



## EMPLOYMENT COURT OF NEW ZEALAND ELECTRONIC CASEBOOK PROTOCOL

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### INTRODUCTION

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#### 1. Summary

- 1.1 The purpose of this Protocol is to outline the processes for the structure, compilation, submission and use of Electronic Casebooks. It is intended to encourage and facilitate their use for cases in the Employment Court and is a guideline to be used by representatives and the Court.
- 1.2 This Protocol is subject to modification in particular cases, and as technology evolves and experience is gained in the use of electronic document management.
- 1.3 Directions may be sought to modify, or add to, the default directions set out below.
- 1.4 In this Protocol, "Electronic Casebook" means:
  - a) a common bundle containing documentary exhibits (Format A), being one folder containing a table of contents in one PDF and the exhibits (in a second PDF); or
  - b) the pleadings, evidence (including exhibits), the common bundle, legal submissions and authorities (Format B), being one folder containing a table of contents (all in both PDF and Word format), and multiple subfolders containing each of the foregoing categories of documents (individual PDFs).
- 1.5 This Protocol is based on the Senior Courts Civil Electronic Document Practice Direction dated 1 March 2019. It is envisaged that the Electronic Casebook may be able to be used on appeal, with any necessary modifications.

#### 2 Creation of an Electronic Casebook

- 2.1 At a directions conference, the presiding Judge will, after hearing from the parties, determine whether an Electronic Casebook is to be prepared and if so, whether Format A or Format B is to be utilised, and who is to prepare and distribute it.
- 2.2 In summary, the following process shall be used to create a single version of an Electronic Casebook for each proceeding:
  - a) The parties shall exchange draft tables of contents and agree on a table of contents, including the particular documents to be included in the Electronic Bundle;
  - b) The party responsible (by agreement or by the Court's direction) for creating the

Electronic Casebook will create the initial table of contents and the common bundle and provide that to the other parties and to the Court;

- c) As each party files and serves documents in accordance with the relevant court rules and the court's directions in any particular case, the party nominated by the presiding Judge shall:
  - (i) add the new documents to the table of contents; and
  - (ii) add those documents to the Electronic Casebook;
  - (iii) provide a copy of the new documents and the updated table of contents by e-mail (where practicable) or on a USB drive to the Court and to other parties either in that form or via Dropbox or other agreed means;
  - (iv) not change any file names once the Electronic Casebook is filed and served.
- d) A party who receives documents and an updated table of contents to be added to the Electronic Casebook, shall add those documents into their own copy of the Electronic Casebook.

2.3 The topics covered in this Protocol are discussed in the order relevant to creating and then using an Electronic Casebook. See Schedule A for resources relevant to creating and using an Electronic Casebook.

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## Format A

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### 3 Structure of an Electronic Casebook:

- 3.1 An Electronic Casebook in Format A shall consist of one PDF containing a table of contents, and one PDF containing the documents to which it refers.
- 3.2 The documents will be those exhibits which the parties have agreed should be included in the common bundle of documents.

### 4 Table of contents

- 4.1 The table of contents shall be presented as follows:
  - a) The table shall generally be in the format shown in Schedule B;
  - b) The documentary exhibits shall be arranged in an appropriate sequence or manner as agreed by representatives and if necessary approved by the Court (e.g. by date); if the hardcopy is to be contained in more than one bundle, all bundles should be included in the single PDF file.
  - c) Each page of the common bundle shall be numbered in a consecutive sequence;
  - d) Each document in the table of contents should be adequately described, showing:
    - (i) the tab number, being the order in which each document appears in each volume, (this will assist those who wish to print the casebook and insert numbered tabs);
    - (ii) the date of each document;
    - (iii) a short description of each document;
    - (iv) the party producing each exhibit;
    - (v) the page number of each document as it appears in the common bundle.
- 4.2 The table of contents should include a hyperlink from the page number (rather than the tab number) to the first page of each document. This will allow quick navigation to a specific document.
- 4.3 Where the electronic version of any document is not the direct equivalent of the hard copy version, this must be noted in the table of contents.

### 5 Format of document files

- 5.1 Each document in the folder shall:
  - a) be the direct equivalent of the hard copy version;
  - b) be clear and legible
  - c) use portrait orientation, with each page of an original document or case authority occupying a full A4 page in the PDF format (the hard copy version may be printed double-sided).
- 5.2 The PDF file must be searchable to enable participants to easily locate information.

Scanned documents must be converted to a searchable PDF using optical character recognition (OCR), preferably using PDF software that requires higher resolution of 600 dpi, as this will enable more accurate search results;

**Note:** OCR may not be able to convert all text into a searchable format. Where possible, include the final versions of documents in electronic form. This will help to avoid unsearchable text.

- 5.3 The above format is intended to be technology neutral so that an Electronic Casebook:
  - a) is usable in that electronic format;
  - b) is able to be printed to produce a hard copy; and
  - c) is suitable for importing into other applications.
- 5.4 There are different software applications that can be used to create a searchable PDF file and for compiling the Electronic Casebook. The Court will not recommend a programme for representatives to use. Options to consider include but are not limited to: Adobe Pro DC, Foxit and PDF element. Online resources will be available for these products.

## 6 Hyperlinks, page numbering and bookmarks

- 6.1 The table of contents should contain hyperlinks to each of the documents listed in it. The hyperlinks should be from the tab number, rather than from the description of the document.
- 6.2 Each hyperlink must be relative (rather than absolute). Relative hyperlinks use a path starting from the Electronic Casebook rather than starting from a specified hard driver (e.g., "Smith v Jones/201.0214.pdf").
- 6.3 Page numbers shall be in the following format:
  - (a) The font size will be 16;
  - (b) The numbers will be red and underlined;
  - (c) All pages of a document, including cover pages and blank pages, shall be numbered.

**Note:** it is important this approach is applied when preparing an Electronic Casebook. This will distinguish the Electronic Casebook numbers from the numbering on individual documents. This numbering will be used for search and navigating the document.
- 6.4 Bookmarks may also be used to provide an alternative method of navigating the electronic casebook. This can be a useful way of navigating to a document without having to return to the table of contents. The index of bookmarks will remain open on the left side of the screen, which will ensure easy reference.
- 6.5 See Module 5 of Schedule A for an illustration of the process for establishing hyperlinks and bookmarks .

## **7 Filing and service**

- 7.1 Once the Electronic Casebook contains the common bundle and the table of contents, then the party responsible for creating it must:
- (a) file a copy of the Electronic Casebook by email, (the Court's data capacity is 100MB though representatives' own email capacity may be more limited); and
  - (b) serve a copy of the Electronic Casebook on each other party by email or USB drive, as may be agreed in advance between the parties.
- 7.2 Any party may request a direction that they be served with a paper copy of the Electronic Casebook.
- 7.3 A hard copy of the Electronic Casebook must be filed at the same time as the Electronic Casebook unless the Court has provided otherwise by practice note, or by direction in a particular case.
- 7.4 Where any supplementary document or exhibit needs to be added after the Electronic Casebook has been filed, it must be:
- (a) created as an electronic version by the party who presented it or whose witness produced it;
  - (b) provided to the representative responsible for compiling the Electronic Casebook in accordance with Section 2 of this Protocol;
  - (c) incorporated into the Electronic Casebook (using the Word version of the table of contents, and adding the supplementary document to the rear of the existing file of documentary exhibits) by the representative responsible for compiling the Electronic Casebook; and
  - (d) filed and served as soon as practicable after that to be placed in the relevant sub-folder.

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## Format B

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### 8 Structure of an Electronic Casebook

8.1 An Electronic Casebook in Format B shall be contained within one folder named with the title of the case (or an agreed abbreviation of the title).

8.2 The Electronic Casebook folder in Format B shall include categories named:

1. For Court Use Only
2. Pleadings
3. Evidence (with further numbered sub-folders named for each party)
4. Common bundle
5. Supplementary Exhibits
6. Legal Submissions
7. Authorities

and all documents shall be grouped in those categories accordingly. Schedules C and D illustrate the layout.

Each category should contain individual documents in PDF form.

8.3 The documents to be included in the Electronic Casebook must be a copy of the final version of the document that is filed with the Court. For example, if a document was amended or signed at the Court a copy of this document must be included in the Electronic Casebook (not the unsworn version of the document). This is vital to ensure the Electronic Casebook is a true copy of the documents used during the hearing.

8.4 The sub-folder "For Court Use Only" will be managed by the Court. Representatives are not expected to add documents to it and will not be provided with a copy of any document which is placed in it.

8.5 The first page of the Electronic Casebook shall be a cover page identifying the parties, the case number, the date of creation and the date of last updating. The cover page is to provide assurance that everyone is working from the current casebook.

8.6 The second page of the Electronic Casebook shall have the table of contents organised according to the sub-folders and listing each document. Each sub-folder and document in the table of contents must have a hyperlink applied so it can be used to navigate to the specific document quickly.

8.7 Bookmarks will be applied to the Electronic Casebook to provide an alternative way to navigate the Electronic Casebook.

### 9 Table of contents

9.1 An Electronic Casebook must include a table of contents (in both searchable PDF and Word format). This, along with each representative's submissions, will be the key document from which representatives and the Court will navigate the Electronic Casebook.

9.1 The purpose of the Word version of the table of contents is so the parties can add reference to any new documents which are added to the Electronic Casebook.

- 9.2 The table of contents shall be in a format consistent with the structure of the Electronic Casebook folder and with the following standards (see Schedules C and D):
- (a) The table shall include columns for Tab, Date, Description and Page No.;
  - (b) The documents shall be arranged within each sub-folder in an appropriate sequence or manner agreed by representatives and if necessary approved by the Court (e.g. in the common bundle by date, and in the evidence by party);
  - (c) Each page of the common bundle shall be numbered in a consecutive sequence;
  - (d) Each document in the table of contents should be adequately described, showing (see Schedule D):
    - (i) the tab number, being the order in which each document appears in each volume, (this will assist those who wish to print the casebook and insert numbered tabs);
    - (ii) the date of each document;
    - (iii) a short description of each document;
    - (iv) for exhibits, the witness producing each exhibit;
    - (v) the page number of each document as it appears in the common bundle.
- 9.3 The table of contents should include a hyperlink from the page number (rather than the tab or item number) to the first page of each document. This will facilitate reference to the document.
- 9.4 Where the electronic version of any document is not the direct equivalent of the hard copy version, this must be noted in the table of contents.

## 10 Format of document files

- 10.1 Each document in an Electronic Casebook shall:
- (a) be a separate PDF file; a document-by-document approach will normally be more efficient in the long run in terms of finding material during a hearing.
  - (b) be the direct equivalent of the hard copy version;
  - (c) be clear and legible
  - (d) use portrait orientation, with each page of an original document or case authority occupying a full A4 page in the PDF format (the hard copy version may be printed double-sided).
- 10.2 Each document in the Electronic Casebook must be a searchable PDF file to enable participants to easily locate information. Scanned documents must be converted to a searchable PDF using optical character recognition (OCR), preferably using PDF software that requires higher resolution of 600 dpi, as this will enable more accurate search results;
- Note:** OCR may not be able to convert all text into a searchable format. Where possible, include the final versions of documents in electronic form. This will help to avoid unsearchable text.
- 10.3 The above format is intended to be technology neutral so that an Electronic Casebook:
- (a) is usable in that electronic format;
  - (b) is able to be printed to produce a hard copy; and

(c) is suitable for importing into other applications.

- 10.4 There are different software applications that can be used to create a searchable PDF file and for compiling the Electronic Casebook. The Court will not recommend a programme for representatives to use. Options to consider include but are not limited to: Adobe Acrobat DC, Foxit and PDF element.

## 11 Folder and Document names, Standard Numbering, Hyperlinks and Bookmarks

- 11.1 To avoid compatibility issues, folder and file names must not use the following characters:

' ! @ # \$ % ^ & \* ( ) + = [ ] { } < > : ; , ? | " ' \ / - \_ .

- 11.2 A full stop shall only be used before the file extension – that is, “.pdf” and “.doc”.

- 11.3 Where an electronic bundle in format B is directed, aside from the table of contents, authorities index, submissions, chronology and statement of issues, documents in an Electronic Casebook should be named using only a number. The number should have two parts which will show where the document is located in the casebook, e.g., 301.0158:

301	0158
Volume 1 of the common bundle	Page 158

- 11.4 In such a case, a new number series will start with the first document of each type (e.g., 101, 201 and 301): see Schedules C and D. This numbering system means that representatives and the Court can identify what type of document they are looking at. For example, assuming all documents in a particular case have five pages: the first three documents in Volume 1 of a common bundle will be named 401.0001.pdf, 401.006.pdf; and 401.0011.pdf; and the first three documents in Volume 2 of a common bundle will be named 402.0251.pdf, 402,0256.pdf and 402.0261.pdf.<sup>1</sup>
- 11.5 Each section of an Electronic Casebook should be numbered consecutively with page 1 being the first page of Volume 1 of that section. For example, the first page of the evidence section will be page 201.0001 and the first page of the common bundle will be page 301.0001).<sup>2</sup>
- 11.6 The table of contents should contain hyperlinks to the first page of each document. The hyperlinks should be from the standard document number, rather than from the description of the document.
- 11.7 Each hyperlink must be relative (rather than absolute). Relative hyperlinks use a path starting from the Electronic Casebook rather than starting from a specified hard driver (e.g., “Smith v Jones/201.0214.pdf”).
- 11.8 Page numbers shall be in the following format:
- (a) The font size will be 16;
  - (b) The numbers will be red and underlined;
  - (c) All pages of a document, including cover pages and blank pages, shall be numbered.

<sup>1</sup> The file extension (.pdf) should always be in lower case.

<sup>2</sup> Page numbers should ideally be added to the Electronic Casebook using Bates numbering in Adobe.



**Note:** It is important this approach is applied to all Electronic Casebooks. This will distinguish the Electronic Casebook numbers from the numbering on individual documents. This numbering will be used for searching and navigating the document.

- 11.9 Bookmarks may also be used to provide an alternative method of navigating the electronic casebook. This can be a useful way of navigating to a document without having to return to the table of contents. The index of bookmarks will remain open on the left side of the screen, which will ensure easy reference.
- 11.10 See Module 5 of Schedule A for an illustration of the process for establishing hyperlinks and bookmarks.

## 12 Filing and service

- 12.1 Once the Electronic Casebook contains the common bundle and the table of contents, then the party responsible for creating it must:
- (a) file a copy of the Electronic Casebook by email, (the Court's data capacity is 100MB, though representatives' own email capacity may be more limited); and
  - (b) serve a copy of the Electronic Casebook on each other party by email or USB drive, as may be agreed in advance between the parties, such as Dropbox or similar.
- 12.2 Any party may request a direction that they be served with a paper copy of the Electronic Casebook.
- 12.3 A hard copy of the Electronic Casebook must be filed at the same time as the Electronic Casebook unless the Court has provided otherwise by practice note, or by direction in a particular case.
- 12.4 Where any supplementary document or exhibit needs to be added after the Electronic Casebook has been filed, it must be:
- (a) created as an electronic version by the party who presented it or whose witness produced it;
  - (b) provided to the representative responsible for compiling the Electronic Casebook in accordance with Section 2 of this Protocol;
  - (c) incorporated into the Electronic Casebook (using the Word version of the table of contents, and by adding the supplementary document to the appropriate sub-folder) by the representative responsible for compiling the Electronic Casebook; and
  - (d) filed and served as soon as practicable after that to be placed in the relevant sub-folder.

## 13 Legal Submissions

- 13.1 Legal submissions shall be added to the Electronic Casebook at the time that those documents are filed and served, as may be directed by the presiding Judge.
- 13.2 If legal submissions and authorities are filed and served at the hearing, the representative responsible for preparing the electronic bundle should ensure that those documents are placed in the Legal Submissions sub-folder as soon as is practicable.

- 13.3 The legal submissions should contain appropriate cross-references to the relevant documents in a form consistent with the references in the Electronic Casebook, including hyperlinks where appropriate (whether in the text of the submissions, or in its footnotes).

#### **14 Bundles of Authorities**

- 14.1 Authorities should be added to the Electronic Casebook at the same time as the legal submissions. The authorities (and the index to authorities) should be included in a separate sub-folder named "Authorities".
- 14.2 Files within the Authorities sub-folder should be named with an abbreviated version of the name of the authority. For example, "Brown v Wilson"; "Employment Relations Act 2000, s 6 and s 103A".
- 14.3 The index to authorities will correspond with the order of the authorities, which is usually alphabetical. The Court prefers that only one copy of each authority be included.

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## GENERAL POINTS

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### 15 Annotated versions of the Electronic Casebook: both formats

- 15.1 Representatives may annotate the Electronic Casebook for the purposes of their presentation at the hearing, provided always that the document files continue to meet the requirements of this Protocol and that any hyperlinks in the document file continue to work (for an example of this process see Module C of Schedule A).
- 15.2 Permissible annotations are subject to any directions of the Court but generally may include:
- (a) Underlining and strikethrough of text to show proposed amendments;
  - (b) Highlighting text to draw attention to specific matters;
  - (c) Marginal comments.
- 15.3 If any annotation is used in a document file, representatives must have two copies of the document available during the hearing:
- (a) An unannotated or “clean” copy that can be presented to a witness or used where the Court has not permitted annotations; and
  - (b) An annotated copy for presentation to the Court as part of representatives’ submissions, dependent on how representatives wish to use the casebook during the hearing and how the Court has directed that the Electronic Casebook may be used.

## 16 Clickshare in Court

- 16.1 Clickshare is a device that can be used to share the information on one computer screen with other screens, including AVL. For the purposes of a hearing, Clickshare can be used by the representatives and the Judge to show the witness on a screen the document in the Electronic Casebook they will be asking questions about.
- 16.2 The representatives may be allocated a Clickshare dongle for use during the hearing. The Clickshare dongle requires a USB port to be operated. Initial setup of the Clickshare can take some time. Ensure you have completed the initial set up before the hearing begins.
- 16.3 Below is an information sheet prepared by the Ministry of Justice.
- 16.4 How documents are displayed when using Clickshare:
- (a) When the Clickshare dongle attached to a computer, is **white**, the screen sharing from that computer is turned off.
  - (b) When the Clickshare dongle attached to a computer is **red**, the screen of that computer is being shared and everything on it will be visible on all other connected screens.
  - (c) This information will be shown on the Court's AVL screen, and on the witnesses' screen. All other participants will need to navigate to the page being referred to in their own version of the Electronic Casebook.
  - (d) If two people each with a Clickshare dongle have both activated their dongles, then the documents from both screens will be seen.
  - (e) Representatives should navigate to the page they want to share before activating the Clickshare dongle, to avoid anyone else viewing material that representatives do not want them to view.
- 16.5 Always announce the Electronic Casebook page number when navigating to a page during a hearing. This will enable the Judge and other representatives to navigate to the correct page. It will also ensure the page number is entered into the notes of evidence.
- 16.6 There are several options for navigating the Electronic Casebook during the hearing; they include:
- (a) Clicking on the table of content headings
  - (b) Clicking on a hyperlink
  - (c) Clicking on a bookmark
  - (d) Using the Search to find a page, document or word
  - (e) Select the keys Ctrl Shift and N on the keyboard and then enter the page number
  - (f) In the document tool bar enter the page number and then press Enter
  - (g) Use Ctrl and L to toggle between displaying the Electronic Casebook as full screen or with bookmarks.

MoJ Clickshare information sheet:



MOJ ClickShare  
Information Sheet.p

## SCHEDULE A

### Adobe Pro DC User Guides

Below is a guide for Adobe Pro DC. The functionality of other, older versions, of Adobe Pro will mean that the content will not always be applicable. Also included is a module for another frequently used product, Foxit.

#### Module 1: AdobePro



Module 1 -  
AdobePro.docx



#### Module 2: Foxit



Module 2 -  
Foxit.docx



#### Module 3: How to encrypt your USB



Module 3 - How to  
encrypt your USB.doc



**SCHEDULE B**  
**Electronic Casebook: Format A**  
**Single PDF**

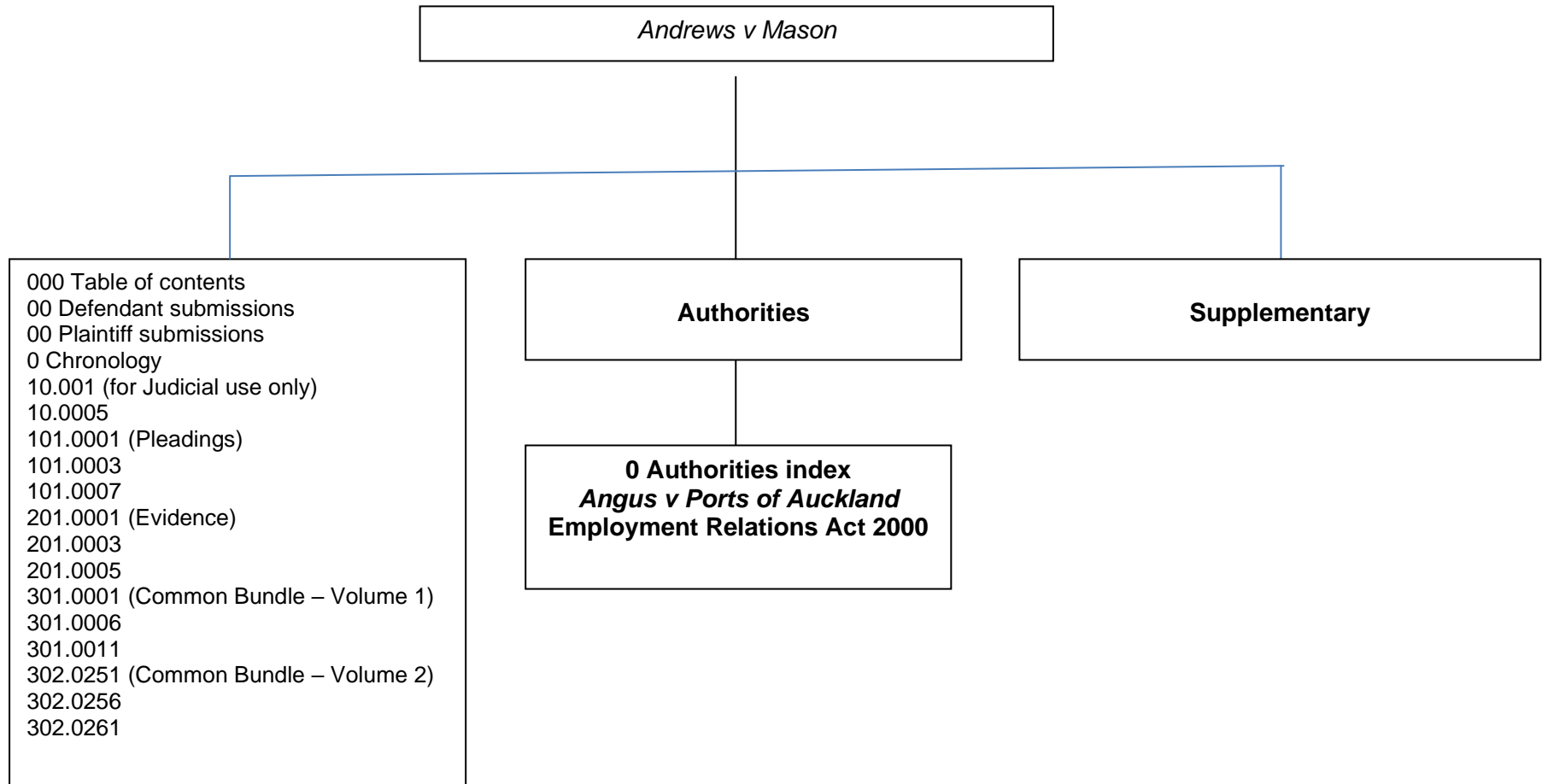
*Andrews v Mason*



<b>TABLE OF CONTENTS (IN PDF AND IN WORD FORM)</b>				
<b>Tab</b>	<b>Date</b>	<b>Description</b>	<b>Party from whose custody document produced</b>	<b>Page number</b>
1	17/01/2011	Employment Agreement	Plaintiff	1
2	14/02/2011	Letter from David Andrews to John Mason	Plaintiff	5
3	18/07/2012	Email from John Mason to David Andrews	Plaintiff	7
4	09/08/2012	Payslip for David Andrews	Plaintiff	8
5	24/09/2012	Letter, David Andrew's lawyer to John Mason	Plaintiff	9
6	01/10/2012	Letter of termination of employment	Plaintiff	11
7	12/10/2012	Letter raising personal grievance on behalf of David Andrews	Defendant	13
8	27/11/2012	Letter from John Mason's lawyer in response to raising of personal grievance	Plaintiff	15
<b>DOCUMENTARY EXHIBITS, SINGLE PDF</b>				
<b>Employment Agreement</b>				
<b>Letter from David Andrews to John Mason</b>				
<b>Email from John Mason to David Andrews</b>				
<b>Payslip for David Andrews</b>				
<b>Letter, David Andrew's lawyer to John Mason</b>				
<b>Letter of termination of employment</b>				
<b>Letter raising personal grievance on behalf of David Andrews</b>				
<b>Letter from John Mason's lawyer in response to raising of personal grievance</b>				

**SCHEDULE C**

**Electronic Casebook: Format B**



**SCHEDULE D****Example table of contents for trial Electronic Casebook**

<i>Andrews v Mason</i>
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**FOR JUDICIAL USE ONLY**

<b>Tab</b>	<b>Date</b>	<b>Description</b>	<b>Document Number</b>
1			10.0001
2			10.0006

**PLEADINGS**

<b>Tab</b>	<b>Date</b>	<b>Description</b>	<b>Document Number</b>
1	01/02/2013	Statement of claim	101.0001
2	12/02/2013	Statement of defence	101.0003
3	14/02/2013	Amended statement of claim	101.0005
4	17/02/2013	Amended statement of defence	101.0007

**EVIDENCE**

<b>Tab</b>	<b>Date</b>	<b>Description</b>	<b>Document Number</b>
1	01/05/2013	Brief of evidence of David Andrews	201.0001
2	15/05/2013	Reply brief of evidence of David Andrews	201.0003
3	14/06/2013	Brief of evidence of James Angus McGregor	201.0005
4	15/06/2013	Affidavit of Robert Gilligan	201.0008



**EVIDENCE – Volume 2**

<b>Tab</b>	<b>Date</b>	<b>Description</b>	<b>Document Number</b>
5	20/06/2013	Brief of evidence of John Mason	202.0251
6	30/06/2013	Brief of evidence of Matthew Hughes	202.0253

**COMMON BUNDLE – Volume 1**

<b>Tab</b>	<b>Date</b>	<b>Description</b>	<b>Party from whose custody document produced</b>	<b>Document number</b>
1	17/01/2011	Employment Agreement	Plaintiff	301.0006
2	14/02/2011	Letter from David Andrews to John Mason	Plaintiff	301.0002
3	18/07/2012	Email from John Mason to David Andrews	Plaintiff	301.0004
4	09/08/2012	Payslip for David Andrews	Plaintiff	301.0005
5	24/09/2012	Letter, David Andrew's lawyer to John Mason	Plaintiff	301.0006

**COMMON BUNDLE – Volume 2**

<b>Tab</b>	<b>Date</b>	<b>Description</b>	<b>Party from whose custody document produced</b>	<b>Document number</b>
6	01/10/2012	Letter of termination of employment	Plaintiff	302.0251
7	12/10/2012	Letter raising personal grievance on behalf of David Andrews	Defendant	302.0252
8	27/11/2012	Letter from John Mason's lawyer in response to raising of personal grievance	Plaintiff	302.0253