

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

Ministry of the Attorney General / Court Services Division / updated April 27, 2022

This Notice (and the earlier Notice dated February 24, 2022) was developed in collaboration with the Offices of the Chief Justice of the Superior Court of Justice (SCJ) and Ontario Court of Justice (OCJ). It was developed to standardize electronic filing processes for civil, family and Small Claims Court cases and across court locations throughout the province.

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 court forms are submitted to the court electronically through one of these methods, the form can contain an electronic signature as set out below. Court forms include forms prescribed by legislation and regulation (such as the court rule regulations) and non-prescribed court forms (administrative court forms that are intended for submission to a court office).

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).

Acceptable formats of electronic signatures on electronic court forms

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

- a. a **certificate-based digital signature** on a digital court form
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 court form
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 court form
i.e., signature generated by hand directly in an electronic document using an electronic stylus, trackpad, touchscreen, etc.
- d. a **typed name without encryption** on a digital court form, with or without a font change (e.g., John Smith), **subject to the exceptions below**
i.e., simply typing a name without the use of encryption software in a signature field of a court form (e.g., in Word format).

Exceptions: Unless judicial direction provides otherwise, a typed name without encryption on court forms which are **affidavits, sworn/affirmed documents** or **consents** will **not** be accepted for electronic filing. Affidavits and other sworn/affirmed documents can be signed electronically by deponents and commissioners using options a, b, or c above. Consents that are prescribed court forms that are signed electronically using options a, b, or c above will be accepted for electronic filing (such consents are prescribed for family, estates and Small Claims Court proceedings).

Judicial consideration of electronic signature and other matters

- 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)).

- The courts will continue to accept for electronic filing:
 - Evidentiary documents such as exhibits to affidavits that contain a signature (e.g., a contract or other document that contains an electronic signature) will continue to be accepted for the purpose of electronic filing.
 - A court record (e.g., motion record, trial record etc.) containing court forms that were originally signed in encrypted format even if the credentials of that signature (the encrypted status) cannot be accessed because the document was merged with other documents in PDF format. The filer should retain the encrypted version of the signed document that was merged into a record, as it may be necessary to produce it to the Court or another party.
- An electronic signature (of any format) 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)
- **Paper filings:**

There is no change in the approach to documents that are filed with the court in paper format. The following court forms will continue to be accepted for filing in paper format:

- a. An original court form containing a wet handwritten signature
- b. A photocopied or scanned-and-printed copy of a court form that originally contained a wet handwritten signature
- c. A scanned-and-printed copy of a court form 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 all applicable rules of court, practice directions, notices to the profession, legislation, and orders.

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 is 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 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](#) Á