

PRACTICE DIRECTION NO 5/2020
RECORDS OF APPEAL AND BUNDLES FOR THE USE OF THE COURT

1. INTRODUCTION

- 1.1. This practice direction is made with the concurrence of the President and Judges of Appeal and applies to all records of appeal and bundles of documents being filed in the court, including core bundles, bundles of authorities, and judges' bundles relating to applications or motions before the court or a single judge.
- 1.2. This practice direction supplements rules 2.1(2), 2.7(3) and 2.7(7) of the Court of Appeal Rules (CAR), Practice Direction No 3/2006 and Practice Direction No 1/2019.
- 1.3. It arises from the court's concern about the poor state of some of the documents being filed for its use and is intended to provide a guide as to the minimum accepted standard for the filing of these documents.
- 1.4. This practice direction takes effect immediately.

2. COVER PAGE

- 2.1. The record of appeal or bundle of documents must contain a cover page bearing:
 - 2.1.1. A heading indicating the nature of the document being filed;
for example "Record of Appeal", "Supplemental Record of Appeal", "Judges' Bundle", "Core Bundle", "Bundle of Authorities" etc.
 - 2.1.2. the appeal, application and/or motion number;
 - 2.1.3. the names of the parties in the matter;
 - 2.1.4. the volume, if there is more than one; and
 - 2.1.5. the name and contact information of the party/attorney-at-law filing the document.

3. INDEX

3.1. Each record of appeal and bundle of documents must contain an index at the front of each record or bundle.

3.2. The index must clearly list and number each document in the record of appeal or bundle of documents and indicate the page reference.

For example

<i>No</i>	<i>Document</i>	<i>Pages</i>
1.	<i>Notice and grounds of appeal dated 2 Feb 2017</i>	<i>1-4</i>
2.	<i>Formal Order of Martinez J dated 30 Jan 2017</i>	<i>5</i>
3.	<i>Judgment of Martinez J dated 30 Jan 2017</i>	<i>6-50</i>

3.3. If the record of appeal or bundle of documents contains more than one volume

3.3.1. each volume should be numbered clearly and consecutively;

3.3.2. volume one of the record or bundle should contain a full index of all the documents and the corresponding pages in each volume;

3.3.3. the remaining volumes should each have an index of the documents in the particular volume; and

3.3.4. the page numbers of each volume should follow consecutively from the previous volume.

For example

If volume one ends a page 150 then volume two should commence at page 151

3.4. Where the record of appeal or bundle of documents contains the notes of evidence from the court or tribunal below, the index must clearly itemise each witness, the date the evidence was taken and the page(s) on which the evidence appears. The page reference for the examination-in-chief, cross-examination, and re-examination of each witness should be indicated. So too should the pages on which any submissions are made by counsel to the court.

For example

<i>Examination-in-chief of Jane Doe on 20 April 2009</i>	<i>5 -10</i>
<i>Cross-examination of Jane Doe on 21 April 2009</i>	<i>11-20</i>
<i>Re-examination of Jane Doe on 22 April 2009</i>	<i>21-23</i>

4. PAGINATION

- 4.1. Each page of the record of appeal or judges' bundle must be clearly and consecutively numbered, preferably in the top right corner of the page.
- 4.2. Page numbers must be distinct so as to distinguish them from any other pagination on the page.

5. BINDING

- 5.1. Records of appeal and bundles of documents should be sufficiently bound in a sturdy and secure manner in order to facilitate repeated use.

6. CONTENT

- 6.1. Records of appeal should contain the documents as prescribed by rules 2.7(3) and 2.7(7) of the CAR. Core bundles should contain documents as prescribed by rule 2.1(2) of the CAR.
- 6.2. Bundles of documents must, where applicable, contain
 - 6.2.1. in the case of applications and motions before the court or single judge, copies of the notice of application or motion, supporting affidavits and any affidavits filed in opposition;
 - 6.2.2. the order or judgment to which the application or motion relates;
 - 6.2.3. where the application is one for permission to appeal in a civil matter, the order from the court below refusing permission to appeal;
 - 6.2.4. in the case of interlocutory appeals, the order granting permission to appeal;
 - 6.2.5. the reasons for judgment, if any; and
 - 6.2.6. any other document **relevant** for the court's or single judge's consideration of the particular matter.

7. FORMAT

- 7.1. As far as is possible, documents contained in the record of appeal or bundle of documents should be on letter sized paper.
- 7.2. Documents should, as far as possible, be reproduced in a clear and legible manner.

7.3. Where there are documents to which other documents are attached such as affidavits containing exhibits, these attached documents or exhibits should be separately identified and paginated in the index.

For example

<i>Affidavit of John Doe filed on 19 May 2020</i>	<i>10 – 21</i>
<i>Exhibit "JD1" – Claim Form filed on 10 Dec 2012</i>	<i>13-16</i>
<i>Exhibit "JD2" – Particulars of Claim filed on 10 Dec 2012</i>	<i>17-21</i>

7.4. Unless absolutely necessary, a particular document need not appear more than once in the record of appeal or bundle of documents. Where the document is attached or exhibited in a subsequent document:

7.4.1. It should be included in the index with a cross-reference to the page(s) on which it previously occurred.

For example

Judgment of Martinez J dated 20 Jan 2019 - see pages 19 -35

7.4.2. A page should be inserted with a note cross-referencing the document to the page on which it appears earlier in the record of appeal or bundle of documents.

For example

The judgment of Martinez J dated 20 Jan 2019 previously appears in this record of appeal/bundle. Please see pages 19 – 35.

8. CONSEQUENCE OF NON-COMPLIANCE

8.1. Failure to comply with any part of this practice direction, in the absence of good reason, may result in the rejection of the documents being filed by the defaulting party and/or the defaulting party being penalised in costs.



C Dennis Morrison, OJ, CD
President of the Court of Appeal
30 November 2020