

# APPENDIX 1

## Sample Letter to Opposing Counsel Opening Discussion of Technology Issues

Jones & Jones  
Barristers and Solicitors  
1234 Main Street  
Vancouver, BC V0L 1T0

Attention: Rob Jones

Dear Mr. Jones:

Re: *John Smith v Major Insurance Company*

As you know, parties and their counsel now have an obligation under the Electronic Evidence Practice Direction (the "Practice Direction") that came into effect on July 1, 2006 to consider ways that computer technology might be used to improve efficiency in the conduct of civil actions brought in the Supreme Court of BC.

The purpose of this letter is to open a discussion between us over ways that technology might be used to conduct this case more efficiently. We offer some initial thoughts below as to some matters we might agree on, but only as a starting point for further discussion. We are open to any suggestions or different ideas you may have as to how technology may be used to our clients' mutual benefit in this case.

### *General Communications*

We might agree to send correspondence and other written communications to each other by email or other electronic means, rather than by letter with hard copy enclosures. We might also agree on standard file formats to be used when sending documents of different sorts to each other electronically (eg. PDF for standard correspondence, Word or WordPerfect for word processing documents, Excel for spreadsheet documents, etc.).

### *Filing of Court Documents*

We plan to file court documents electronically under Rule 69 through Court Services Online (CSO) wherever possible. If you also plan to file court documents in this way, there may be ways for us to collaborate when filing of materials related to chambers applications and other matters so this can be done more efficiently.

### *Exchange of Court Documents*

We might agree to deliver - and to accept delivery of - court documents (whether filed electronically or whether filed at the court registry or not) in electronic form, either in addition to or instead of paper copies. Since PDF is the required file format for documents filed electronically under Rule 69, we suggest that those documents be sent in PDF format if we do agree to exchange court documents electronically.

### *Document Discovery*

Depending on the volume of documents involved in making discovery of documents in this case, we may wish to consider entering into - and filing with the Court - a formal Protocol Agreement as contemplated by the Practice Direction, with agreed standards for preparing and exchanging lists of our documents in electronic form and for exchanging electronic copies (images) rather than photocopies of documents.

Whether we enter into a formal Protocol or not, however, we may still wish to agree to exchange lists of our documents in spreadsheet or other electronic format with agreement as to the fields to be used in describing documents and how those fields will be populated. We may also wish to agree to have some or all our clients' documents imaged and to exchange copies of our documents in electronic format rather than paper copies.

We may also be able to agree on terms for splitting or sharing the costs of having documents imaged that could ultimately save both our clients money.

### RealTime

We may wish to conduct examinations for discovery using RealTime to reduce the need to take notes and to have rough transcripts of the evidence immediately available.

### *Next Steps*

Please contact us to discuss the next steps to be taken in trying to reach agreement on these and other technology-related issues. A short meeting or telephone conference between us and the members of our staff who will be involved in working out the details and implementing any agreements reached may be helpful as a first step. We are also willing to prepare an initial draft of a formal Protocol Agreement or less formal agreement governing the use of technology in the case for review and further discussion.

Yours truly,

BROWN & BROWN

Per:

Sam Brown