

IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY, PENNSYLVANIA

IN RE: LOCAL RULES OF JUDICIAL : MsD No. 2024-40087
ADMINISTRATION, L5101 – L5105, :
CUSTODY OF EXHIBITS :

PROTHONOTARY'S
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ADMINISTRATIVE ORDER OF COURT

AND NOW, this 4th day of April, 2024, in accordance with Pa.R.J.A. 5101 through 5105, it is hereby Ordered and Decreed that Butler County Local Rules of Judicial Administration L5101 through L5105 are approved and adopted and made a part of the Butler County Local Rules of Court for use in the Court of Common Pleas of Butler County, Pennsylvania, the 50th Judicial District of Pennsylvania, effective thirty (30) days after publication of the Rules in the *Pennsylvania Bulletin*.

In accordance with Pa.R.J.A. 103, the District Court Administrator is Ordered and Directed to:

1. File one (1) certified copy of this Administrative Order of Court with the Administrative Office of the Pennsylvania Courts.
2. File two (2) certified copies of this Administrative Order of Court with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Forward one (1) copy of this Administrative Order of Court to the Administrative Office of the *Butler County Legal Journal* for publication as that organization deems appropriate.
4. Distribute a copy of this Administrative Order of Court to the Judges of the Court of Common Pleas of Butler County, Pennsylvania.
5. Forward one (1) copy of this Administrative Order of Court to the Butler County Law Library.
6. Keep continuously available for public inspection copies of this Administrative Order of Court in the Office of the Prothonotary of Butler County, Pennsylvania.

BY THE COURT,


S. MICHAEL YEAGER
PRESIDENT JUDGE

Rule L5101. Custody of Exhibits in Court Proceedings. Definitions.

- (a) The following words and phrases when used in these rules shall have the following meanings unless the context clearly indicates otherwise, or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:
- (1) "Court Proceeding." Any trial, hearing, argument or similar event before a judge, panel, or hearing officer where evidence, if entered, is on the record. It does not include a proceeding before a magisterial district court, a judicial arbitration matter pursuant to Pa.R.Civ.P. 1301 et seq., a hearing before a Register of Wills pursuant to Pa.R.O.C.P. 10.3, or any matter in which the proceeding is not of record;
 - (2) "Custodian." The person or persons designated by local rule of judicial administration to safeguard and maintain exhibits offered into evidence in a court proceeding. The custodian shall either be a member of court staff, e.g., Court Reporter, Clerk of Court, hearing officer, or the proponent of the exhibit. Custodian shall also include the custodian's designee;
 - (3) "Exhibit." A document, record, object, photograph, model, or similar item offered into evidence, whether or not admitted, in a court proceeding;
 - (4) "Proponent." A party seeking the admission of an exhibit into the record in a court proceeding; and,
 - (5) "Records office." The entity with the responsibility and function to maintain and retain the official case file and list of docket entries as required by rule or law.

Rule L5102(a). Custody of Exhibits During Court Proceedings. General Provisions.

- (1) The Court Reporter for all of a court proceeding shall be designated as the "Custodian" of all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding and submitted during that period. The presiding judge or the Custodian may seek the assistance of the Sheriff's Office of Butler County, Pennsylvania, to secure any dangerous items.

Rule L5102(b). Custody of Exhibits After Court Proceedings. General Provisions.

- (1) At the conclusion of a court proceeding, if the proponent of a non-documentary exhibit is:

- (a) **The District Attorney's Office.** Said office shall retain custody of non-documentary physical evidence after a court proceeding as set forth in the retention schedule for criminal matters.
- (b) **The Public Defender's Office.** Said office shall retain custody of non-documentary physical evidence after a court proceeding as set forth in the retention schedule for criminal matters.
- (c) **Private Counsel.** The Court Reporter shall retain custody of non-documentary physical evidence after a court proceeding, until such time that custody is transferred to the appropriate records office.

Rule L5102(c). Custodian

(1) **Custodian.** The Custodian shall:

- (i) Except as provided herein, retain or take custody of all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding; and,
- (ii) Except as provided herein, file all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding with the records office within five (5) business days of the conclusion of the court proceeding unless otherwise directed by the court;

- (2) **Index of Exhibits.** The Custodian filing the exhibits with the records office shall include a numbered list of exhibits, and for each exhibit identify the proponent, whether the exhibit was admitted or rejected from evidence, and a textual description or identification of the exhibit. The exhibits and standardized Exhibit Index Form set forth in Appendix I shall be typewritten and filed with the appropriate records office within five (5) business days from the conclusion of the proceeding.
- (3) **Relief.** If the custodian does not file the exhibits as required by subdivision (c)(1)(ii), the proponent, if not designated as the custodian or in possession of the exhibits by local rule, may seek appropriate relief with the court.
- (4) **Multiple Custodians.** If multiple successive custodians are involved with a proceeding, the first custodian shall provide the subsequent custodian (and so on, if more than two successive custodians) with the submitted exhibits and index of exhibits. The custodian at the conclusion of the proceeding shall file with the appropriate records office a typewritten Exhibit Index Form. The exhibits and standardized Exhibit Index Form set forth in Appendix I shall be

typewritten and filed with the appropriate records office within five (5) business days from the conclusion of the proceeding.

- (d) **Transferring Exhibits.** When exhibits are transferred from the custodian to a subsequent custodian or filing office, a Transfer of Possession Form shall be completed and signed by both the custodian and the subsequent custodian or records office accepting the Exhibit Index Form and exhibits. The Transfer of Possession Form is set forth in Appendix II.

Rule L5103. Custody of Exhibits. Special Provisions.

- (1) If directed by the presiding judge, an exhibit book, witness list, or a list of obscure terminology shall be provided by a party or parties, and a copy shall also be provided to the Court Reporter and the judge's law clerk. If required:

- (a) Each party shall prepare a tabbed exhibit book, in advance of trial, containing each exhibit the party plans to show to a witness, to introduce through a witness, or to otherwise proffer as evidence.¹ At the commencement of the trial, in advance of opening arguments, copies of the exhibit book shall be provided to the presiding judge, his or her law clerk, opposing counsel/unrepresented parties, and the Court Reporter.

The inclusion of an exhibit in the exhibit book does not impose any obligation to introduce the exhibit and the failure to do so shall not be commented on by other counsel.

- (b) One week prior to trial, each party shall provide to the court and the Court Reporter a complete list of potential witnesses and a list of any unusual names of other individuals, places, or things likely to be referenced during testimony.

This list should additionally note any witness whose testimony will be received by deposition or video tape, and the particular area of expertise of any expert witness.

- (c) Each party shall provide to the court and the Court Reporter a list of obscure or case specific terminology likely to be referenced during testimony.
- (2) Documentary exhibits larger than 8½ x 11 inches that are part of the record shall be reduced to 8½ x 11 inches, and all tangible objects that are part of the record shall be photographed in color by the by the proponent, the photograph converted to 8½ x 11 inches, and the photograph appropriately marked.

¹ Do not include portions of medical records or other voluminous records that will not be specifically referenced through testimony.

Four (4) 8½ x 11-inch copies of the reduced documentary exhibits and photographs of tangible objects must be produced during the court proceeding: one (1) copy for the presiding judge, one (1) copy for the judge's law clerk, one (1) copy for opposing counsel/unrepresented parties, and one (1) copy for the Court Reporter for inclusion in the documentary record. The proponent who provides a reduced copy of an oversized exhibit shall ensure the reproduced document is clear and capable of further reproduction.

- (3) Any digital exhibit that cannot be printed (i.e., audio or video recording) shall be entered into the record on a Universal Serial Bus (USB) flash drive (or other format if expressly approved by the court). If one party has multiple digital exhibits, they may be submitted together on one USB flash drive. Three (3) Universal Serial Bus (USB) flash drives replicating the exact content shall be produced during the court proceeding: one (1) copy for the presiding judge, one (1) copy for opposing counsel/unrepresented parties, and one (1) copy for the Court Reporter for inclusion in the evidentiary record.
- (4) If a proponent offers into evidence a photograph, the proponent shall ensure that the original or a copy of the photograph in lieu of the original (no larger in size than 8- ½ x 11 inches) is entered into the record. A proponent who provides a copy of a photograph shall ensure that the reproduced document is clear and capable of further reproduction or transfer to digital media.
- (5) Exhibits comprised of weapons, cash, other items of value, drugs, or other dangerous materials are prohibited from viewing in the jury room. The court may direct alternative viewing arrangements for such exhibits upon the request of the jury.
- (6) Unless otherwise ordered, the applicable filing office shall maintain non-documentary exhibits for a minimum of following time periods:

(1) **Non-criminal matters.** After trial or other record proceeding, exhibits admitted into evidence shall be retained by the filing office until it is determined whether an appeal has been taken from a final judgement.

(2) **Criminal matters:** After trial or other record proceeding, exhibits admitted into evidence shall be retained by the filing office as set forth in the schedule below:

- i. Homicides. Retain exhibits 75 years.
- ii. Summary cases. Retain exhibits 5 years.
- iii. Other cases. Retain exhibits 5 years after completion of sentence.

- (7) **Disposition Documentary Exhibits After Trial.** After trial or, hearing, exhibits admitted into evidence shall be retained by the applicable filing office as follow:

If an appeal has been taken, no earlier than sixty (60) days from the receipt of disposition of appeal from the appellate court(s), and provided that all matters in the case have been finally disposed of, the applicable filing office shall Motion for an Order of Court to destroy or dispose of proffered exhibits in sixty (60) days if no Motion to Reclaim Exhibits is filed. All interested parties shall be given notice of such Motion and must file a Motion to Reclaim Exhibits within thirty (30) calendar days of service of the Motion. If no Motion to Reclaim Exhibits is filed, an Order of Court granting the destruction or disposal of proffered exhibits shall be issued.

If an appeal has not been taken within the time frame allowed under the Pennsylvania Rules of Appellate Procedure or Statue and sixty (60) days have lapsed since the final date on which an appeal was to be taken, the applicable filing office shall Motion for an Order of Court to destroy or dispose of proffered exhibits. All interested parties shall be given notice of such Motion and must file a Motion to Reclaim Exhibits within thirty (30) calendar days of service of the Motion. If no Motion to Reclaim Exhibits is filed, an Order of Court granting the destruction or disposal of proffered exhibits shall be issued.

Prior to destruction or disposal of exhibits under any Order of Court, the applicable filing office shall ensure an electronic copy of all documentary exhibits is created for retention in the file.

Rule L5104. Prohibition.

- (a) Proceedings before hearing officers in divorce, custody, support, delinquency, and dependency matters that can be appealed de novo to the Court of Common Pleas or upon which exceptions or objections can be filed to the Court of Common Pleas shall be excluded from these general rules.

Rule L5105. Confidentiality. Exhibits Under Seal.

- (a) Any exhibit containing confidential information or the equivalent to any of the categories enumerated in Pa. Access Policy § 8.0 **must** be prepared by the proponent and include a Confidential Document Form attached to a 9 x 12 unsealed envelope, in accordance with Local Rule L100 so that the document can be properly sealed by the record office.
- (b) Any exhibit sealed by the court during the court proceeding shall not be accessible to the public.

APPENDIX I

EXHIBIT INDEX FORM									
Case Number:					Appearances				
Type of Proceeding:					Plaintiff:				
Judge:									
Hearing Date:									
Case Caption:									
					Defendant:				
Witnesses									
PLAINTIFF EXHIBITS					DEFENDANT EXHIBITS				
No.	Mark	Admit	Rej.	Description	No.	Mark	Admit	Rej.	Description
1					A.				
2					B				
3					C				
4					D				
5					E				
6					F				
7					G				
8					H				
9					I				
10					J				
11					K				
12					L				
13					M				
14					N				
15					O				
16					P				
17					Q				

APPENDIX II

TRANSFER OF CUSTODY FORM

**IN THE COURT OF COMMON PLEAS OF BUTLER COUNTY,
PENNSYLVANIA**

	:	Case No.:
	:	
	:	
	:	
Plaintiff,	:	
	:	
vs.	:	
	:	
	:	
	:	
Defendant.	:	

I, _____, designated as the "Custodian" of exhibits as defined by Pa.R.J.A. 5101(a)(2) and L5101(a)(2) for all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding in the above-captioned matter, hereby transfer all documentary exhibits, photographs, photographs of non-documentary exhibits, and non-documentary exhibits accepted or rejected during the court proceeding to the appropriate filing Office or the Successor Custodian. Included with the exhibits being transferred is the Exhibit Index Form containing a numbered list of exhibits, the identification of each exhibit's proponent, a checkmark indicating whether the exhibit was admitted or rejected from evidence, and a textual description of each submitted exhibit in accordance with L5102.

Date

Custodian

Date

Accepting Filing on Behalf of:

Prothonotary ☐

Clerk of Court ☐

Successor Custodian ☐