



Update #8 and Consolidated COVID-19 Practice Direction (June 24, 2022)

[1] This practice direction consolidates and supersedes all prior COVID-19 practice directions.¹

Health and Safety Measures

[2] All Court offices are open. The Courts Administration Service has posted two guides on its website to inform the public regarding the special health and safety measures that have been, or shall be, implemented within the Court's facilities. The first deals with general matters and measures applicable within the courtroom (available [here](#)). The second deals with security screening (available [here](#)). The Court's Covid-19 Guide for in-person hearings also remains applicable (available [here](#)).

Filing Documents

[3] Pursuant to [Rule 71](#), a document may be sent to the Registry for the purpose of filing by delivery, mail, fax or electronic transmission. Parties are therefore free to file paper or electronic versions of documents.

[4] Parties shall use the Court's [E-filing portal](#) to file all electronic documents that do not contain confidential information. (Confidential information is subject to the special provisions in paragraph C. below.) For more information regarding electronic filing, please consult the Federal Court's E-Filing Portal [webpage](#), as well as the E-Filing Resources [webpage](#), which includes an Electronic Guide for preparation of Digitized Court Documents.

- A. Paper copies: Parties wishing to file paper copies may do so in the usual manner. Parties who file documents electronically are exempted from any requirement to file paper copies unless otherwise directed by the Court.
- B. Electronic Payment of Court filing fees: the E-Filing portal now offers secure online payment.
- C. Confidential Documents: Confidential materials filed pursuant to a confidentiality order or direction should be filed in a manner that preserves the confidentiality of the document. For electronic versions, one acceptable procedure is to submit a password-protected PDF or a secure electronic file transfer to the appropriate e-mail address set forth in the [Appendix below](#). The password or instructions shall be provided separately to the Registry by email or telephone as appropriate. Such documents must be clearly identified as confidential and broken down into separate files not exceeding

¹ See Notices at: <https://www.fct-cf.gc.ca/en/pages/law-and-practice/notices#cont>

18 MB, or by such other means as may be directed by the Court. Paper copies of confidential documents may be filed at the Registry.

- D. Page numbering and pinpoints: Electronic files should display page numbers on each page in the file, consecutively numbered. Pinpoint references to those page numbers shall be provided when referring to such materials in written submissions.
- E. Bookmarks: Bookmarks shall be included in all electronic files that contain more than one document. Each such document, and each appendix, exhibit or schedule shall be separately bookmarked. Many PDF conversion tools include a setting to automatically generate bookmarks from heading styles that are formatted in the document. Parties should verify that their bookmarks are accurate. Documents shall be formatted in a manner that permits the Court to add its own bookmarks.
- F. Hyperlinks: The Memorandum of Fact and Law or Memorandum of Argument, as applicable, shall include hyperlinks to all cases, articles, statutes and other materials available on public and free websites where possible. If parties file their documents electronically and provide hyperlinks (including pinpoint citations) for all cases that are included in their Memorandum, along with an alphabetical index to the list of cases cited, this shall be deemed to constitute a book of authorities, and parties are thereby relieved from the obligation to prepare a separate book of authorities pursuant to Rule 70(1)(g) of the [*Federal Courts Rules*](#).
- G. Optical Character Recognition (OCR): Before filing electronic documents that include scanned content or images, parties shall process the document with an OCR application – this allows other parties and the Court to search the document using key words. If possible, documents should be converted directly from digital format to PDF, rather than being printed and then scanned to PDF. However, if a document is scanned, the OCR process should be completed before submitting the document to the Court.
- H. Selection of Local Office in E-Filing Portal: parties are requested to select their local office in the appropriate drop-down menu when e-filing a document. Files that are under case management should be directed to the office where they are being managed. For documents submitted for an upcoming in-person hearing, the document should be directed to the office where the hearing is scheduled.
- I. Inability to Submit Documents Electronically: Parties who are not able to submit documents electronically as described above may submit a paper copy to the Registry (see [office addresses](#)). Alternatively, they may contact the Registry by phone at 1-800-663-2096 (or see this [Telephone List](#) for local office telephone numbers) or by email (see e-mail list in [Appendix](#)) for assistance.

Service of Documents between Parties

[5] A party may serve a document electronically pursuant to the following *Federal Courts Rules*: Rules 139(1)(e), 141, 143, and 146(1) and forms 141A (Notice of Consent to Electronic Service), 141B (Withdrawal of Consent to Electronic Service), and form 146A (Affidavit of Service).

- A. Deemed consent: Parties shall provide an electronic address on each document filed with the Court. Exceptions will be made for self-represented parties who do not have access to the necessary technology to receive / send documents electronically. If a party has provided an electronic address on a document filed in Court, or if counsel for a party has an electronic address publicly listed by the counsel's law society, that party shall be deemed, *until further notice*, to have consented pursuant to Rule 141 to electronic service of documents at the electronic address on the last document filed. Where multiple email addresses are listed on a document, counsel are encouraged to include all of those email addresses when serving materials. Pursuant to Rule 148, on informal request by a party who did not have notice of a served document or did not obtain notice of it at the time of service, the Court may set aside the consequences of default or grant an extension of time or an adjournment.
- B. Originating documents: Personal service of an originating document filed electronically by a party other than the Crown in proceedings brought under the *Immigration and Refugee Protection Act* or the *Citizenship Act* shall be effected by the Registry on the Crown, the Attorney General of Canada or any other Minister of the Crown in accordance with the practice under Rule 133 of the *Federal Courts Rules*. Service effected in this fashion will relieve an applicant from the requirement to effect personal service.
- C. Until further notice, the Registry may issue an originating document electronically. This shall be deemed to meet the requirements for issuance under the *Rules*.
- D. Where service of a document that is required to be served personally cannot practicably be effected, parties may apply informally by letter (sent electronically) for an order for substituted service (Rule 136) or to validate service (Rule 147).

Public Access to Documents on the Court Record

[6] The Federal Court case index may be searched and individual case information (the "case history") viewed [here](#). Information available includes a record of each document filed in Court. Before contacting the Registry to request a document, please review this online case history to determine which document(s) you require.

[7] Members of the media and general public seeking access to documents on the Court record may request copies of non-confidential documents by writing to their local Registry office (see list of e-mail addresses in the [Appendix below](#)). For documents only available in paper format, there is a tariff under the *Federal Courts Rules* of \$0.40 per page for the Registry to prepare a copy of documents on the Court record.

Format of Court Record for Hearing

A. Remote Hearings: Electronic Documents Requirement

[8] The Court will require electronic copies of all documents that are necessary for any telephone or videoconference hearing. As noted at paragraph [4] above, when electronic documents are filed, parties will be exempted from the requirement to file paper copies of those documents unless otherwise directed by the Court. An exception to the requirement to file documents electronically may be made where a party is unable to file documents in that manner. Where documents have previously been filed in paper only, electronic copies of those documents may be required to be filed at the request of the Court at least 10 days prior to a hearing that is conducted remotely.

B. In-person Hearings: Equipment Requirement for Electronic Record

[9] The Court is in the process of building out capacity at its facilities across the country to ensure that parties have the option of conducting in-person hearings on the basis of either a paper record or an electronic record. Although some Courtrooms are equipped for electronic hearings, others have only an electrical outlet at counsel tables, and neither hardwired internet nor wifi is generally available. Until such time as that build-out has been completed, parties who prefer to proceed by way of electronic materials should inform the Court of their preference and their anticipated requirements. This should include whether they require a full electronic courtroom or simply an extended monitor screen to connect to their laptop / tablet during the hearing. Among other things, a full electronic courtroom would permit counsel to display documents on a large screen that may be viewed by all participants in the Courtroom. In addition, the Court, counsel and witness would see the same document on their respective screens. In contrast, simply having a single extended monitor screen would permit counsel to privately view one or more additional documents during the course of the hearing. Neither the Court nor other counsel would see those documents, unless they brought them up on their own monitor screens.

[10] The Court will endeavour to accommodate parties' equipment needs. However, for the time being, this will be subject to the availability of the equipment required for the hearing. No later than three weeks before the hearing, parties should contact the office where the hearing will be held to confirm the equipment set-up available for their hearing.² If the assigned hearing room has no extended monitors available, counsel may wish instead to consider bringing their own portable monitor screens. If counsel is unable to bring an extended monitor screen in such circumstances, the hearing will need to be conducted on the basis of a paper record.

[11] The parties' position (if any) regarding preferred use of a digital or paper record at the hearing, and requirements for a large-screen monitor, should be communicated to the Court at the same time as their notice regarding preferred Mode of hearing (see immediately below).

² In addition to confirming availability of an extended monitor screen (if requested) in the Courtroom assigned for their hearing, it is recommended that parties confirm whether they should bring a monitor cable compatible with their laptop (with either an HDMI or VGA connector to connect to the onsite extended monitor).

Mode of hearing: In-Person or Remote

[12] For all matters scheduled to be heard in September 2022 or later, the presumptive mode for all hearings of 3 hours or longer in duration will be in-person. Parties will have the option to request a remote hearing. Those who wish to do so shall submit a request in accordance with the same process set out below.

[13] For all other matters being scheduled for September 2022 or later, parties should advise the Court of their preferred hearing mode (video hearing, teleconference, or in-person hearing) as soon as possible. Ideally, this should be done by way of a joint position submitted following consultation between parties. Where parties have not agreed regarding the mode of hearing, they should provide submissions in support of their stated hearing mode preference. If neither party advises the Court of a preference, the hearing will presumptively be set down for a remote hearing.

[14] The parties' position regarding their preferred mode of hearing should be communicated to the Court no later than the following times:

- a. Hearing on the merits for Actions – at the pre-trial conference (mode of hearing should be addressed in PTC memoranda)
- b. Hearing on the merits for Applications (T files) – In the Requisition for Hearing, preferably by way of a joint proposal. The Respondent may submit a separate letter within 3 days of the effective date of service of the Requisition for Hearing if it is unable to agree with the Applicant.
- c. Hearing on the merits for Applications (IMM files) – In the Applicant's Record / Respondent's Memorandum of Argument (i.e., before a determination is made on the Application for Leave and for Judicial Review).
- d. Motions – until further notice, the presumptive mode of hearing for General Sittings and urgent motions will be video. For non-urgent Special Sittings motions, the mode of hearing should be addressed in the Rule 35 letter setting out a joint proposal. The responding party may submit a separate letter within 3 days of the effective date of service of the Notice of Motion if they take a different position than the moving party.

Transitional: the notice process regarding parties' preferred mode of hearing and the presumptive scheduling mode set out above will apply to proceedings in which the above documents are filed or procedural steps take place at least one week after the date that this Practice Direction is issued. For example, if an Applicant perfects their application record before this Practice Direction is issued, or within the week immediately following, the proceeding will presumptively be scheduled to be heard remotely.

[15] The Court will endeavor to schedule the hearing according to the parties' common preference as expressed prior to the scheduling of the hearing. For in-person hearing requests that are to proceed with an electronic record, this will be subject to availability of any electronic

equipment (including extended monitor screens) required for the hearing. In the event that parties disagree on the hearing mode, the Court will make a determination after considering the parties' submissions. Although most hearings will proceed either entirely in person or entirely by video, the Court may proceed with a hybrid hearing (with some participants appearing in person and others appearing remotely).

[16] Video conference hearings will be conducted over Zoom. The Court's approach to such hearings is explained [here](#), including an Introduction to Zoom Best Practices.

Informal Requests to Change Mode of Hearing: In-person to remote / Remote to in-person

[17] Once the hearing has been scheduled, any party who wishes to request a change in the mode of hearing shall submit a letter to the Judicial Administrator via the Registry³ as soon as possible. For requests to change from remote to in-person hearing mode, such requests shall be made at least 4 weeks prior to the hearing, or shorter notice if there are urgent reasons (e.g., COVID-19 infection). The request should set out:

- a. the position of other parties;
- b. all facts relevant to the request; and
- c. the party's submissions relevant to the request.

Observing Court Hearings and Access to Audio and Video Recordings

[18] Hearings of the Federal Court, other than pre-trial or dispute resolution conferences, are generally open and accessible to the public and media. Members of the public and the media who wish to observe a remote hearing must notify the Court of their interest at least 24 hours in advance of the hearing. The Court will provide these individuals with a link to connect to the hearing. See the [Hearing Lists page](#) for a national listing of hearings and to register to observe a hearing held by video conference.

[19] Except with leave of the Court, livestreaming the hearing is not permitted, and everyone is expressly prohibited from making a recording of a hearing. This is subject to the [Court's Policy on Public and Media Access](#). The Registry will retain an official audio recording of Court hearings. Copies will be accessible pursuant to the notice entitled [Pilot Project for Access to Digital Audio Recordings](#).

[20] Except with leave of the Court, access to video recordings will not be provided.

Gowning and Decorum

[21] Until further notice, the requirement to gown for an appearance in Federal Court remains suspended for all hearings that proceed by video conference. Counsel and parties are expected to dress in appropriate business attire. Judges and Associate Judges [previously referred to as

³ If submitted electronically, this should be filed using the E-filing portal.

prothonotaries] will similarly dress in business attire. Gowning for in-person hearings remains subject to the [Consolidated General Practice Guidelines](#) (issued June 8, 2022).

[22] Counsel and Witnesses shall ensure that they have a professional background – *whether actual or virtual* – when appearing for a Court hearing by video conference. A blurred background is acceptable.

[23] Where there is any risk of background noise, Counsel and Witnesses shall use a headset with an integrated boom microphone or a tabletop conference or gooseneck directional microphone.

Oral Advocacy

[24] Counsel are encouraged to be prepared to highlight their arguments and direct the Court to relevant jurisprudence, instead of simply reading a prepared script or repeating their written submissions. In addition, they should be prepared to answer questions and to reply to the submissions of opposing counsel. Counsel or self-represented litigants who wish to observe Court hearings at which experienced counsel are appearing before the Court may consult the [Hearings List](#) and register to observe a hearing. At the [Court Index and Docket](#) tab, the Federal Court case index may be searched and individual case information viewed, including the name of counsel under the “Parties” icon.

Preparation of a Compendium for a Court Hearing

[25] For the hearing on the merits of an application (in both T-files and IMM files), parties are encouraged in appropriate cases (such as where the record is large) to prepare a short compendium containing key excerpts from their record on which they intend to rely at the hearing. When a compendium is prepared, a copy shall be provided to both the Court (submitted electronically via the e-filing portal) and opposing counsel no later than 3 business days before the hearing. For actions, the topic of a compendium should be discussed at the pre-trial conference.

APPENDIX – LOCAL REGISTRY OFFICE EMAIL ADDRESSES

- Vancouver and Yukon: VAN_reception@fct-cf.ca
- Calgary: CAL_reception@fct-cf.ca
- Edmonton and Northwest Territories: EDM_reception@fct-cf.ca
- Winnipeg, Regina and Saskatoon: WPG_reception@fct-cf.ca
- Toronto: TOR_reception@fct-cf.ca
- Ottawa: fc_reception_cf@cas-satj.gc.ca
- Montreal and Nunavut: MTL_reception@fct-cf.ca
- Quebec: QUE_reception@fct-cf.ca
- Halifax: HFX_reception@fct-cf.ca
- Charlottetown: CHA_reception@fct-cf.ca
- Fredericton: FRE_reception@fct-cf.ca
- Newfoundland and Labrador: STJ_reception@fct-cf.ca

* **Note:** The maximum e-mail size is 25 MB. However, attachment of a PDF document to an e-mail increases the effective size of the PDF document by approximately 30 %. Larger PDF documents (i.e., over 18 MB) must be split into smaller parts before sending. Please consult sections 3.2.1.1 and 6.8 of the E-filing Guide for information on reducing the size of PDF documents: <https://www.fct-cf.gc.ca/content/assets/pdf/base/E-filing-Guide-May-7-2020-Final-EN.pdf>