

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.

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.

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

- (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 Statute 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.