 13, 2020 by this "Amended Practice Direction regarding the Electronic Conduct of Matters during the COVID-19 Emergency".



July 13, 2020

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Chief Justice George R. Strathy

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Date

Effective: July 13, 2020

Revised: July 17, 2020