



SUPREME COURT OF WESTERN AUSTRALIA

Protocol for eTrials

An eTrial is the means by which the electronic trial bundle is viewed in court and items tendered as evidence. Information regarding eTrials at the Supreme of Western Australia can be found within the Consolidated Practice Direction item 1.2.5 Electronic Trials (eTrials) and located on the Supreme Court of Western Australia website https://www.supremecourt.wa.gov.au/E/electronic_trial.aspx

1. Requesting an eTrial

- a. Parties requesting an eTrial do so by way of letter addressed to the Judge managing their case
- b. Judge may make orders that the trial is to be conducted as an electronic trial

2. Initial Preparation for an eTrial

As soon as practical after it is determined a matter will be heard as an eTrial, parties should ensure documents are prepared in the format noted in the *Submitting Electronic Evidentiary Material in Western Australian Courts and Tribunals* document available on the Supreme Court of Western Australia website. Parties should commence preparing the eTrial Bundle Bundle Index using the eTrial Bulk Upload spreadsheet that is available on the Supreme Court of Western Australia website. It is mandatory that the Bulk Upload Spreadsheet is used by parties. Any other ad hoc spreadsheet created by parties will not be read by the Court's internal database. An agreed naming convention should be determined which must be used by the parties in the eTrialBulk Upload spreadsheet.

Parties must familiarise themselves with the Electronic Practice Direction and the Protocol for eTrials document available of the Supreme Court of Western Australia website.

To assist with clarity during the eTrial, when preparing speaking notes or submissions it is requested that counsel refer to the Exhibit Number noted in the eTrial Bulk Upload Spreadsheet. This ensures referencing during the trial and written submissions is consistent and aids in the clear identification of exhibits during the hearing. Referencing the Source Identifier may cause issues. Using the Exhibit Number creates a standard practice for tendering and referencing submitted items during the trial hearing.

You must follow the judicial officer's directions regarding how submitted items are to be tendered during the hearing. It may occur that unless the submitted item is objected to by the other party, that submitted item will be automatically tendered and will retain its pre-allocated exhibit number. This means that at the conclusion of the trial, exhibit numbers will not be sequential as they would in a normal paper trial. That is, the first document tendered will not necessarily be Exhibit 1.

3. Preparing the eTrial Bundle and Index

- a. By a particular date (as ordered by the Judge) the plaintiff must deliver to the Supreme Court Registry an electronic copy of the trial bundle.
- b. The electronic trial bundle must be in the following form:
 - i. On USB

- ii. The USB will contain the submitted items in a folder
- iii. The USB will also contain an index of submitted items in the template provided and available on the Supreme Court website.

Items can be submitted in the following file formats:

.docx; .doc; .docm; .xls; .xlsx; .xlsb; .pdf; .mp3; .mp4; .wma; .bmp; .gif; .tif; .tiff; .f4v; .jpg; .jpeg; .wmv; .rtf; .csv; .vob; .msg; .html; .htm; .txt; .mts; .ppt; .pptx; .mov; .png; .m4v

All documents must be provided as a searchable PDF.

The Judge may order items be submitted in a specific file format.

The index must be submitted in the eTrial Bulk Upload Template excel spreadsheet available on the Supreme Court of Western Australia website. Further information regarding the spreadsheet can be found in the Submitting the eTrial Bulk Upload spreadsheet section below.

4. The eTrial Bundle - USB

Please only load onto the USB:

1. a completed eTrial Bulk Upload Template excel spreadsheet (refer to instructions below regarding the completion of the template); and
2. one additional folder named 'Documents'.

Contained within the Documents folder should be all the submitted items that the parties wish to make up the trial bundle. The submitted items can be saved using one of two naming mechanisms:

- a) The documents can be saved using their Document Number (see the explanation below); or
- b) The documents can be saved using their Exhibit Number (see the explanation below).

When saving the submitted items please make sure that there are **no spaces** in the document name.

5. eTrial Bulk Upload Template Spreadsheet

Do not change or delete any column or column name. Do not add any additional columns. The only changes which can be made to the spreadsheet is to insert the relevant details into each column. The court's database will not be able to upload the spreadsheet should the name of a column change or a column be deleted.

The excel sheet must contain only **one** tab, which must be named **submitted items**.

To assist the parties, please see the below instructions as to how to populate each column to ensure proper compliance with the Template.

Document number

The Document Number is the number or code given to each submitted item as a result of the parties' internal document naming processes. This might also be the document's discovery number. Eg. WRT.987.654.321

For the sake of simplification, parties may wish for their Document Numbers to mirror their respective Exhibit Numbers. For ease, this number should be short such as 1,2,3

Exhibit number

The Exhibit Number is the number that will be referred to in court by the Judge, the Associate and counsel. The Judge or counsel will cite this number to the Associate who will open the submitted item on the court display system. The item will then display on the court screens, the Judge's screen and the screens on the bar tables.

If the submitted item is promoted to an exhibit during trial, it will adopt the number it has been assigned in the "Exhibit Number" column. It is recommended that parties adopt a sequential numbering system for ease of reference. For example, Exhibit Number 0001, 0002, 0003... 2000, 2001, 2002.

Each exhibit number should have only **one attached** item. If an item contains multiple imbedded images and not all images will be tendered as exhibits, the item will need to be removed, amended and resubmitted. For example, where there is a bundle of photos, each photo must be listed as its own item. As such, 20 photos would equate to 20 submitted items (as opposed to what may have occurred previously where it would be one submitted item noted as a bundle of photos).

Supplied by

As ICMS needs to read the spreadsheet to extract the data, this column must contain each parties' unique ICMS identifier. Each law firm is allocated a Party ID in ICMS. If you do not know your Party ID, please contact the associate to the judge to obtain the correct number.

Each submitted item must be 'Supplied by' one of the parties to the action. In the case of a subpoena document, please nominate one of the parties to be listed as the 'Supplied by' party. This will ensure that the submitted item is uploaded correctly and is able to be promoted as an exhibit during the course of the trial.

It does not matter whether the nominated 'Supplied by' party is in fact the party who tenders the exhibit during the hearing. This data can be updated by the associate during the hearing when the item is tendered.

File path

The file path is the mechanism by which the court's database extracts the submitted items from the Documents folder on the USB and populates ICMS with the information contained in the eTrial Bulk Upload Template spreadsheet. It is imperative that the file path is accurate.

Please note the following in relation to the file path:

- The file path is **not** a hyperlink.
- There can be **no spaces** in the file path.
- The file path cannot be longer than 100 characters.
- The file path must contain the file type (eg. pdf; xlsx etc). The abbreviated file type must be manually entered, it will not automatically populate.

Accordingly, the file path must read:

- Documents\`{name of the submitted item in the Documents folder}`.`{file type}`
- For example: Documents\CWR.001.004.3157.pdf; or Documents\18.xlsx.

Suppressed

Please note either 'Yes' or 'No'. Where an Item is suppressed it cannot be viewed by the court or other parties until the suppression is removed.

New or Replacement

All documents should be identified as 'New.' If a document needs to be resubmitted then this column is updated to 'Replaced' so that the system can replace the existing submitted item with the new submitted item.

Description

Parties may enter a free text description of the submitted item in this column. The description must not exceed **250 characters**.

Comments

This is not a mandatory column. It can be left blank but it cannot be deleted. However, if the parties intend on using the Template for their own reference during the trial, the parties may wish to use this column to make note of any relevant objections.

Proposed Witness Names (Surname and Given Name)

This is not a mandatory column. It can be left blank but it cannot be deleted. This column denotes the name of the witness who it is intended will be tendering the exhibit in court. Please note that this column does not create a restriction on which witness can tender an exhibit. If during the trial another witness tenders the exhibit then this column can be updated by the judge's associate.

6. Submitting the electronic trial bundle for an eTrial

When submitting the electronic trial bundle the plaintiff should ensure their items are complete but replacements are possible and other new items may be submitted at a later dates. If there are numerous replacements, the plaintiff should deliver to the associate on USB:

- a. the submitted items in a folder named Documents; and
- b. an updated Bulk Upload Template with the replacement documents clearly marked

If the plaintiff only wants to replace or add a small number of items, to best approach is to email the items to the associate and request they update or add the items.

A final version of the submitted items must be served on the defendant as directed by the Judge prior to trial commencing. To ensure that the Judge, the associate and the parties can quickly refer to items, it is important that all participants are working to the same document and exhibit numbers.

Please note that significant changes to the trial bundle will not be accepted once the trial is underway and all change requests should be made by emailing the associate to the Judge.

7. Audio visual requirements in the court room

The facilities within the court rooms at the David Malcolm Justice Centre have the ability for parties and witnesses to connect a laptop to the court room audio visual system. This facility allows either counsel or a witness to electronically display an exhibit, document etc to the court room TV displays.

The Court must obtain information regarding the parties IT requirements to enable the arrangement of the IT equipment in the court room prior to the commencement of the hearing.

Parties must advise the associate to the trial judge how many laptop connections are required to be connected to the input into the court room audio visual system (this includes, counsel, instructing solicitors and witnesses).

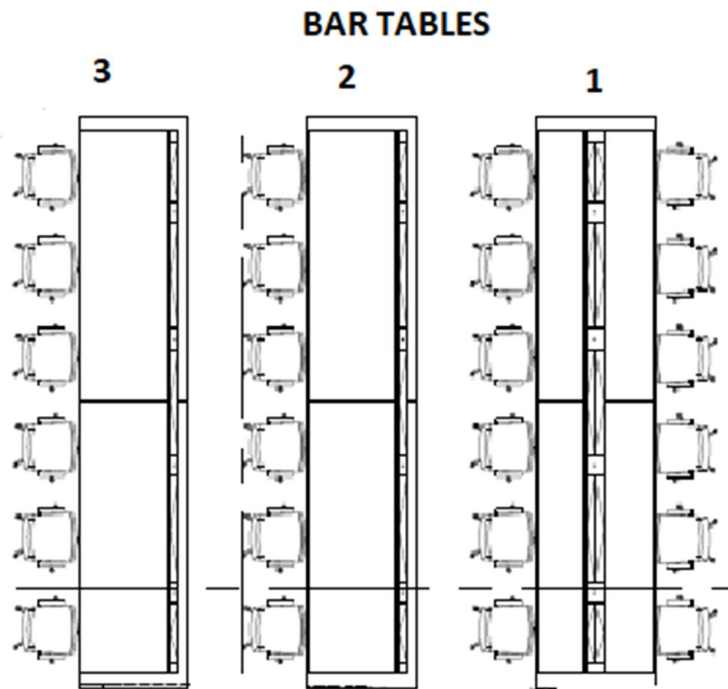
Laptops which are merely being used by counsel or an instructing solicitor which do not need to send images to the Court's audio visual system should not be included in this count.

Note

- Parties must provide their own laptops; however, HDMI cables are provided by the Court
- Power is available to charge the laptops.
- Parties must know how to operate their own equipment and be able to send an image to an external source.
- The Court does not provide Wi-Fi. Parties must make their own arrangements to enable internet use in the court room should they require access.

To assist with the arrangements for the eTrial it is requested that parties advise the associate to the trial judge of the following details as soon as possible prior to the commencement of the trial

- a. Please advise the court as to whether a witness may be giving evidence using a laptop input and if a number of witnesses will be giving evidence concurrently how many laptop inputs are required.
- b. Please advise the associate to the trial judge how counsel and instructing solicitors will be seated by indicating on the diagram provided where the following will be located:
 - i. Counsel (Indicate using the letter C)
 - ii. Instructing Solicitor (Indicate using the letter S)
 - iii. Laptop input (Indicate using the letter X)



8. The eTrial in court

Before trial starts, the Registry will upload all the submitted items into the Court's case management system (ICMS). The Associate will then be able to manage the submitted items in ICMS throughout the trial.

Viewing submitted items in court

The associate will open the submitted item from ICMS into the Courts display system. The item will then display on the court screens, the Judge's screen, the associate's screen and the screens on the bar tables (if installed and being used).

Tendering submitted items in court

The associate will tender submitted items in one of two ways:

- a. Marked for identification
- b. Exhibit

In some instances either counsel or a witness can input their laptop into the Court's audio visual system to display an electronic submitted item or exhibit to the court room. The associate to the judge must receive prior notice that either counsel or a witness seeks to display an electronic exhibit.

9. eCourts Portal

Parties will be able to view all submitted items and transcript against their matter in the eLodgment portal if they have been added as an attendance on the matter in the court's database.

On the hearings screen for the matter, there will be a link to the submitted items and they will be identified as:

- a. Submitted item
- b. Marked for identification
- c. Exhibit

The details for the submitted items are in the same form as submitted in the eTrial bundle. An additional column is viewable called "Display Name". This column numbers the exhibits in the order in which they are tendered in court.

(Please note ICMS is an internal court system and is not available for parties to use. ICMS is intended principally for viewing, displaying and recording items during an eTrial. The Associate will be able to print for the parties a report of items tendered as exhibits or marked for identification at the end of each day. Parties are asked to register for eCourts Portal access to view the efile).

Effective management of the trial depends on parties working from the same index and numbering system so that items can be searched for and retrieved quickly. The Bulk Upload Template and document folder created for the electronic trial bundle may be sufficient but if parties want the ability to annotate items or manage them in line with their firm's practices then they should consider creating their own databases. Parties are able to bring their own laptops into court.

When referencing an exhibit during a court hearing please clearly state the word 'Exhibit' followed by the exhibit number. This will ensure the reference can be recorded into the hearing transcript to create a document link in the transcript to the electronic exhibit.

Requests to bring additional technology into the court will also be considered. Requests must be made at the earliest opportunity and in writing to the Associate to the Judge.

Witness annotation of an exhibit

If a witness whilst giving evidence annotates an electronic exhibit which is being displayed to the court room from the witness's laptop and the annotated electronic exhibit is allocated a new exhibit number, the witness must save the annotated electronic exhibit to a USB prior to leaving the stand. The USB containing the saved annotated exhibit must be handed to the associate or orderly to the judge directly after the completion of that witness's evidence. It is required that the parties provide the witness with a blank USB prior to the witness giving evidence.

10. Return of Submitted Items and Exhibits

Upon the conclusion of the trial the judge's associate will "return the submitted items to the parties". This is done by deleting the items from the court's database. Exhibits will be removed from the system after any relevant appeal period has expired.