



## **PRACTICE DIRECTIVE: ELECTRONIC FILING OF DOCUMENTS IN APPEAL PROCEEDINGS**

**Posted:** January, 10, 2023  
**Effective:** February 1, 2023

### **IMPORTANT NOTE:**

This Practice Directive **replaces** the COVID-19 Practice Directive. It provides instructions on the electronic filing of Factums, Transcripts, Appeal Books and Books of Authorities.

While the COVID-19 Practice Directive was in effect, the Registrar also accepted additional documents to be filed electronically such as Notices of Appeal, Cross Appeal or Contention and other documents related to chambers motions. These documents could be served electronically. **However, please note: The permission to file and serve these documents electronically was specific to the circumstances of the pandemic and no longer applies.** These additional documents must now be filed and served in accordance with the Civil Procedure Rules which do not permit electronic filing or service as of right.

### **PRACTICE DIRECTIVE**

#### **General**

Documents that are required to be filed electronically and any other document permitted to be filed electronically with the Nova Scotia Court of Appeal must meet the following requirements before they will be accepted by the Court.

The Registrar may refuse to accept an electronic filing that does not comply with the instructions in this practice directive or is otherwise unsuitable. In those instances, the Registrar may require a party to withdraw the filing, resubmit or refile the documents.

The Civil Procedure Rules of Nova Scotia (Rules) require, unless otherwise ordered, that in addition to the required number of hard copies, the following documents must be filed electronically:

- Factums (Rule 90.32 (6) for civil appeals and Rule 91.18 (2) for criminal appeals)

- Transcripts (Rule 90.30 (6) for civil appeals and Rule 91.15 (7) for criminal appeals)

The Rules do not require Appeal Books or Books of Authorities to be filed electronically in addition to the required number of hard copies. That recognized, the electronic filing of Appeal Books, in addition to the required number of hard copies, is welcomed and permitted. Electronic filing of Books of Authorities is also permitted; however, the Court prefers case authorities be hyperlinked in Factums. Further direction on these requests is provided herein.

Any filing deadlines apply to both the electronic and hard copies of the documents. Parties must file both the electronic and hard copies by the deadline set by the Court.

The Rules require five hard copies of factums (Rule 90.32 (1)(a) for civil appeals and Rule 91.18 (1) for criminal appeals), the Appeal Book (Rule 90.30 (1)(a) for civil appeals and Rule 91.15 (4) for criminal appeals) and Books of Authorities (Rule 90.33 (1) for civil appeals and Rule 91.19 (1) for criminal appeals) to be filed.

If parties have concerns regarding the e-filing of sealed documents, they should seek direction from the Court by contacting the Registrar, Caroline McInnes ([Caroline.McInnes@courts.ns.ca](mailto:Caroline.McInnes@courts.ns.ca)).

Questions arising from this practice directive can be sent by email to the Registrar, Caroline McInnes, at ([Caroline.McInnes@courts.ns.ca](mailto:Caroline.McInnes@courts.ns.ca)).

## **Formatting**

- Electronic documents must be formatted in such a way that if printed, they print on letter size (8.5 x 11) paper.
- Electronic documents must be formatted in a manner that complies with the Nova Scotia Civil Procedure Rules (See Rules 90.30 – 90.33 for civil matters and Rules 91.15 – 91.19 for criminal matters).
- Electronic documents must be filed in word-processing format and/or text searchable PDF format. For scanned PDF documents, an Optical Character Recognition (OCR) format must be used to make the documents text searchable. If filing materials in text searchable PDF format, all attachments must also be text searchable.
- For each document the pages must be numbered consecutively using standard numerals (e.g. 1, 2, 3) starting with numeral 1.
- For every document filed electronically the page numbers of the document filed electronically must match the page numbers of the hard copy version.

- **NOTE:** Appeal Books should be filed as electronic Microsoft Word or PDF documents. The electronic version must be saved in separate files that correspond to the printed volumes and labelled accordingly (e.g. Appeal Book Part 1 Vol. 1, etc. and Appeal Book Part 2 Vol. 1, etc.).
- If you do not file an electronic copy of an Appeal Book, you must file an electronic copy of the transcript(s). Trial transcripts should be merged into one document (rather than separate files for different trial dates, etc.).
- Submission of a document created by the scanning of paper documents is strongly discouraged, but not prohibited. Because of image quality, a document originating from a word-processing software (e.g. Word) is preferred. Where possible, only documents that exist *only* in paper format should be scanned.

## Filing

- Electronic documents may be filed one of two ways:
  - i) **Email** – Files that are 25 megabytes in size or smaller can be emailed to [appealcourt@courts.ns.ca](mailto:appealcourt@courts.ns.ca) with the court file number in the subject line.
  - ii) **USB Flash Drive** – Files of any size can be submitted on a USB flash drive delivered to the courthouse. The USB must be labelled with the court file number.
- In addition to the court file number on the email or USB, all documents filed electronically must be individually named in a manner that identifies their contents. For example: “Factum of the Appellant”; “Factum of the Respondent”; “Appeal Book Part 1 ; “Trial Transcript [DATES]”.
- Prior to being submitted to the Court, each document must be scanned for viruses using updated commercial scanning technology and confirmed to be free of viruses.
- Receipt of documents filed electronically by email will be confirmed by an automated reply message. The reply email is sufficient to confirm receipt of filing with the Court. If there are problems with an electronic filing, the Registrar’s Office will contact the affected party.

## Hyperlinks

- A hyperlink is a reference to another location, file, or document, that a user can follow by clicking or tapping.

- The preference is for parties to hyperlink their electronically filed factums (including the index of authorities) 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 either, to LexisNexis Quicklaw or WestlawCanada.
- However, if this is not possible, and a book of authorities is also filed electronically, then electronic highlighting of the relevant passages is requested.
- Parties must ensure any hard copies of a Book of Authorities conforms precisely to the hyperlinked authorities found in the Factum. In particular, the versions of the cases must be the same so that paragraph numbers match in both the hard copy and the electronic copy.

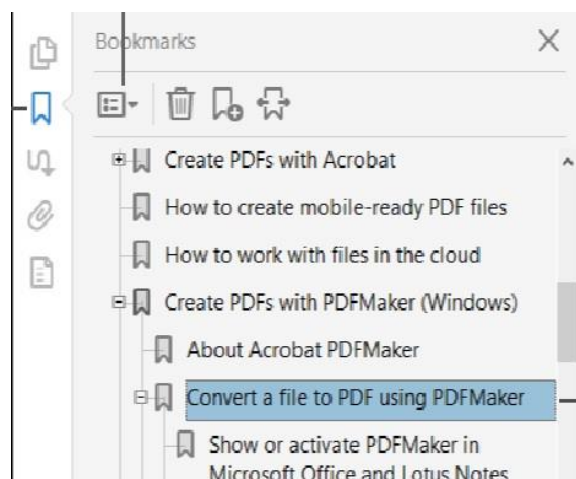
## **Bookmarks**

- An electronic bookmark is a shortcut to specific sections of a document. It is a link that, when clicked, will take the reader directly to that section.
- Appeal documents filed electronically must include an electronic bookmark:
  - i) to the cover page listing the name of the document, the name of the party filing the document, the appeal number and a brief style of cause,
  - ii) to each heading and subheading of the document as listed in the Table of Contents, and
  - iii) to the first page of each tab, exhibit or attachment of the document.
- Additionally, transcripts filed electronically must include an electronic bookmark to the testimony of each witness.
- The bookmark for each tab, exhibit or attachment to a document must include the letter or number of the tab, exhibit or attachment and a description of the tab, exhibit or attachment.
- Any document filed electronically that contains a bookmark must be formatted so that it automatically displays the bookmark panel when opened.

## **Instructions for Merging Electronic Documents**

If you have created your document in multiple sections, please merge those sections into a single document. To do that, follow the steps below for merging documents in Microsoft Word or Adobe programs.

If merging documents in Adobe, the program will automatically create a tabbed index that you can view by clicking on the **Bookmark** image along the left margin:



### **Microsoft Word**

To merge the documents, open one document and save it. Move your cursor to the spot in the body of the document where you want to insert the next document. In the tabs across the top of the page, click **Insert** and look for this section:



Click the arrow beside **Object**. In the dropdown menu, you will see the option **Text from File**. Click that, which will pop up a box allowing you to browse for the next document. Add the next document and repeat this process for as many documents as you need to add. When you have all the documents merged as a single document, follow the page numbering instructions below.

### **Adobe Acrobat (for PDFs)**

Open the software on your device. Open the **Tools** tab and select **Combine Files**. Click **Add Files** and select the files you want to include. You can merge PDFs or a combination of PDFs and other electronic files.

To add the files, click the desired document from its location (i.e. your desktop), then drag and drop it into the open Adobe window. You can reorder the files or press **Delete** to remove any content you no longer want to include.

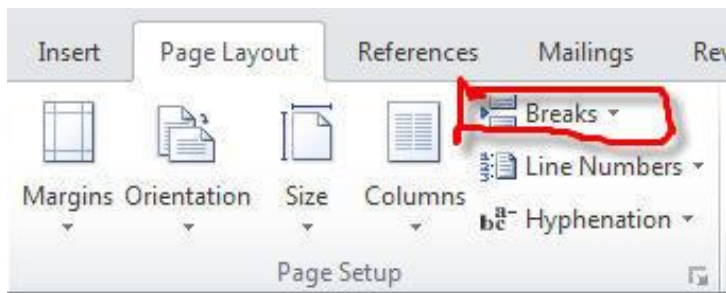
When the documents are in the proper order, click **Combine Files**. Rename the new merged PDF and click **Save**.

## Instructions for Page Numbering

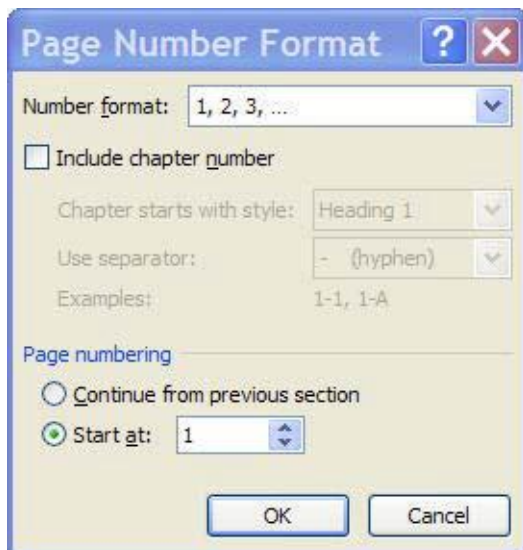
Please number the pages of your document where required to do so. To do that, follow the steps below for inserting page numbers in Microsoft Word or Adobe programs.

### *Microsoft Word*

In Microsoft Word, scroll to the page in your document where you want the numbering to begin. In the tabs across the top of the page, select **Page Layout** and then click the arrow beside **Breaks**.



In the dropdown menu, click on **Next Page** and go to **Insert – Page Numbering – Format Page Numbers**:



You can start your document at any page number you choose. To do that, click on **Page Numbering – Start At**. Change the number in that box. If the page numbers do not appear, go to **Insert – Page Numbering – Top of Page** and choose a style (i.e. Plain Number 1).

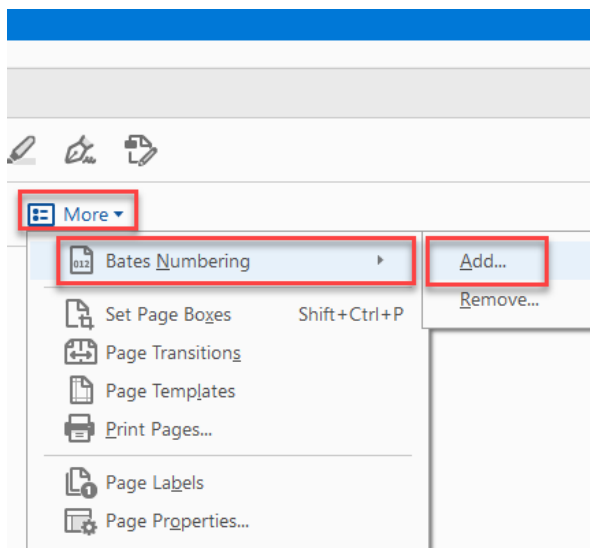
## Adobe Acrobat (for PDFs)

**PLEASE NOTE:** There are several methods of adding Bates numbering in PDF documents. These instructions are intended only as a general description of one process using Adobe Acrobat DC Pro. Your procedure may vary depending on which PDF creation software you are using.

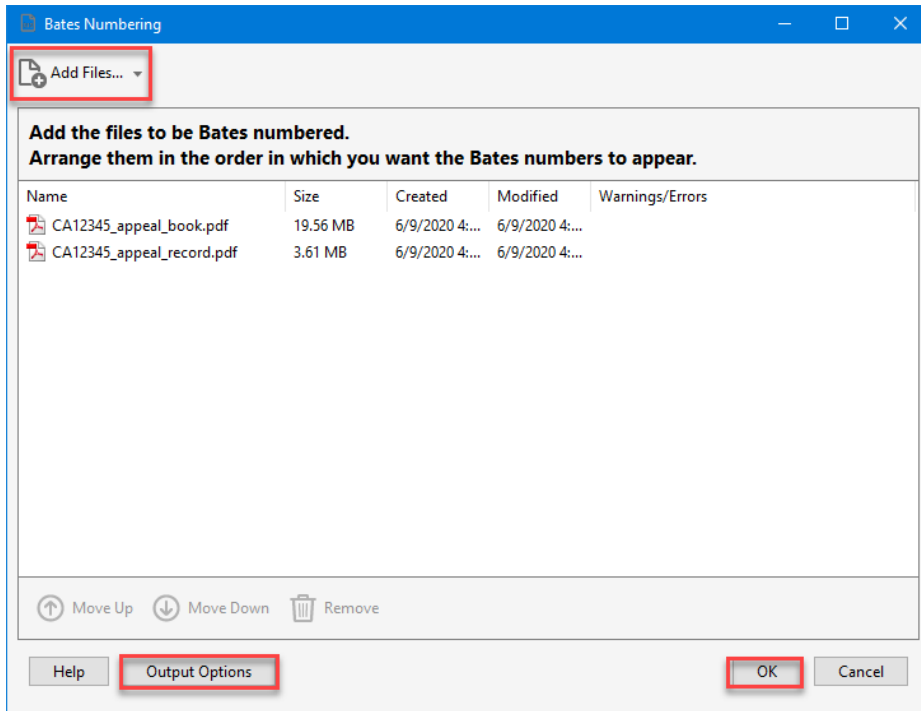
The Nova Scotia Court of Appeal prefers the Bates method for numbering documents in a PDF Portfolio. Bates numbering is a method of indexing legal documents by assigning a unique sequential identification numbering to each page, file or image. This makes the task of organizing, retrieving and identifying important documents quicker and easier.

Using Acrobat DC Pro, you can automatically apply Bates numbering as a header or footer to any document or to documents in a PDF Portfolio. If the PDF Portfolio contains files in other formats (i.e. Microsoft Word), Acrobat converts the files to PDF and adds Bates numbering. You can add custom prefixes and suffixes, as well as a date stamp. You can also specify that the numbering is always applied outside the text or image area on the document page.

1. Open your PDF document in Adobe Acrobat DC.
2. Click **Tools > Organize Pages**. Choose **More > Bates Numbering > Add**.

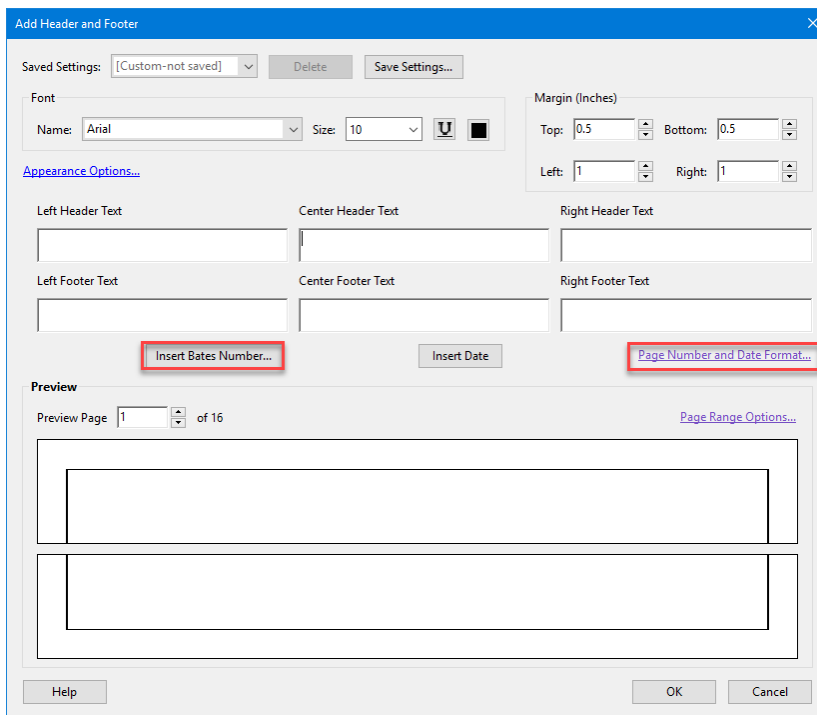


3. In the **Bates Numbering dialog box**, add the files you want to number, and arrange them in the appropriate order. Click **Output Options** to specify the location and naming convention for the numbered files. Click **OK**.



**NOTE:** Bates numbering should start after the Index (Table of Contents) OR after Part 1.

4. In the **Add Header and Footer** dialog box click **Page Number and Date Format...** and select the proper start page number. Under the **Appearance Options** put your cursor where you want the page number to appear then click **Insert Bates Number**. Set your preference.





5. If you do not want to stamp every page in the document, click the **Page Range Options...** link. Select the range of pages that you wish to stamp. Click **OK**.

Center Header Text: 1

Right Header Text:

Center Footer Text:

Right Footer Text:

Insert Date

[Page Number and Date Format...](#)

[Page Range Options...](#)

6. Select **OK** to apply the Bates number to your page(s).

**NOTE:** You cannot edit Bates page numbering after you've added it to a document. However, you can delete Bates numbering and apply a different Bates numbering formula.