

Ontario Court
Superior Court of Justice
Commercial List Users Committee (“CLUC”)
E-Filing and E-Service Protocol
Prepared for the CLUC Subcommittee on E-Filing/E-Service in
Commercial List Proceedings

INTRODUCTION

In order to standardize and encourage practices which have been evolving on the Superior Court of Justice, Commercial List, the following protocol for electronic filing and electronic service is recommended by the Commercial List Users Committee for use in all large, multi-party or otherwise complex cases, and in particular in:

- All CCAA proceedings
- All Interim Receivership proceedings under s. 46.1, s. 47 or s. 47.1 of the *Bankruptcy and Insolvency Act* in respect of an insolvent company or group of companies, where the total indebtedness of the company or group of companies exceeds \$5 million dollars.
- All Receivership proceedings under s. 101 of the Courts of Justice Act in respect of an insolvent company or group of companies, where the total indebtedness of the company or group of companies exceeds \$5 million dollars.

(hereinafter an “**Insolvency Proceeding**”) where a Commercial List judge so directs. CCAA Monitors, Interim Receivers and Receivers and their counsel in an Insolvency Proceeding shall be referred to hereinafter the “**Court Officer**”.

The processes and procedures described below may also be used in the case of significantly large or complex re-organizations or similar proceedings under the CBCA or the OBCA which, in the opinion of a Commercial List judge would benefit from such processes and procedures. (hereinafter an “**Approved Reorganization Proceeding**”). In the case of an Approved Reorganization Proceeding, the responsibilities of the Court Officer described herein shall be undertaken and carried out by counsel for the Applicant in the Approved Reorganization Proceeding or by such other person and the Commercial List judge dealing with the matter shall determine. The processes and procedures described herein for an Insolvency Proceeding shall be adapted for use in an Approved Reorganization Proceeding

There is no objection in principle to expanding the use of E-filing and E-service outside of the above context, but the protocol below has evolved in relation to specific procedural and cost aspects of the types of insolvency proceedings enumerated above. Accordingly any proposal to implement e-service and e-filing outside of this context needs to consider whether cost and procedural considerations applicable in other types of proceedings warrant modifications to the model large insolvency case e-filing and service protocol below. Any proposal to implement e-filing and e-service procedures outside of the above large case insolvency context may be presented to the court by motion in the relevant proceedings for consideration.

The protocol below contains three parts:

- i) **SELECTION OF WEB HOST:** A direction concerning the procedure to establish web hosting arrangements for the proceeding;

ii) DIRECTIONS TO THE WEB HOST/COURT OFFICER (*The Website Operation Rules*) outlining the details of the website filing system to be established and maintained by the web host, which directions shall constitute a schedule to the initial order commencing the proceeding

ii) DIRECTIONS TO COUNSEL TO ALL PARTIES USING THE SYSTEM (*The E-Service Rules*), which are to constitute a further schedule to the initial order in the case, and direct all parties to the proceedings and anyone else on notice of the initial order in the proceedings to follow specified procedures concerning electronic service and filing of all documents in the case.

PRINCIPLES GUIDING THE IMPLEMENTATION OF E-FILING AND E-SERVICE:

E-Service Principles

- Email should be the main mechanism by which documents are served in Insolvency proceedings
- Email service is sufficient service without duplicating by fax or hard copy
- Counsel should endeavour to dispense with serving unnecessary documents. Because in an e-filing system, documents are publicly posted on a openly accessible website, documents which are already posted need not be repetitively served but when served should simply be cross referenced to the website wherever possible, unless that would make the materials as served unduly confusing or difficult to use.
- Documents will be served by way of an HTML link to the document as posted by the serving party (with the assistance of the Web Host) on either the case Website, or if time does not permit, on the serving party's own website (or as a PDF attachment where the party serving the document is unable to create an html link), with HTML links to the Website for cross refnced documents already posted there.
- The E-Service Rules to be used in a proceeding should be adopted by a protocol incorporated by reference into the case in the initial order and should normally be the E-Service Protocol rules subject to such modifications as may be appropriate in that case.
- Counsel are ultimately responsible for the adequacy of service of the material they served
- The ability to email material should not be used as an excuse for last minute service.
- The Three Cs of the Commercial List (Cooperation, Communication and Common Sense) apply to E-Service and E-Filing just as they do to any other activity on the Commercial List

E-Filing Website Operation Principles:

- Enhanced availability of information about insolvent estates enhances the quality of decision making by parties and creditors, and better decision making enhances the efficiency of the capital markets as they pertain to distressed companies.
- The Website should be easily available to each of the Service List, Creditors, Shareholders, the Media and the Public.
- The accessibility, indexing and searchability offered by websites should be exploited to enhance the access to information about insolvency processes.
- The Website for a case shall be funded by the estate, but the cost of funding must be identifiable, so that the efficiency of the service can be monitored.
- The host for the website should be appointed at the outset of the case, and made responsible for postings of, and indexing of, materials on the site. The responsibilities of the host should be outlined in the E-Filing Web Site Operation protocol, which should be incorporated by reference in the initial order at the outset of the case, subject to any modifications appropriate in that case.

- Website management must be cost efficient and effectively managed. To that end, it can be provided by the professionals in the case or by third parties. In the United States, claims and web site management are outsourced, but in Canada, they tend to be provided by professionals in the case. The E-Filing Web Site Operation protocol should leave room for the market to develop both alternatives.
- The website for a case should not be used directly or indirectly as a promotional tool for the professionals involved in the case
- The Court Officer in an Insolvency Proceeding should monitor the effectiveness of the website operation as the case progresses.
- Where appropriate and practical, the Operation of the E-Filing System for an Insolvency Proceeding may be tailored to take advantage of the capabilities of the Electronic Court Room Initiative at 393 University.

PART ONE. ESTABLISHMENT OF WEB HOSTING ARRANGEMENTS

A. Definitions

Web Host: Shall mean a person or other entity which operates and maintains a Web Hosting Service.

The Web Host may be counsel to an insolvent estate which has commenced a restructuring proceeding, or counsel to the CCAA Monitor or court appointed receiver/interim receiver, or any qualified third party with whom the insolvent estate contracts (directly or through a court appointed receiver) to provide the service.

Web Hosting Service: Web Hosting Service shall mean a website operated and maintained by a Web Host, and which is specifically devoted to the posting, indexing, storage and display of electronic versions of all documentation filed with the Commercial List court in an Insolvency Proceeding (the "Website"), which site shall have, with the assistance of the Web Host, the capability to:

- Receive and post to the site each documents to be served in the Insolvency Proceeding by any person or party
- Index the documents received and posted to the site
- to provide, to the Service List, and to the public, access to any of the documents posted on the site, and searchability of the index and brief descriptions of documents posted on the site

B. Web Hosting Service to be Arranged at Outset of Case:

The Applicant in an Insolvency Proceeding shall, in anticipation of, concurrent with, or immediately following the commencement of the Insolvency Proceeding, arrange for the establishment of a Website for the proceeding sufficient to support the requirements of the E-Filing and Service Protocols and shall seek court approval thereof in the first day order or where necessary forthwith after the first day order issues. The Applicant shall disclose the fees, expense and disbursements to be charged to the estate for the provision of this service, with a view to allowing the web hosting function to be open to competitive tender at the option of the court.

C. First Day Order Provisions Implementing the Web Hosting Process:The following is intended for adoption by the court as a standard provision of the "first day" initial order commencing CCAA, Interim Receivership, and Receivership matters. The operative part of the order shall include the following provision to incorporate the E-Filing and E-Service Protocol below:

"THIS COURT ORDER THAT all parties to this proceeding and any other person on notice of this order shall comply with the procedures for the service and filing of documents set out in the protocol attached hereto as Schedule "[]", and further orders that any document served in accordance with the protocol shall be deemed to have been validly served in accordance with the Rules of Civil Procedure, and service in accordance with those procedures shall hereby deemed to be validated, and any other form or manner of service is hereby dispensed with, unless a further order is made to the contrary in these proceedings.

PART TWO: E-FILING SYSTEM—DUTIES OF WEB HOST AND COURT OFFICER

The following outlines the requirements of the E-Filing System to be established by the Web Host. The E-filing Rules address the issues concerning the establishment and operation of the E-Filing Web Site and are directed primarily to the Web Host and the Court Officer.

Establishment of Website

1. The Web Host shall establish or provide a website or portion of a website devoted specifically to the Insolvency Proceeding (the “Web Site”), which website shall contain the following categories:

- Initial Order Commencing Proceeding (including any restatements from time to time)
- Electronic Court File of Substantive Court Materials (i.e. Substantive Documents transmitted to the Web Host by Service Parties or the Court Officer), including separate entries for
 - Notices of motions and applications and related affidavits with exhibits
 - Court Officer reports (Monitor, Receiver or Trustee’s reports)
 - Orders
- Case Calendar (Court dates and deadlines in the Insolvency Proceeding)
- Service List (Persons who are entitled to receive notice of a posting)
- Creditors List (List of creditors of the debtors estate)
- Notices to Creditors – Key Information and Deadlines for Creditors
- Electronic File of Procedural Matters (affidavits of service, Commercial List Request Forms, procedural notices and letters from court or Monitor, and other purely procedural matters)
- Certificates of Independence
- Links to Legislation (CCAA, BIA, and other select statutory provisions)
- Links to the Debtor Company’s site and its documents on SEDAR/EDGAR where applicable
- Links to the Court Officer’s site pertaining to the Insolvency Proceeding (if any)
- Links to web sites of related court cases (i.e. cases identified by the Court Officer as related cases either in Ontario or in other jurisdictions)
- Other (Categories may be expanded in any particular case)

(Hereinafter “Site Categories”)

2. The Court Officer shall cooperate reasonably, and without separate charge to the Web Host, when requested by the Web Host for assistance in the establishment of the Web Site and in the implementation of the E-Filing and E-Service Protocol and shall monitor the adequacy of the operation of the website and advise the Web Host and where appropriate the court of any required improvements.

Duty of Web Host to Post Documents

3. The Web Host shall be responsible to ensure that all court documents and notices in the proceeding which are forwarded to it by the Service List or the Court Officer are posted in a timely fashion on the Web Site in the appropriate Site Category.

4. The Web Host shall post all documents in PDF format (or other widely used read only format), together with a short summary of their contents prepared as directed below. The summary shall be posted in an on line searchable index as described further below.

5. Sealed Documents shall not be posted but instead shall be dealt with as set out further below.

6. The Web Host shall keep a log of all emails transmitting documents and notices for posting and the time at which they were received.

7. The Web Host shall ensure that each document and notice so received is posted same day forthwith upon receipt. A log indicating the date and time at which each document so received was posted shall be maintained by the Web Host.

Indexing of Posted Documents

8. Upon receipt of a document, the Web Host shall

- Determine to which the Site category the document pertains
- Add an index entry describing the document to an online index of documents posted in that Site Category (the "Online Index"), which description (the "Index entry") shall (to the extent provided by the party serving the document) contain:
 - The date of the document
 - The date the document was posted.
 - The type of document that was posted
 - The party which served the document
 - A description of no more than twenty words indicating the issue to which the document pertains, which description shall be provided by the party serving the document as set out in the E- Service Protocol.

9. The Online Index shall be in HTML or other searchable format and shall be searchable by key words and strings of key words using any standard web browser.

Procedural Documents to be Posted Separately from Substantive Materials:

10. Affidavits of service and other purely procedural documents should not be filed in the Electronic Court File portion of the Website to avoid cluttering the searchability of the Electronic Court File of Substantive Documents. The Web Host shall instead establish a separate register of affidavits of service on the Web Site which shall form part of the portion of the site entitled "Electronic File of Procedural Documents".

11. The following documents once served on the Web Host shall be posted by the Web Host under the heading "Electronic Court File of Substantive Court Materials", which shall be divided into three sub-headings as indicated below

Pleadings, Motions and Applicant Materials

- All Applications and supporting materials including affidavits with exhibits, and transcripts of any examinations with supporting exhibits (to be served on the Web Host by the Applicant)
- All Motions and supporting materials including affidavits and exhibits (to be served on the Web Host by the Moving Party)
- All responding materials to Motions and Applications (to be served on the Web Host by the Responding Party)

Reports of Court Officer(s) (to be served on the Web Host by the Court Officer)

Orders and Endorsements

- Endorsements of the Court (to be served on the Web Host by the party taking out the order. Where the endorsement is handwritten, a follow up typed transcription shall be submitted by that party and served on the Web Host. The typed transcription shall indicate whether it is official [approved or generated by the court] or unofficial [prepared by the party submitting it])
- Orders issued by the Court (to be served on the Web Host by the party taking out the order)

12. The following documents once served on the Web Host and shall be filed by the Web Host under the heading “Electronic File of Scheduling and Procedural Matters”:

- Affidavits of Service (to be served on the Web Host by the party filing it)
- Commercial List Request Forms request forms etc. (to be served on the Web Host by the party seeking the appointment)
- All non -substantive communications with the court such as letters to the court (to be served on the Web Host by the sender)

Right of Public and Media Access to Posted Documents

13. Posted documents, except Sealed Documents (defined below), shall be accessible to the press and the public who shall be allowed to download copies without charge.

Service Lists

14. The Web Host shall maintain and update the service list in the case (the “Service List”) and post and update it on the website, which system shall operate as follows:

- The initial Service List shall be submitted to the Web Host by the Applicant in the proceeding.
- Persons seeking to be added to or deleted from the service list shall send a notification to the Web Host requesting that they be added to or deleted from the service list and providing such detail as is specified in the E-Service and E-Filing Protocol.
- Persons seeking to be added or deleted shall notify by email the existing parties on the service List, indicating the name of the party, whether they are being added or deleted, and their contact information.
- Prior to amending the Service List as required above, the Web Host shall create and save a PDF copy of the Service List in the form in effect since the previous amendment, which shall note the dates in which the Service List was in effect (i.e., “Service List from X date to X date”), and the Web Host shall send a PDF copy of the same to the Court Officer.

Case Calendars

15. The Court Officer shall notify the Web Host of any upcoming court dates and deadlines established by the court. The Web Host shall post these dates and deadlines in an online calendar in a separate part of the case web site entitled “Case Calendar”.

Creditor Lists

16. The Web Host shall be provided forthwith by the Court Officer with a creditors list prepared in accordance with the rules for generation of creditor lists in BIA proceedings containing the name, address, telephone, fax and email contact information if available, the amount of the claim as per the company books and records, and whether the claim is priority, secured, preferred, or unsecured (“Creditors List”). Landlords shall be separately identified as

such in the list of preferred creditors. The Creditors List shall be posted forthwith on the Web Site by the Web Host under a separate section of the Web Site entitled "Creditors Lists".

17. The creditors List shall include, in addition to the creditors list generated by the BIA rules, the following stakeholders whether or not creditors:

- CRA and the Department of Justice legal advisors to the collections office of CRA
- Provincial Ministry of Revenue and the Crown Law Office (Civil) legal advisors to the collections office of the Ministry of Revenue
- Office of the Superintendent of Bankruptcy and the Official Receiver's Office for the locality of the debtor
- each PPSA and Land Titles registrant
- each execution creditor which has lodged an execution at the Sherriff's office
- each union of the debtor
- each pension plan trustee of the debtor.

Creditor Registration

18. The Creditors List section of the site should provide a response form to allow creditors to be able to correct errors in their contact information, and to register for email distribution of all Notices to Creditors, with the intent that creditors who register for email distribution do not need to be sent hard copies of anything. Creditors shall not be entitled to unilaterally amend the amount and/or priority of their claim, and the Creditors List section of the site shall include a general statement that the details concerning the creditors' claims (including amount and priority) are based on the Company's books and records and is not in any way legally binding or determinative.

Notices to Creditors

19. The Court Officer shall notify the Web Host with as much notice as is practicable of any key deadlines and events in the proceedings affecting creditors' rights, and any supporting documents required to be transmitted to creditors in connection therewith, including:

- Orders setting Claims Bar dates set by the court
- Notice of Claims Bar Dates
- Invitations to submit proofs of claim
- Solicitations for submission of Creditor Proxies and Voting Letters
- Notice of Creditors Meetings
- Plan Disclosure Statements
- Plans of Reorganization
- Motions to authorize the sale of all or substantially all of the assets of the debtor
- Motions to convert an existing Insolvency Proceeding into another form of Insolvency Proceeding or other proceeding.

collectively "Creditors Events"

20. The Web Host shall post those documents on line in a section of the site entitled "Notices to Creditors - Key Information and Deadlines".

21. For any Creditors Event, the Web Host shall, unless the court orders otherwise transmit to the Creditors a notice concerning the Creditors Event prepared by the Court Officer indicating:

- the nature of the Creditors Event.

- Any applicable date or deadline
- the fact that documents pertaining to the Event intended for the Creditors are posted on the site.
- a list of those documents.
- the Web Site address with instructions as to how to access the site, including the portion of the site containing those documents.
- any other information which may be directed by the court to be provided.

Sealed Documents

22. Sealed Documents will continue to be served and filed in accordance with the existing procedures applicable under the Rules of Civil Procedure, any orders of the Court in the proceeding, or the protocol being developed for sealing orders by the Commercial List Users Committee. The Court Officer shall notify the Web Host of the filing of any sealed materials and as to what description of the materials may be posted in the on line index (to notify parties searching the index that materials under seal have been filed).

Filing of Materials in the Commercial List Office

23. As set out in the E-Service Protocol, a hard copy of each document posted on the Web Site must be filed, by the party serving same, in the Commercial List Office, together with an affidavit stating that service of same was made upon the Web Host in accordance with the E-filing protocol. The duty to effect this filing shall be on the person submitting such document and not upon the Web Host.

24. If the Court so requests, the Web Host shall transmit to the Commercial List Office, on the day prior to any motion or other substantive hearing in the Insolvency Proceeding, a CD or email containing such documents from the Website as the court may request.

Availability of Materials in all Formats to the Court

25. If the Court so requests in respect of any upcoming hearing date, the Court Officer shall be required to arrange for the following to be in court on each hearing date in the proceeding:

- The hard copy of the relevant materials filed in the Commercial List Office in connection with that day's hearing
- The updated CD containing the documents filed to date in the Insolvency Proceeding and the Online index as provided by the Web Host to the Commercial List Office
- a lap top computer
- a portable printer

26. The Web Host and the parties to any particular motion or hearing shall assist the Court Officer in fulfilling this obligation as may be reasonably requested by the Court Officer. If requested by the Court Officer, the Web Host shall further endeavour to make available online access to the Website in the courtroom if possible.

27. Every judge dealing with the case shall be provided with access to the Web Site by the Web Host. The log of the judge's access to the Web Site shall be kept confidential by the Web Host.

28. The Judge presiding over each hearing or other court appearance in a case shall be provided through the Commercial List office in such manner as the office may determine with a hard copy of every relevant document filed with the office in connection with that court hearing.

Duties of Web Host to Maintain Back-ups and Archives

29. The Web Host shall establish and implement procedures for backing up the website on at least a daily basis and archiving the website on a periodic basis so as to enable the Web Site to be recreated in its entirety within 1 business day by the Web Host.

Web Host and WebSite Tracking

30. Consideration should be given as to whether the Web Host should maintain logs to show when items were posted by the Web Host, and when and to whom any items were transmitted to the Web Host under this Protocol. These logs shall be available for inspection by the Court Officer, and shall be provided by the Court Officer to the Court upon request. Consideration should also be given to whether the Web Host should or should not maintain logs re access to the site.

Centralized Web Site

31. The Commercial List Users Committee should give consideration to developing a centralized web site to be used by every Web Host of every Insolvency Proceeding so that all past case materials are collected in one place, and so that current proceedings can be located without having to find a case specific web site address.

Closing Down of the Web Site/Availability of CD's of Site Content

32. The Web Host shall operate the Website until instructed by the Court Officer to shut the website down, and when so instructed shall shut the web site down and follow the procedures below. The Court Officer shall not shut down a web site without the specific order of the court supervising the Insolvency Proceeding.

33. The Court Officer shall then pay the Web Host to burn a specified number of CDs or DVDs containing the entire contents of the Web Site. The Web Host shall send a notice to any party who was ever on the service list as to the shut down of the site and the availability of CDs containing the Web Site Documents, and the Web Host shall provide same on request at cost to all persons who so request. Three further CDs (or DVDs) containing everything on the site shall be burned by the Web Host, one of which shall be retained by the Web Host, and two of which shall be provided at cost to Court Officer, one of which the Court Officer shall retain, and the other of which shall be provided by the Court Officer to the Commercial List Office for filing in the court file pertaining to the Insolvency Proceeding.

34. The Web Host may charge the estate for one additional month standby fees beyond the month of shut down as compensation for completing any transitional matters in connection with the shut down of the site.

PART 3: E-SERVICE RULES: DUTIES OF COUNSEL AND THE COURT OFFICER IN THE PROCEEDING

The following outlines the E-Service rules to be followed by the counsel participating in an Insolvency Proceeding. The E- Service Rules are directed primarily to counsel in an Insolvency Proceeding, and direct counsel how to interact with the Web Site and the Web Host.

1. Initial Service List: Counsel to the Applicant in an Insolvency Proceeding shall prepare the initial Service List, and provide a copy to the Web Host for posting on the Web Site.

2. Appearance: Every person or party who wishes to be on the service list in a proceeding must “appear” by sending, or by having their counsel send, a notice of their appearance by email to the Web Host, and to the existing Service list, which notice shall include the following information:

- full legal name of party or parties represented
- name of counsel’s firm, if any, and
- address, phone, fax and email address of the party or counsel

The Web Host shall amend the Service List accordingly and acknowledge receipt to the sender. The information may be contained in the text of the email. Unnecessary attachments are to be avoided.

3. Case Notification to Creditors by Court Officer: Within 10 days of case initiation, the Court Officer must cause to be mailed to the creditors list:

- the Initial Order
- directions explaining how to access the case website
- directions explaining how to get added to the service list if desired

4. Service of Documents in the Case to be made by party seeking to file them by email on the service list: All documents, with the exception of Sealed Documents (see No. 5 below) and Briefs of Authorities (see No, 6 below), in the case are to be served only by sending the document by email to the current version of the Service List as posted on the Website, with an emailed copy to the Web Host and the Court Officer.

Service Mail to Include only an HTML Link to Document being served: The email shall simply contain an HTML link to the document to be served either on the Web Site (if the person serving the document arranges for the document to be posted on the case Web Site prior to service to the Service List) or on counsel’s own web site (if there was no time to get the Web host to post it before email service is effected).. The HTML link referred to in this section must be a link directly to the document being served, not the case Web Site generally. Where a person is serving one than one document by email of HTML links, the email shall specify each document being served in accordance with the procedure described below and shall include a separate HTML link for each distinct document being served.

Service Email may include PDF of document if no HTML link cannot be created in time: If an HTML link cannot be created to the document to be served by email in enough time to permit timely service, counsel may effect service by emailing a PDF copy of the document being served. Serving PDF’s unnecessarily clogs the email in boxes of other counsel on the service list, so service by HTML link is strongly preferred.

5. Service of Sealed Documents: All Sealed Documents are to be served in accordance with the existing Rules of Civil Procedure unless otherwise directed by the Court. Where sealed materials form part of motion materials that are otherwise public, the PDF document should omit the sealed materials and simply include a page in place of the sealed material indicating that that portion was filed under seal.

6. Service of Briefs of Authorities-Serve Index ONLY: Briefs of Authorities shall be served by sending a list (and only a list) of the authorities and the relevant page references by email to the Web Host, the Court Officer and the Service List. The Web Host shall post the list on the case Web Site. However, Counsel shall email an HTML link to, or PDF copy of, the entire Brief of Authorities via email to any person who requests it by return email.

7. Proof of Service: The service email as copied to the WebHost shall constitute prima facie proof of service. The Web Host shall post the proof of service in the Electronic File of Procedural Documents portion of the website. Counsel effecting service by email shall be responsible for responding to any notices of errors in transmission of the service email to any intended recipient and to ensure successful transmission occurs. Any problems that cannot be resolved in transmission should be reported to the Court Officer and Web Host, so that appropriate actions can be taken by them to rectify the problem.

8. Service of Document shall be accompanied by a Document Summary

Each Document served on the Web Host shall be accompanied by a document summary prepared by the person serving the document which shall describe the type and nature of document (the “Document Summary”).

Each Document Label shall include the following information:

Type of Document (Choices)

- Commercial List Request Form [with name of party submitting and date]
- Letter to Court re procedural or scheduling matters [with name of author and date]
- Notice of Application [with name of applicant and date]
- Notice of Motion [with name of moving party and date]
- Affidavit of [name of deponent and date, with indication of which motion or application it is in support of or in response to] (include list of exhibits)
- Report of [identity of court officer and number of report]
- Factum [with name of party submitting, date, and with indication of which motion or application it pertains to]
- List of Authorities [with name of party submitting, date, and with indication of which motion or application it pertains to]
- Compendium
- Order-draft (with date and with indication of which motion or application it pertains to)
- Order-Issued (With date and name of judge and with indication of which motion or application it pertains to)
- Endorsement-Handwritten (With date and name of judge)
- Endorsement-typed-official (With date and name of judge)
- Endorsement-typed-unofficial (With date and name of judge)
- Affidavit of Service [name of deponent, and date, and with indication as to which document it attest to the service of]
- Other [provide details]

Nature of Document:

- Up to twenty word description of the purpose of the document

Sealed Documents:

- The Document Summary shall contain a reference to the fact that a document has been filed under seal, a description for the document summary consistent with the sealing of the document, and the terms of restrictions on access to the document sought or where applicable imposed by the court

9. Email Service “Subject Line”

Every email serving a document shall contain a subject line setting out

- a recognizable short form name of the proceeding,

- a short form name of the party serving the document, and
- a short form name of the document served, and
- a short form note of the hearing to which it relates (For example, “Exco CCAA – Leaseco - Factum -- for Lift Stay Motion on 11/27/2003).in the event of a letter, the subject to which it relates and the recipient. (For example, “Exco CCAA – ABC Union – Letter from [name of counsel] to [recipient] -- re Pension Deficit).

This is intended to be a courtesy to assist recipient counsel in processing multiple emails in proceedings. Since the attachment will set out the full details, counsel need only exercise reasonable judgment to come up with acceptable subject lines.

10. Filing of Hard Copy with Commercial List Office: A hard copy of every document served by email on the Service List must be filed by the party so serving it with the Commercial List Office. The Commercial List Office shall accept such documents for filing if accompanied by an affidavit certifying that

- the document was emailed to the Service List posted in the case as of x date, the Web Host and the Court Officer, and certifying
- the date and time at which service by email was effected

11. Supplemental Motion Service List: If a particular motion requires further parties to be served, any party serving persons not on the Service List shall provide the Web Host with a supplemental service list of such persons (the “Supplemental Service List”), which Supplemental Service List shall be provided by the Web Host with postings of any documents served by any person in that motion.

However, parties on a Supplemental Service List must file an appearance in the proceedings in accordance with paragraph 2 of the E-Service Protocol to be added to the main Service List for the proceeding. Otherwise, they will not receive notification of the posting of any documents in the proceeding except in connection with that motion.

12. Persons Without Appropriate Technology: Any person which does not have email and or the ability to create PDF versions of documents shall serve the Web Host and the Court Officer with a faxed hard copy of any document they wish to have posted, and the Web Host shall be responsible to prepare a PDF version such document and post it to the Web Site, and the Court Officer shall be responsible to transmit email notification to the Service List of the link to the posted document, which shall function as service, and may require the person to pay a standard fee to the estate for the provision of such service.

13. No Transmission of Service Lists/Paring Down Documents/Cross-Referencing: Any email serving documents shall not attach the service list, either as a stand alone document or as part of the document being served, nor in any other manner, but shall merely incorporate the service list solely by reference to the Web Site address where the Service List is posted.

Parties shall endeavour to eliminate all unnecessary or repetitive portions of documents, including back pages, and pages which repeat standard information available on the Web Site.

Anything to be served which is already on the website (usually this occurs where a previously served document or order is being included as an exhibit) may be served merely by providing in the service email the coordinates of the website location (the “link”) where it can be obtained on the Website. Documents which contain such cross references shall be cross-referenced in the online index by the Web Host.

Generally, motion materials should be served as far as practicable in a single email to avoid a multiplicity of emails by a single party for a single motion. That objective must counter-balance sensibly by counsel against the objective of getting the Service List in impending real time motions the earliest reasonable access to the motion materials.