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Guidelines (Wishlist) for briefing me

The following draws on my experience of how best to provide legal services to clients when briefing me.

I realise the precise form suggested is not always achievable, hence my inability to choose between describing what follows as guidelines or merely a wish list.

Types of matter

Advice and first instance hearings: my overwhelming preference is to be briefed with an e-brief initially.

I will begin preparation of a virtual Court Book from the time of my being briefed. I will share it from time to time. To keep it accurate I will need to be informed of material which has been served and the date of service as well as being provided with the document served.

The Court Book should be available in hard copy 2 weeks prior to hearing.

Administrative review: I should be briefed electronically initially. I will usually require a paper court book to conduct a hearing. The Court Book should be available 2 weeks prior to any court appointed deadline for submissions. If there is no such deadline it should be available 2 weeks prior to hearing.

Appeals: in preparing written submissions I can work from an electronic brief. Usually, however, Appeal Books will need to be prepared. It is preferable this is done as soon as it is decided to proceed with an appeal since this avoids the need to re-reference submissions with Appeal Book references later in the process. It also makes finding evidence when preparing submissions more efficient and makes it less likely evidence or issues will be missed or overlooked.

Brief format

Electronic briefs can be:

- Emailed

- Shared on a file sharing platform
- Shared on ebrief: https://app.ebriefready.com.au/sign_in
- Other format after ensuring compatibility. (I run Windows 11)

It is difficult to navigate and absorb large electronic files. I prefer to receive individual files for each document, which I can then group according to a structure which suits the issues in the matter as I perceive them.





If the history of a matter means that a large file exists containing many documents the individual documents should be bookmarked within the PDF. I have software which can split a bookmarked PDF into individual files.

File naming

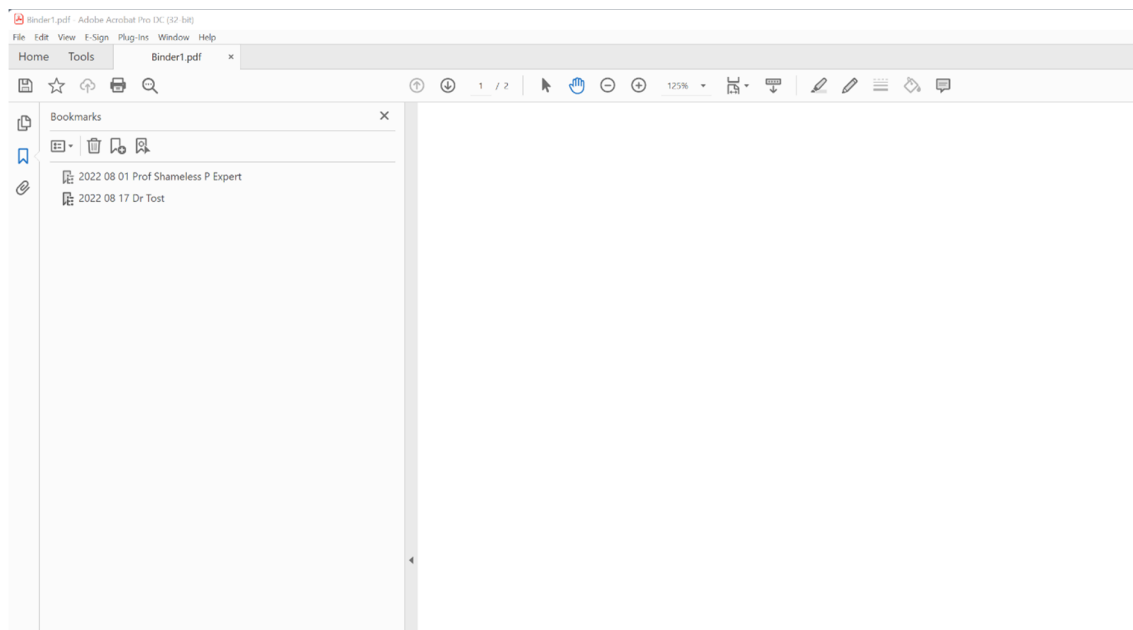
It is helpful if documents are renamed using the protocol “YYYY MM DD” – in this way when sorted by name they will appear in chronological order. After the date at the beginning of the file name a meaningful text should be applied. When scanning most scanning machines apply numbers and codes which are utterly meaningless.

An example of what I am suggesting:

Example

Name	Status	Date modified	Type	Size
 2022 08 17 Dr Tost		17/08/2022 9:01 AM	Microsoft Word Doc...	0 KB
 2022 08 01 Prof Shameless P Expert		17/08/2022 9:02 AM	Microsoft Word Doc...	0 KB

If you name files in this way if you choose to create a single file from, say, expert reports, you can use PDF software to combine them and most software will create bookmarks for the constituent documents:



A PDF of hundreds of pages of material without bookmarks or in no particular order makes the task of working out what matters very difficult.

Brief structure

- A. Pleadings,
- B. Relevant correspondence,
- C. Primary Factual material (injury reports; claim forms; factual investigation reports; witness statement,
- D. Police/Safework/Investigating authorities,
- E. plaintiff liability expert,
- F. defendant liability expert,
- G. primary medical – clinical & hospital notes treating reports,
- H. plaintiff medico legal,
- I. defendant medico legal,
- J. income evidence, anything else
- K. Subpoenas (but see below)
- L. Miscellaneous

- It is helpful if each file is paginated, with a unique prefix (such as the letter corresponding to the above list) so the Statement of Claim would be A-001 for instance.
- It is *usually* a great help if documents are in chronological order.
- Subpoenas – initially it may be sufficient to indicate that material has been produced rather than to include the material.
- It is helpful to add a watermark to pdf files by way of line identification:¹

¹ I can provide the watermark file if you like

A
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Timing

Briefs and updates need to be briefed **at least** the weekend prior to a conference.

Pleadings and submissions filed by opponents should be sent immediately upon receipt.

Conferences

The best way of getting a matter moving is to arrange a conference. I will read the material in preparation for the conference and may be able to attend to whatever it is that needs doing without the conference. I may also raise questions which can be dealt with prior to the conference so the conference is more productive.

My preference is to confer with clients and lay witnesses in person: not only do technical difficulties impact on the quality of communication but I find people sometimes treat an AVL as a minor distraction while they attend to other things, which they would not do in my chambers or your office.

Feel free to comment on this, make suggestions or talk to me about how best to provide a brief.

Work requests and diary

It is extremely difficult to skim emails when they arrive or at the beginning or end of the day to find requests for advice or input and dates and deadlines.

These should not be buried in correspondence or attachments. Preferably they should not be buried in the body of the email either.

The safest course is to make telephone contact with me, my secretary (Rhonda) or one of my clerks (clerk@fjc.net.au) to get the date put in my diary or to bring the requirement for advice or input to my attention.

Hearing

I should confer with the client and witnesses immediately prior to the matter being set down for hearing (that is before the call over or directions at which the hearing date is to be allocated) – this avoids adjournments.

I prefer not to attempt a “joint court book” if the rules and practice notes of the applicable court permit it.

I prefer a party-specific court book: too often delay enters the process because of disagreement between the parties as to whether something should or should not go in a Court Book.

15 October 2022