

## Electronic Court Documents: Electronic Signatures and Submissions through Online Filing Portals

Ministry of the Attorney General / Court Services Division / February 24, 2022

### ELECTRONIC SIGNATURES

An “electronic signature” is electronic information that a person creates or adopts in order to sign a document and that is in, attached to or associated with the document ([Electronic Commerce Act, 2000](#), s.1).

#### ***Electronic methods of submitting documents to the court for filing***

Court documents can be submitted electronically for filing through Justice Services Online (JSO) (i.e., Civil Claims Online, Civil Submissions Online, Family Claims Online, Family Submissions Online and Small Claims Court Submissions Online portals), Small Claims Court E-Filing Service Portal; or by email as permitted by the court.

Where documents are submitted to the court electronically through one of these methods, the document can contain an electronic signature as set out below.

#### ***Acceptable formats of electronic signatures on electronic documents***

Unless prohibited by legislation or court order or the document is identified in the exceptions listed below, court documents containing an electronic signature in the following formats can be accepted for electronic filing.

- a. a **certificate-based digital signature** on a digital document  
i.e., a mark applied using software such as Adobe or DocuSign that bears the signatory’s name, a serial number, and a date, and is verifiable within the electronic document
- b. a **scan of a wet handwritten signature** on a digital document  
i.e., scan of a document that was signed by hand using a pen (in PDF, JPEG or similar format)
- c. a **non-wet handwritten signature** on a digital document  
i.e., signature generated by hand directly into an electronic document using an electronic stylus, trackpad, touchscreen, etc.

A “signature” that is simply a typed name, with or without a font change (e.g. John Smith), will not be accepted, subject to judicial direction.

#### ***Where an electronic signature cannot be used***

An electronic signature cannot be used on the following documents:

- a Will, codicil, testamentary trust, power of attorney
- a negotiable instrument (cheque, promissory note, etc.)
- a payment bond or a letter of credit
- a document that is prescribed or belongs to a prescribed class under the [Electronic Commerce Act, 2000](#) (currently none)
- a document of title, except a contract of carriage of goods (see s. 31 of the [Electronic Commerce Act, 2000](#)) (e.g., bill of sale, deed)

#### ***Judicial consideration of electronic signature***

Judicial officers are responsible for determining whether a filed document (including the signature) meets evidentiary requirements and is admissible as evidence. While a document with an electronic signature may be accepted for filing with the court or issuance, a judicial officer may decide not to admit the document in evidence.

The Court may request a person who electronically files a document that was originally signed, certified, or commissioned in paper format to make the original document available for inspection and copying ([Rules of Civil Procedure](#) r. 4.05(10), [Family Law Rules](#) r. 1.1(10)) or to file the original document in paper format ([Rules of the Small Claims Court](#) r. 1.05.1(7)).

## ***Paper filings***

There is no change in the approach to documents that are filed with the court in paper format.

The following documents will continue to be accepted for filing in paper format:

- a. An original document containing a wet handwritten signature
- b. A photocopied or scanned-and-printed copy of a document that originally contained a wet handwritten signature
- c. A scanned-and-printed copy of a document containing a non-wet handwritten signature (see above for definition)

## **SUBMISSIONS THROUGH ONLINE FILING PORTALS**

Documents submitted through the JSO and Small Claims Court E-Filing Service portals for filing and/or issuance are processed by the Court in accordance with the applicable rules of court, practice direction, notice to the profession, legislation, or order.

The Court will not accept documents for filing and/or issuance when the following deficiencies are identified:

1. Incorrect title of proceedings
2. Filed in the wrong court location (as required by an Act or rule of court, such as r. 5 (3) *Family Law Rules* (FLR))
3. Filing fee is required but was not paid (and proof of eligibility for a fee waiver not submitted) or incorrect filing fee was paid
4. Where a signature is required on a document and the document does not comply with the requirements for electronic signatures set out above
5. Required documents are missing (e.g., proof of service or consent of parties are required but not provided)
6. Document was already filed with the court
7. Old versions of the court forms are used (rather than the prescribed form)
8. Font size smaller than 10-point is used (*except in family cases* – see requirement for such cases below)

In addition to the above, in **family cases**, the Court will not accept documents for the following reasons:

1. Financial statement required but not provided (FLR, r. 13(10))
2. Financial statement does not include required documents set out in r. 13(7) (unless a rule or order provides otherwise)
3. Form 35.1/35.1A affidavits that are required but not provided, including the mandatory attachments (see r. 35.1 (3) and (5))
4. Documents are filed after the time specified in the FLR or a later time specified in a consent under FLR, r. 3(6), a statute that applies to the case, or a court order (FLR, r. 3(7))
5. *SCJ family only*: Font size smaller than 12-point is used
6. *SCJ family only*: Documents exceed the page limit requirements set out in the SCJ *Province-wide Notice to the Profession Regarding Family Law Cases*