

## PRACTICE DIRECTION

Re: **Guidelines for the Use of Technology in any Civil Litigation Matter**

### 1. INTRODUCTION

- 1.1. This Practice Direction provides guidance to parties in the use of Technology for the preparation and management of civil litigation in the Court and a Court approved framework for managing both Hard Copy and electronic Documents in a Technology environment.
- 1.2. Parties requiring further information or assistance in the appropriate use of Technology in civil litigation in the Court are encouraged to contact the eCourt Co-ordinator by email at #####, or by phone at -###-####.
- 1.3. Further information can also be found on the Court's website at http://www.##### under the Electronic Evidence link where particular guidance with respect to the collection and management of Electronic Material in civil litigation is provided.
- 1.4. The Court may issue further Practice Directions about such matters as electronic filing, electronic service of Court Documents and the use of Technology at trial. Parties are encouraged to refer to the Court's website at www.##### for current information on these matters.
- 1.5. This Practice Direction comes into force on ##### unless otherwise agreed by the parties to apply this Practice Direction in whole or in part.
- 1.6. Definitions
  - 1.6.1. Technical terms used in this Practice Direction are defined in Appendix 4 – Glossary of Terms. A term which is so defined is indicated by the use of ***bold italics*** and is hypertext linked in the electronic version of this Practice Direction.

1.6.2. Parties must note the extended definition of **Document** which includes **Electronic Material**.

1.6.3. In this Practice Direction a reference to a rule is a reference to that rule in the *Rules*.<sup>1</sup>

## 1.7. Appendices

Attached to and forming part of this Practice Direction are:

Appendix 1 A checklist of **Technology** matters which parties may use to identify technical options and issues that may arise at various stages of the proceedings.

Appendix 2 A sample discoverable document which identifies the type of information to be captured in the **Fields** to be used for the description of **Documents** in accordance with the **Default Standard** for a schedule to an Affidavit of Documents;

Appendix 3 Guidelines showing how the default **Fields** should be populated and suggesting possible additional **Fields** for the description of **Discoverable Documents** in a **Database**.

Appendix 4 **Glossary of Terms**.

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<sup>1</sup> Ontario , Rules of Civil Procedure, R.R.O. 1990, Reg. 194

## 2. APPLICATION OF THE PRACTICE DIRECTION

- 2.1. In the event of a conflict between this Practice Direction and the Rules, the Rules apply.
- 2.2. This Practice Direction applies to any civil proceeding:
  - 2.2.1. where the parties agree it will apply, in whole or in part, and sign a Protocol and file with the Court; or
  - 2.2.2. where the Court orders that it apply.
- 2.3. Parties are encouraged to adopt this Practice Direction where appropriate, for example, in a proceeding where one or more of the following apply:
  - 2.3.1. a substantial portion of the Potentially Discoverable Documents consists of Electronic Material;
  - 2.3.2. the total number of Potentially Discoverable Documents exceeds 1,000 Documents;
  - 2.3.3. there are more than three parties to the proceeding.
  - 2.3.4. the proceedings are multi-jurisdictional or cross-border
- 2.4. Before any party seeks relief from the court with respect to the use of technology in the proceeding, the parties should use best efforts to reach an agreement to use some or all of the provisions of this Practice Direction or another agreed Protocol..
- 2.5. Parties should consider the ways in which the use of Technology might lead to the more efficient conduct of the litigation and, in particular, to its application and use in:
  - 2.5.1. delivering Court Documents to another party (outside the e-filing pilot project);
  - 2.5.2. communicating with another party;
  - 2.5.3. providing copies of Documents to another party; and

- 2.5.4. preparing an electronic Joint Book of Documents for trial or hearing of a proceeding.
- 2.6. In a proceeding to which this Practice Direction applies, the Court may, on motion by a party:
  - 2.6.1. order that the proceeding or certain steps in the proceeding be conducted using Technology;
  - 2.6.2. where a party is not reasonably able to access Documents produced by another party, order that such other party take steps to enable access to Electronic Material produced by that party;
  - 2.6.3. resolve disputes between the parties as to matters that are the subject of this Practice Direction, and give directions accordingly;
  - 2.6.4. order that there be an Electronic Trial of the proceeding;
  - 2.6.5. amend, vary or revoke any order previously made under this Practice Direction; or
  - 2.6.6. make any other order that it considers appropriate.
- 2.7. An order for the Electronic Trial of a proceeding may include any or all of the following orders, or as further ordered by the Court;
  - 2.7.1. that Court Documents be delivered in electronic form for the trial record;
  - 2.7.2. that Documents including witness statements, outlines of expert evidence, chronologies, outlines of argument, experts' reports and other Documents be delivered to other parties in electronic form;
  - 2.7.3. that transcripts, answers to undertakings and exhibits be made electronically;
  - 2.7.4. that there be an electronic Joint Book of Documents; and
  - 2.7.5. that there be a restriction upon the use of Hard Copy Documents at trial.
  - 2.7.6. any other Order that the Court considers appropriate.

### **3. COSTS ASSOCIATED WITH THE APPLICATION OF THIS PRACTICE DIRECTION**

- 3.1. Subject to any agreement to the contrary and the discretion of the Court, the reasonable costs incurred in complying with any agreed Default Protocol or any Protocol imposed by the Court, (including the expenses of utilizing necessary external or in-house litigation support personnel or third party litigation support provider), may be claimed as costs “reasonably necessary for the conduct of the proceeding” within the meaning of Rule 57.
- 3.2. Where a party has not complied with an agreed Default Protocol or a Protocol imposed by the court, a party may ask the court, in exercising its discretion over costs, to take this non-compliance into account as a factor that may justify a denial of costs or a reduction in the costs payable to the non-compliant party.

4. **DEFAULT STANDARD** and AGREED **PROTOCOL**

4.1. In all proceedings to which the Practice Direction applies, the parties should be governed by the following **Default Standard**, subject to amendments by order of the Court or further agreement by the parties:

4.1.1. the following formats are the default for the delivery of **Court Documents**, to another party<sup>2</sup> -

<b><u>Document</u></b>	Format
<b><u>Court Documents</u></b> Other than those listed below	PDF Image Only Format
Lists or schedules of <b><u>Discoverable Documents</u></b> under Rule 30.03	<b><u>Tab Delimited ASCII</u></b> file
Trial Record	PDF Image Only Format
Index for the Joint Book of documents and the Trial Record (if appropriate)	<b><u>Tab Delimited ASCII</u></b> file

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<sup>2</sup> See Appendix 1 for other options for an agreed protocol

4.1.2. the following formats are the default for the Fields for a list or schedule of Discoverable Documents<sup>3</sup> –

<u>Field</u>	<u>Data</u> Type	Length of <u>Field</u>
<u>Document ID</u>	Alpha/numeric	AAA000000
Date	Date	YYYY-MM-DD
Document Type	Text	254 Characters
Author/Author Organization	Text	254 characters
Recipient / Recipient Organization	Text	254 characters
Document Title	Text	254 characters
Lead Document ID (for attachment documents only)	Alpha/numeric	AAA000000
Grounds for Privilege	Text	254 Characters

4.1.3. the following format is the default for imaged Discoverable Documents<sup>4</sup>

Single page TIFF (CCITT Group 4) with a resolution of 300 dpi  
Black and White

4.1.4. the following format is the default for Electronic Material

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<sup>3</sup> See Appendices 2 and 3

<sup>4</sup> See Appendix 1

Single page TIFF (CCITT Group 4) with a resolution of 300 dpi

- 4.1.5. For all other electronic materials, please refer to Special Considerations in Appendix 1.
- 4.2. If a party to whom this Practice Direction applies wishes or needs to depart from the Default Standard, it should seek agreement from all other parties to an agreed Protocol. In an agreed Protocol, the parties are free to modify any Field or format so long as the Data so produced and material referred to in 4.1 meets the minimum standards required by the Court and described in the Default Standard.
- 4.3. In creating an agreed Protocol the parties should give consideration to:
  - 4.3.1. the issues concerning the collection and discovery of Electronic Material discussed in the *Guidelines for the Discovery of Electronic Documents in Ontario* which are posted on the Court's website; and
  - 4.3.2. the use which might be made of this Data -
    - 4.3.2.1. in the preparation of the index to the Joint Book of documents;
    - 4.3.2.2. in the preparation of an Electronic Trial record index; and
    - 4.3.2.3. generally, at trial.

## 5. COURT DOCUMENTS

- 5.1. Parties are encouraged to agree to deliver and to accept service or delivery of Court Documents and other Documents and communications, electronically.
- 5.2. Even if the parties have not reached agreement as provided in section 5.2, a party must, unless the Court otherwise orders, deliver to any other party upon request a copy in electronic format of their Court Document which is required to be delivered in Hard Copy in addition to the Hard Copy.
- 5.3. Where a Court Document is provided in electronic format, it must contain the same text as the Hard Copy.
- 5.4. Where it is impracticable to deliver any part of a Court Document or Document in an electronic format, it may be delivered in Hard Copy or its original form.
- 5.5. While the sender should make every effort to provide Virus free Data, it is the obligation of the recipient to test for Viruses.

## 6. DISCOVERY OF *DOCUMENTS*

- 6.1. As a precondition to a party's right to examine for discovery in the proceeding, parties should determine whether they <sup>5</sup>:
- 6.1.1. hold any *Electronic Material* that is potentially discoverable;
  - 6.1.2. have ascertained the probable volume of *Documents* likely to be produced on discovery by that party, taking into account any limits on discovery that may be agreed between the parties or the subject of a direction of the Court;
  - 6.1.3. have conferred with the other parties regarding any issues about the collection, preservation and production of *Discoverable Documents* including *Electronic Material*, and where possible agreed on the scope of each party's rights and responsibilities with respect to these matters, including agreeing on any changes to the default standard;
  - 6.1.4. have given to the other parties notice of any problems reasonably anticipated to arise in connection with the discovery of *Electronic Material* and to have conferred with those parties about these problems, including:
    - 6.1.4.1. the desirability of limiting search efforts for any category of *Discoverable Documents* where these efforts are considered to be unduly burdensome, oppressive or expensive having regard to the importance or likely importance of this category of *Discoverable Documents* to the proceeding;
    - 6.1.4.2. the transfer (in whole or in part) of the likely costs of searching for and discovering such *Discoverable Documents* to the party or parties demanding such discovery; and

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<sup>5</sup> Rule 30.03(1)

- 6.1.4.3. the identification of potentially relevant Data that is likely to be destroyed or altered in the normal course of the operations of the person in possession or control of the Discoverable Documents containing such Data, or pursuant to any document retention policy of that person.
- 6.1.5 have given due consideration on how to manage Documents electronically in an Examination for Discovery pursuant to Rules 30 and 34.
- 6.2. The Court's website contains information regarding the type of Potentially Discoverable Documents in electronic form which may be in the possession of a party and regarding matters which the parties should take into account in the collection, retention and protection of Electronic Material.
- 6.3. For purposes of Schedules A and B of the Affidavit of Documents, referenced in Rule 30.03, a **Document** is deemed sufficiently described if it conforms to either the Default Standard or the Protocol agreement as signed between the parties or the Court ordered Protocol, as the case may be.
- 6.4. Notwithstanding that Discoverable Documents have been produced for inspection in electronic format a party retains the right to inspect in its original form any Discoverable Document (including those originally held in Hard Copy).
- 6.5. Where particular hardware or software or other supporting resources are required to access discovered Electronic Material, the parties should work together to ensure that Electronic Material can be inspected for use in the proceeding.

## 7. TRIAL

- 7.1. Not later than 60 days prior to the commencement of the trial the parties will be required to attend or make written submissions to the Court in a pre-trial conference in accordance with Rule 50.01(j) regarding how best to use Technology at the trial. They should address all aspects of the Technology that might be used at trial by the parties and the Court, in particular
- 7.1.1. the equipment and services (including appropriate hardware, software and additional infrastructure) that they and the Court might require;
  - 7.1.2. the arrangements that may need to be made between the parties, the Court and any third party service providers to ensure that appropriate equipment and services are available at the hearing;
  - 7.1.3. the format for the electronic Joint Book of documents which will be compatible with the software and Technology available in the courtroom;
  - 7.1.4. the format of Expert Reports and Transcripts of Examinations for Discovery;
  - 7.1.5. the compliance of the parties with the requirements of any Electronic Trial order, and
  - 7.1.6. how costs of the necessary equipment and services will be shared subject to any orders as to costs made by the Court.
- 7.2. Not less than 30 days before the date appointed for the commencement of the trial the parties should meet with the eCourt Co-ordinator of the Court to make arrangements for the provision of the required equipment. At least 14 days prior to the date scheduled for the meeting, the parties must make a joint proposal to the eCourt Co-ordinator regarding the arrangements they propose.
- 7.3. Where an Electronic Trial is to take place, an electronic version of the Trial Record must be filed at the same time as the Hard Copy version of the Trial Record which is filed pursuant to Rule 48.02.

- 7.4. Unless otherwise agreed among the parties or ordered by the Court, the **Default Standard** will apply to **Documents** introduced under Rule 48.03 or contained in a Joint Book of documents.
- 7.5. Each party should have available for production at trial within a reasonable time, if required, the original **Hard Copy** or **Native File**, as the case may be, of each of the **Discoverable Documents** in its possession that are included in a Joint Book of documents.

Date

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Heather J. Smith  
Chief Justice of the Superior  
Court of Ontario

## APPENDIX 1

### TECHNOLOGY CHECK LIST

Parties are encouraged to use this checklist to identify [Technology](#) options and issues that may arise during proceedings. The [Default Standard](#) is applicable unless the parties agree to another [Protocol](#) or the Court otherwise orders.

Applied format for default standard (\*\*)

#### 1. PRE-TRIAL

##### **Court Documents - Document Exchange**

- [Hard copy](#) and electronic copy (\*\*) 0
- Electronic copy only 0
- [Hard copy](#) only 0

##### **Electronic Document Format for Court Documents**

- **Search [PDF](#)** Version #(\*\*) 0
- Microsoft Word Version # 0
- Word Perfect Version # 0
- **ASCII** text file 0
- **XML** 0
- **RTF** 0
- **HTML** 0
- Other 0

##### **Document Exchange Via**

- CD-R (\*\*) 0
- email attachment - delivered 0
- DVD-R 0
- External Storage Device 0

## 2. DISCOVERY OF DOCUMENTS

### **Discoverable Documents – Exchange**

- **Hard Copy** and electronic copy (\*\*) 0
- Electronic copy only 0
- **Hard Copy** only 0

### **Electronic Document List Format**

- **Tab Delimited ASCII** file (\*\*) 0
- Electronic Spreadsheet 0
- Word processing table format 0
- **HTML** Table 0
- **XML** 0
- Other 0
- CSV ASCII 0

### **Document Exchange Via**

- CD-R (\*\*) 0
- email attachment 0
- DVD-R 0
- External Storage Device 0

### **In addition to the list the parties may wish to exchange the Data in an agreed proprietary Database format such as:**

- **Tab Delimited ASCII** file (\*\*) 0
- **CSV ASCII** (comma separated values) 0
- CT Summation format (Briefcase) 0
- Dataflight Concordance (DCB format) 0
- Excel Spreadsheet 0
- FTI Ringtail Casebook (aka Ringtail Legal 2005) 0
- Introspect format 0
- JFS Litigators NoteBook 0
- Microsoft MDB (aka Access ) 0
- Supertext 0
- Other 0

### 3. DOCUMENTS PROVIDED TO A PARTY FOR INSPECTION

#### Document Inspection Format

- Native File or Image copy of document 0
- Hard Copy only 0
- Hard Copy and Native File/Image copy (\*\*) 0
- Non-paper record for example, video/audio tape, Database, microfiche, etc. 0
- Other medium 0

#### Image Formats / Document Formats (300 dpi)

- TIFF (Group IV TIFF) (single page) (\*\*) 0
- TIFF – (Multi page) 0
- PDF 0
- Native File 0
- GIF 0
- JPEG 0
- Other 0

#### Document Exchange Via

- CD-R (\*\*) 0
- email attachment 0
- DVD-R 0
- External Storage Device 0

#### 4. TRIAL

##### Exchange of Joint Book of Documents Indexes

- [Hard copy](#) and electronic/[Image](#) copy (\*\*) 0
- Electronic copy only 0
- [Hard Copy](#) only 0
- Other Medium 0

##### Electronic Document Index Format

- [Tab Delimited ASCII](#) file (\*\*) 0
- Word Processing Format 0
- Electronic Spreadsheet 0
- [CSV ASCII](#) (comma separated values) 0
- Other 0

##### Document Exchange Via

- CD-R (\*\*) 0
- email attachment 0
- DVD-R 0
- External Storage Device 0

##### Joint Book of Documents Format

- [Hard Copy](#) and electronic/[Image](#) copy (\*\*) 0
- Electronic [Image](#) copy of all [Discoverable Documents](#) in the index 0
- [Hard Copy](#) only 0
- Non-paper record for example, video/audio tape, [Database](#), microfiche, etc. 0
- Other Medium 0

##### Electronic *Image* Formats (300 dpi) 0

- [TIFF](#) – Single (\*\*) 0
- [TIFF](#) – Multi page 0
- [PDF](#) 0
- [GIF](#) 0
- JPEG 0
- [Native Format](#) 0
- Other 0

##### Document Exchange Via

- CD-R (\*\*) 0
- email attachment 0
- DVD-R 0
- External Storage Device 0

## 5. Special Considerations

Redacting (Management of Redacted Documents)	0
<a href="#">Image Resolution</a>	0
Colour <a href="#">Images</a> (Compression)	0
Unique <b>Image</b> name (referenced by <b>Document ID</b> )	0
Management of <a href="#">Lead/Attachment Relationships</a>	0
Management of Oversized <a href="#">Documents</a>	0
Management of Unprintable Information eg. Databases	0
Management of Confidential Documents	0
Management of Multi-Media files (audio and video files)	0
Management of Forensically Gathered Information	0

### Default *Fields*: (If information is available)

1. **Document ID** AAA000000
2. Date (YYYY-MM-DD or 2001-11-20)
3. [Document](#) Type
4. [Document](#) Title
5. Author/Author Organization
6. Recipient/Recipient Organization
7. Lead Document ID
8. Grounds for Privilege (Schedule 2 documents only)

Please refer to **Appendices 2** and **3** for more detail in regard to the [Default Standard](#) or options if you wish to depart from the [Default Standard](#).

### Example List of *Documents*

<b>Document ID</b>	<b>Date</b>	<b>Document Type</b>	<b>Document Title</b>	<b>Author/Author Organization</b>	<b>Lead Document ID</b>	<b>Recipient/Recipient Organization</b>
ABC000010	2005-09-01	Letter		Ritzenhoff, Bruce [Dalmickon Pty Ltd]		Short, Glenn
ABC000011		Report	Dalmickon Pty Ltd Annual Report 2005	Dalmickon Pty Ltd	ABC000010	

## APPENDIX 2

❖ **DALMICKON PTY LTD** ❖

Level 40, 935 Flint Street  
Melbourne VIC 3000

Mr Glenn Short  
12 Noonan Rd  
Clapham VIC 3444

1-Sep-2005

Dear Mr Short

Please find attached our annual report for 2005. I think you will find the financial results for the last 12 months very satisfying.

I will contact you at the end of the week to discuss the October shareholder briefing session. We have booked the Damin Hotel in Cothelle Street for the 31st.

Yours faithfully



Bruce Ritzenhoff  
Managing Director

ABC000010



❖ **DALMICKON PTY LTD** ❖

**ANNUAL REPORT**  
**2005**

ABC000011

ABC000012

ABC000013

## APPENDIX 3

### *Database Field Guidelines*

*(Default Standard Fields are shaded)*

<b>Field</b>	<b>Data Type and Length of Field</b>	<b>Notes</b>
<b>Document ID</b>  <b>Default Field 1</b>	Text and Numbers (if appropriate) Length – 10 or depending on <b>Field</b> structure	<p>Each document should be uniquely identified and stamped in the required form. The <b>Field</b> will comprise a two part number in form AAA000000 where “AAA” represents alphabetic shorthand for the party name, where 000000 represents the page number or the numbers could be used to suit the convenience of the party processing the information. Unless processing electronic information in its <b>Native Format</b>, each page of a document should be individually numbered or some other satisfactory arrangement should be reached in an agreed <b>Protocol</b> and each <b>TIFF Image</b> should be named to match the Doc ID.</p> <p>If processing <b>Native Files</b> the file name should be the <b>Document ID</b> with each document numbered consecutively. If the parties agree not to number each page, consideration should be given to an additional <b>Field</b> recording the number of pages in each document.</p> <p>Attachments to <b>Discoverable Documents</b> will be separately listed and numbered. Attachments can be numbered sequentially following the lead document. For example, a lead document may be numbered XXX000001 (being a 5 page document) and its attachments would be numbered as XXX000006 (being a 2 page document) and XXX000008 (being a 1 page document).</p>

<b>Field</b>	<b>Data Type and Length of Field</b>	<b>Notes</b>
Lead Document ID  <b>Default Field 7</b>	Text and Number, Length depending on the <b>Document ID</b> structure	Contains first page of the lead document to which an attachment is attached. There will never be multiple entries in this <b>Field</b> as each attachment should only ever have one lead document
Date  <b>Default Field 2</b>	Date, 10	<p>Date can be inserted as: YYYY-MM-DD for example 2001-11-20</p> <p>YYYY = Year MM = Month DD = Day</p> <p>Note - Date format is for exchange purposes only. Date can still be displayed as DD-MMM-YYYY in own database.</p> <p>Undated = If there is no way of ascertaining the date of the document or it is illegible – leave <b>Field</b> blank</p> <p><b>Discoverable Documents</b> with no discernible date will be coded as “Undated” by leaving the date <b>Field</b> blank.</p> <p>It should be noted that in a true date <b>Field</b> “00” is not an acceptable value and <b>Discoverable Documents</b> with only the month and year (e.g. August 1997) will be coded as undated unless otherwise agreed between the parties.</p> <p><b>Discoverable Documents</b> with the day and month but no year are considered undated.</p> <p><b>Discoverable Documents</b> with a date range will be coded as undated unless otherwise agreed</p> <p>OR</p> <p>Format is YYYY-MM-DD: 2001-11-20</p>

<b>Field</b>	<b>Data Type and Length of Field</b>	<b>Notes</b>
		<p>January is the default month when no month exists and the '01' is the default day when no day exists. <b>For years use 1800 (on historical files use 2050).</b></p> <ul style="list-style-type: none"> <li>• Year but no month or day 01-Jan-2000 with the estimated date field coded</li> <li>• Year and day but no month 01-Jan-1999</li> <li>• <b>No Year but and month and day 01-Mar-1800 with the estimated date field coded.</b></li> </ul> <p>DO NOT fill in the missing information with zeros.</p> <ul style="list-style-type: none"> <li>• If the date is completely illegible LEAVE blank.</li> <li>• Look for the date the document was written, created or signed.</li> <li>• If a date has been crossed out and another one written in, use the original date.</li> <li>• If there is an undated fax cover, fax message or fax confirmation/transmittal sheet, use the fax trailer date. The trailer date can <u>only</u> be used as the Docdate if the Doctype is Fax.</li> <li>• Newspaper and journal articles often have a handwritten date on them – you can use this for the docdate if there is no other date.</li> </ul> <p><u>Use the following priority for coding dates:</u></p> <ul style="list-style-type: none"> <li>• latest revised/updated date – the document must state that it has been revised or updated</li> <li>• latest date of creation (top, bottom of page, or end of document),</li> <li>• latest approved date</li> <li>• latest published date</li> <li>• latest copyright date</li> <li>• latest date from title – If the latest date is a future date then code the latest non-future date</li> <li>• latest stamp date</li> <li>• latest print date</li> </ul> <p><u>When coding agreements/contracts use the following priority:</u></p> <div style="border: 1px solid black; height: 15px; width: 100%; margin-bottom: 5px;"></div> <ul style="list-style-type: none"> <li>• latest date next to actual signature - the signing date</li> <li>• execution/in effect date – usually in the first paragraph of the document</li> </ul> <p><u>When coding court documents and legal documents use</u></p>

<b>Field</b>	<b>Data Type and Length of Field</b>	<b>Notes</b>
Estimated Date	Text, 3	<p>No = If the exact <b>full</b> date is on the document (for example 1963-03-04).</p> <p>Yes = Where we cannot be certain of the actual date and it has been agreed in the <b>Protocol</b> to use an estimated date. For example if there is a partial date (e.g. August 1979), the date is stamped on, the date has been amended by hand or the only visible date is on the fax track.</p> <p>If an agreement has an original date as well as a subsequent later date as a result of alterations being made to the document, then the later date is taken as the document date and guess date is marked yes.</p> <p>If a newspaper clipping has the date/reference handwritten on to the document, then the document is dated according to the handwritten notation and is an “estimate date yes”.</p> <p>If there is a date range the first date of the date range could be used and “estimate date – yes”</p>
Document Type  <b>Default Field 3</b>	Text, 254	<p>This <b>Field</b> can be completed using commonly received document types, for example letter, memo, deed etc.</p> <p>If the document has been faxed, this <b>Field</b> can include “facsimile”.</p> <p>If a group of <b>Discoverable Documents</b> is being discovered as a bundle, this <b>Field</b> may be completed as “Bundle of <i>document type</i>”.</p> <p>Parties should confer and agree on a standard list on a case by case basis at the earliest opportunity.</p>
<b>Document <u>Title</u></b>	Text 254 or as appropriate	Title of a document such as “Report on Technology” etc. or the “re” line in a letter or email.

<b>Field</b>	<b>Data Type and Length of Field</b>	<b>Notes</b>
<b>Default Field 4</b>		In a discovery of <b>Native Files</b> this could be where the original electronic file name is captured.
<b>Author/Author Organization</b>  <b>Default Field 5</b>	Text, 254 or as appropriate	Person or persons who authored the document. To be completed using information on the face of the document. <b>Last name First name</b> for example "Parker, Tom [ACME Ltd]", or if it is an email address it should be captured as it is written, Eg. tom.parker@acme.com Semi colons must separate multiple entries.
<b>Recipient/ Recipient Organization</b>  <b>Default Field 6</b>	Text, 254 or as appropriate	Person or persons who authored the document. To be completed using information on the face of the document. <b>Last name First name</b> for example "Smith, Bill [Wonder Windows Inc]", or if it is an email address it should be captured as it is written, Eg. bsmith@hotmail.com. Semi colons must separate multiple entries.
Parties	Text, 254 or as appropriate	Identifies parties to an agreement or other legal document
Source	Text, 20 or as appropriate	Parties may find this <b>Field</b> useful to identify <b>Discoverable Documents</b> that have been obtained from someone other than the party giving discovery; for example, <b>Discoverable Documents</b> obtained on subpoena or through some other compulsory process of obtaining access to <b>Discoverable Documents</b> or it could be used to identify the location of the original document.  This <b>Field</b> would identify the party from whom such <b>Discoverable Documents</b> were obtained.

<b>Field</b>	<b>Data Type and Length of Field</b>	<b>Notes</b>
Non-paper record	Text, 3	This <b>Field</b> can be used to identify information recorded using a medium other than paper, where the relevant information has not been printed out and discovered in <b>Hard Copy</b> form; for example, video and audio tapes, floppy disks and magnetic computer tapes (these could contain emails, non standard software applications, electronic <b>Discoverable Documents</b> , electronically stored <b>Documents</b> or <b>Image</b> files etc.). Permissible entries are "YES" and "NO".
Redacted	Text, 3	If the original document has been redacted. Permissible entries are "Yes" or "No".
Basis of <b>Redaction</b>	Text, 12	If a document is redacted yes provide reason such as privilege or confidential or other that is agreed between the parties.
Pages	Number	The number of pages in each document can be recorded in this <b>Field</b> – particularly if parties decide to number Documents only.
Grounds for Privilege <b>Default Field 8</b>	Text	Categorise all Schedule 2 documents in one of the following: Solicitor/Client Litigation Privacy Act

## APPENDIX 4

### GLOSSARY OF TERMS

For the purposes of this Practice Direction, the following technical terms shall have the following meanings:

#### ***ASCII***

The abbreviation for American Standard Code for Information Interchange which is the most common format for text files in computers and on the Internet. In an ***ASCII*** file, each alphabetic, numeric, or special character is represented with a 7-bit or 8-bit binary number.

#### ***Court Documents***

Those ***Documents*** that are filed in Court or that are delivered to another party pursuant to an order of the Court or a Rule or practice of the Court (such as pleadings, discovery lists etc.), and includes witness statements, outlines of expert evidence, chronologies, outlines of argument and other ***Documents***.

#### ***CSV (comma separated values)***

The abbreviation for comma separated values. In computers, a file that contains the values in a table as a series of ***ASCII*** text lines organized so that each column value is separated by a comma from the next column's value and each row starts a new line. A ***CSV*** file collects the ***Data*** from any table so that it can be conveyed as input to another table-oriented application such as a relational ***Database*** application. Microsoft Excel, a leading spreadsheet or relational ***Database*** application, can read ***CSV*** files.

#### ***Data***

Electronic information that has been translated into a form that is more convenient to move or process (in the format of a ***Database*** for example).

#### ***Database***

A collection of ***Data*** that is organized so that its contents can easily be accessed, managed and updated.

#### ***Default Standard***

The standard format established by paragraph 4.1 of this Practice Direction for the exchange of electronic evidence.

## ***Discoverable Documents***

**Documents** that are required to be disclosed to a party in accordance with the Rules and practice of the Court.

### ***Document***

Document has the meaning set out in Rule 1.03(1) and 30.01(1) of the Ontario, Rules of Civil Procedure, which includes, in addition to a document in writing:

A sound recording, videotape, film, photograph, chart, graph, map, plan, survey, book of account, and data and information in electronic form.

### ***Document ID***

The **Document ID** is the method by which each **Document** is uniquely identified.<sup>6</sup>

### ***Electronic Material***

Electronic, as set out in Rule 1.03 (1) of the Ontario Rules of Civil Procedure, includes:

created, recorded, transmitted or stored in digital form or in other intangible form by electronic, magnetic or optical means or by any other means that has capabilities for creation, recording, transmission or storage similar to those means, and “electronically” has a corresponding meaning.

### ***Electronic Trial***

An **Electronic Trial** is a hearing where evidence is managed, presented and stored electronically by the Court in an eCourt. The eCourt is a multi-media electronic in-Court system designed to manage the electronic information relating to and generated by a Court case. The eCourt System is designed to:

#### **Manage Transcripts**

Real-time Transcript (What is being said right now)

Historic Realtime Transcript (What was said earlier today) (this can be delivered in near realtime, or in batches of transcript delivered on a half day basis or other intervals as may be appropriate)

Edited Transcript (What was said on previous days)

Streaming of Realtime to remote locations (if required)

#### **Manage Evidence**

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<sup>6</sup>See Default Field 1 in Appendix 3 and, for an example, see Appendix 2.

Repository for **Documents** and other multimedia based evidence stored using **Images** and **Native File** formats imported from the participants

Management of status - exhibits and MFI's (marked for identification)

Court Operator controlled Broadcast Channel (Public View)

### **Manage Associated Materials**

Manage pleadings, witness statements, aide-memoirs etc

Manage Audio and Video

Streaming of realtime audio visual to remote locations (remote transcription services)

### **Integrate External Resources**

Links to the Court's own web site pages (**Protocol** pro forma, Practice Direction)

Links to Internet web sites for research

Links to the Court's additional core systems such as case management

### **Field**

A **Field** represents a column of **Data** within a **Database** or a spreadsheet.

### **GIF**

The abbreviation for Graphics Interchange Format which is one of the two most common file formats for graphical **Images** on the World Wide Web. The other is the JPEG.

### **Hard Copy**

The term used to refer to a **Document** in non-electronic form. A **Hard Copy** is often a paper copy of a **Document**.

### **HTML**

The abbreviation for Hypertext Markup Language which is a set of "mark up" symbols or codes inserted in a file intended for display on the internet by a World Wide Web browser.

### **Image**

A picture that has been created or copied and stored in electronic form, an electronic photocopy. The format of the **Image** is given by the file extension name suffix – for example BMP, **GIF**, JPEG, or **TIFF**.

### **Image Resolution**

A description of the sharpness of an **Image** sharpness (that is, the density of illuminated points) which is measured by dots per inch (dpi). The dot pitch determines the absolute limit of the possible dots per inch. Industry standard is 200 dpi for black and white imaging.

### ***Lead/Attachment Relationships***

While lead and attachment relationships are not required in the default **Fields** and may not be captured in the majority of lists of **Documents**, parties will need to agree on whether to record this information and how it will be recorded for exchange.

### ***Native (Native Files or Native Format)***

A reference to a computer file in its original electronic format. For example, if a **document** is produced as an **Image** or in **Hard Copy** format the original electronic file is referred to as the **Native Format**.

### ***PDF***

The abbreviation for Portable Document Format which is a generic file format that captures all the elements of a printed document.

### ***Potentially Discoverable Documents***

**Documents** that are included in the initial collection of information at a time when decisions are being made to determine which of them are **Discoverable Documents**.

### ***Protocol***

A special set of rules which are often described in terms of an agreed upon, industry or international standard. For this Practice Direction the default protocol can be found on the Supreme Court's website (see sub-paragraph 1.3)

### ***Redaction***

The process by which information or text is electronically covered or masked in such a way that it cannot be read by other people. **Discoverable Documents** that contain a combination of discoverable and non-discoverable or privileged information are produced with non-discoverable or privileged information redacted.

### ***RTF***

The abbreviation for Rich Text Format which is a generic file format that allows exchange of text files between different word processors in different operating systems.

### ***Tab Delimited***

In computers, a ***Tab Delimited*** file contains the values in a table as a series of ***ASCII*** text lines organized so that each column value is separated by a tab character from the next column's value, and each row starts a new line.

### ***Technology***

***Technology*** refers to any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of ***Data*** or information. The term information technology includes computers, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

### ***TIFF***

The abbreviation for Tag Image File Format which is a common format for saving ***Image*** files.

### ***Virus***

A programming code inserted into another program or file to cause some unexpected and, for the victim, usually undesirable event. ***Viruses*** can be transmitted by downloading programs or files from an infected site (including internet sites) or they may be present in ***Data*** received from an infected system.

### ***XML***

The abbreviation for Extensible Markup Language which is a flexible way to create common information formats and share both the format and the ***Data*** on the World Wide Web, intranets, and elsewhere.