



SUPREME COURT OF WESTERN AUSTRALIA

Protocol for eTrials

An eTrial is the process by which an electronic trial bundle is viewed in court and items tendered as evidence. Parties should familiarise themselves with this document, and Consolidated Practice Direction item 1.2.5 Electronic Trials (eTrials) located on the Supreme Court of Western Australia website https://www.supremecourt.wa.gov.au/E/electronic_trial.aspx

1. Requesting an eTrial

- a. The parties may request an eTrial with the case manager
- b. The judge may order that the trial is to be conducted as an electronic trial

2. Initial Preparation for an eTrial

After a matter has been ordered to be heard as an eTrial, the parties should ensure documents are prepared in the format specified by the Court. Parties should commence preparing the eTrial Bundle Index using the eTrial Bulk Upload Template spreadsheet available on the Supreme Court of Western Australia website. This spreadsheet must be used by parties, as any other ad hoc spreadsheet or any substantive amendments to the template will prevent it from being read by the court's internal database.

Counsel should prepare for the eTrial by referring to the 'Exhibit Number' noted in the eTrial Bulk Upload Spreadsheet. This creates a standard practice for tendering and referencing documents during the trial hearing and ensures all referencing is consistent.

3. Preparing the eTrial Bundle and Index

- a. The plaintiff is to 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 documents in a folder
 - iii. The USB will also contain an index of documents in the template provided and available on the Supreme Court website.

Items can be submitted in most file formats.

PDFs must be provided as a searchable PDF.

The USB should contain, at the very least:

1. a completed eTrial Bulk Upload spreadsheet; and
2. additional folder named 'Documents'.

The 'Documents' folder should contain all the submitted items that the parties wish to make up the trial bundle, which should be saved with the 'Exhibit Number' in the eTrial Bulk Upload spreadsheet as the file name.

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

4. eTrial Bulk Upload Template Spreadsheet

Do not alter, delete or add to the columns or column names. 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 spreadsheet must contain only *one* tab, which must be named *submitted items*.

Document number

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

Exhibit number

The Exhibit Number is the number that will be referred to in court. The judge or counsel will cite this number to the associate who will display it on the court screens. The parties should adopt a sequential numbering system for ease of reference (i.e. Exhibit Number 1, 2, 3 ... 2000, 2001, 2002)

Each exhibit number must only have *one attached* item. If an item contains multiple images and not all images will be tendered as exhibits, the item will need to be removed, amended and resubmitted.

- i.e. if 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

Each submitted item must be 'Supplied by' one of the parties to the action for it to be uploaded correctly. Each law firm is allocated a Party ID. If you do not know your Party ID, please contact the associate to obtain the correct number. In the case of a subpoena document, please nominate one of the parties to be listed as the 'Supplied by' party. It does not matter whether the nominated 'Supplied by' party is in fact the party who tenders the exhibit during the hearing.

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 the system 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'. If an item is suppressed, it cannot be opened in court until the suppression is removed, or the parties have addressed this issue with the presiding judicial officer.

New or Replacement

All documents should be identified as 'New' during the initial upload. 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 spreadsheet 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.

5. Submitting the electronic trial bundle for an eTrial

The plaintiff should ensure the electronic trial bundle is complete as at the date it is submitted, noting replacements and additions may be made later. It must be served on the defendant and the judge as directed prior to the trial commencing.

The party wishing to add or replace documents should email the associate, or deliver a USB with:

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

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.

6. Audio visual requirements in the court room

To assist with the arrangements of the eTrial, the parties must inform the associate about their technological requirements.

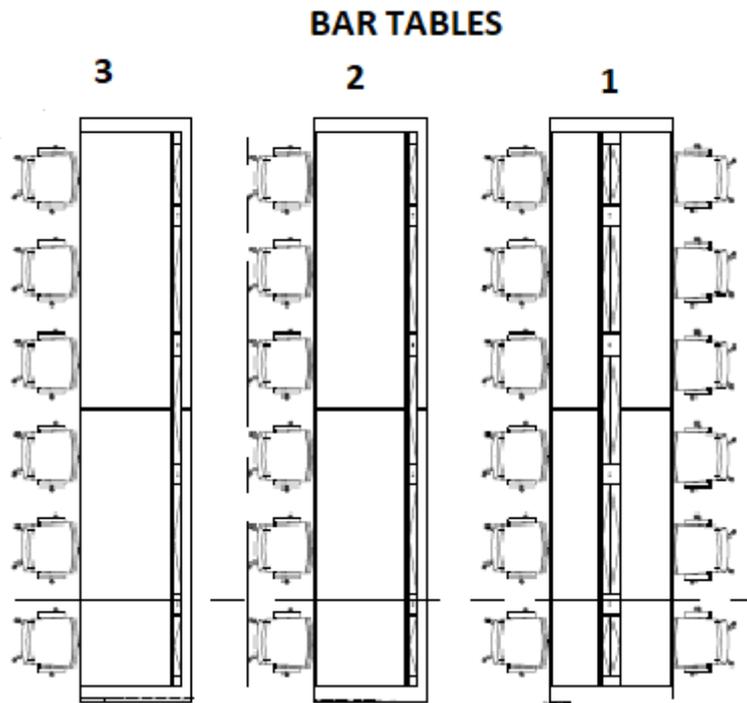
Note

- Parties must provide their own laptops; however HDMI cables can be provided by the court.
- Power points are available to charge laptops, however parties must bring their own chargers.
- 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 if required.
- When requesting monitors for the trial, keep in mind that instructing solicitors will be able to view documents on the large court screens around the courtroom.

The parties must inform the associate as soon as possible prior to the commencement of the trial:

- a. Whether a witness/counsel may wish to use a *laptop input* into the court's audio visual system and if a number of witnesses will be giving evidence concurrently how many *laptop inputs* are required.
 - Note: This allows either counsel or a witness to display an exhibit, document etc to the court room TV displays. Laptops which are merely being used by counsel or an instructing solicitor that do not need to send images to the court's audio visual system should not be included in this count.
- b. Advise how counsel and instructing solicitors will be seated by indicating on the diagram provided below where the following will be located:
 - i. Counsel (Indicate using the letter C)
 - ii. Instructing Solicitor (Indicate using the letter S)

- iii. Monitors (Indicate using the letter X)
- iv. Laptop Input (Indicate using a Δ)



7. The eTrial in court

Before trial starts, the submitted items will be uploaded into the court’s internal management system. The associate will then be able to manage the submitted items in this system throughout the trial.

Viewing submitted items in court

When you want to view a submitted item or Exhibit during the trial, please clearly state the word ‘Exhibit’ followed by the exhibit number. This will aid the transcribers in identifying when documents have been viewed during the trial.

The associate will open the submitted item and display it on the screens in court for the judge, counsel, witnesses and the public gallery.

In some instances either counsel or a witness can input their laptop into the court’s audio visual system to display items to the court. The associate must receive sufficient prior notice of this.

Tendering exhibits in court

How a document is to be tendered during an eTrial will be up to the presiding judicial officer. Often, this will mean that unless a document referred to is objected to by the other party, it 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.

Witness annotation of an exhibit

If a witness 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.

8. eCourts Portal

Parties will be able to view all submitted items against their matter in the eLodgment portal if they have been added as a representative 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.

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.

9. 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.