

1 **Rule 4-206. Exhibits.**

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3 **Intent:**

4 To establish a uniform procedure for the receipt, maintenance and release of exhibits.

5 **Applicability:**

6 This rule shall apply to all trial courts of record and not of record, except small claims court. In
7 the discretion of the court, this rule may apply to any proceeding in which exhibits are
8 introduced.

9 **Statement of the Rule:**

10 **(1) Marking exhibits.**

11 (1)(A) **Marking Exhibits.** Prior to trial, or at a time specified by the judge, each party
12 must mark all exhibits it intends to introduce by utilizing exhibit labels in the format
13 prescribed by the clerk of court. Labels or tags must include, at a minimum, a case
14 number, exhibit number/letter, and an appropriate party designation. With approval of
15 the court, a photograph may be offered by the submitting party as a representation of the
16 original exhibit.

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18 (1)(B) **Digital Exhibits.** Digital exhibits must be marked as provided in paragraph (1)(A)
19 and submitted to the court as prescribed by the clerk of court. Exhibits should not be
20 eFiled.

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22 (1)(C) **Courts not of record.** Courts not of record may exempt parties from the
23 requirements outlined in paragraphs (1)(A) and (1)(B) and prescribe an alternative
24 process for marking exhibits.

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26 **(2) Exhibit custody during trial.**

27 (2)(A) **Custody of the Parties.** During the trial, bulky and sensitive exhibits, and exhibits
28 that require law enforcement chain of custody, will remain in the custody of the party
29 offering the exhibit. Such exhibits include, but are not limited to: biological evidence,
30 biohazards, controlled substances, paraphernalia, firearms, ammunition, explosive
31 devices, pornographic materials, jewelry, poisonous or dangerous chemicals,
32 intoxicating liquors, money or articles of high monetary value, counterfeit money, original
33 digital storage media such as a hard drive or computer, and documents or physical
34 exhibits of unusual bulk or weight. The clerk of court or designee must list these exhibits
35 in the exhibit list and note that the original exhibit is in the custody of the party.

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37 (2)(B) **Custody of the Court.** Physical exhibits received during trial, other than those in
38 paragraph (2)(A), must be placed in the custody of the clerk of court or designee. Digital
39 exhibits received as evidence by the court during the trial shall be stored electronically or
40 on digital media such as a thumb drive and stored in accordance with paragraph (2)(C).
41 The clerk of court or designee must list all exhibits in the exhibit list, and the list shall be

42 made a part of the court record. An exhibit list may be the court's designated case
43 management system or a form approved by the Judicial Council.

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45 (2)(C) **Secured Storage.**

46 (2)(C)(i) Upon daily adjournment, the clerk of court or designee must compare
47 the exhibit list with the exhibits received that day. Digital exhibits received under
48 paragraph (2)(B) shall be stored electronically in a manner meeting the
49 requirements outlined in paragraph (3)(A)(ii). Physical exhibits received under
50 paragraph (2)(B) must be stored in an envelope or container, marked with the
51 case number, and stored in a secured storage location that meets the
52 requirements outlined in paragraph (3)(A)(ii).

53 (2)(C)(ii) Exhibits may be stored in a temporary secured location for no more than
54 72 hours, provided the temporary location is sufficient to prevent access by
55 unauthorized persons, and the location is secured with a key lock, combination
56 lock, or electronic lock. Access to the temporary storage location shall be limited
57 to the clerk of court, judge, or a designee.

58

59 (3) **Exhibit custody prior to disposition.**

60 (3)(A) **Pending Disposition.** Exhibits in the court's custody pursuant to paragraph (2)(B)
61 may not be taken from the custody of the clerk of court or designee until final disposition
62 of the case, except upon order of the court and execution of a receipt that identifies the
63 material, the party to whom the exhibit is released, and the date and time of the release.
64 The receipt shall be made a part of the court record.

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66 (3)(A)(i) **Exhibit Manager.** The clerk of court shall appoint an exhibit manager
67 with responsibility for the security, maintenance, documentation of the chain of
68 custody, and disposition of exhibits. The clerk of court may also appoint a person
69 to act as exhibit manager during periods when the primary exhibit manager is
70 absent. Unaccompanied or unauthorized access to secured storage locations by
71 anyone other than the exhibit manager, acting exhibit manager, or the clerk of
72 court is prohibited without a court order.

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74 (3)(A)(ii) **Secured Storage Location.** Each court must provide physical and
75 electronic secured storage locations within their facility for storing exhibits
76 retained by the court under subsection (2)(B), and shall maintain a current
77 inventory list of all exhibits in the court's custody. The physical secured storage
78 location must be sufficient to prevent access from unauthorized persons, secured
79 with a key lock, combination lock, or electronic lock, and protected from theft or
80 damage. The electronic secured storage location should be sufficient to prevent
81 access from unauthorized persons. Prior to use, physical and electronic secured
82 storage locations must be certified by the Court Security Director. Requests for
83 certification must be made in writing and shall fully describe the secured storage
84 location, local access procedures, and security controls. Any changes to the

85 location, access procedures, or security controls require recertification by the
86 Court Security Director.

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88 (3)(B) **Exhibit custody post disposition.** In courts of record, upon final disposition of
89 the case, exhibits in the court's custody shall be disposed of or returned to the offering
90 parties pursuant to paragraph (5). The clerk of court, exhibit manager, or designee shall
91 execute a receipt identifying the material taken, the party to whom the exhibit is
92 released, and the date and time of the release. The receipt shall be made a part of the
93 court record. In courts not of record, upon final disposition of the case, all exhibits shall
94 be returned to the parties.

95
96 (3)(C) **Exhibits in the custody of the parties.** Unless otherwise ordered by the court,
97 exhibits identified in paragraph (2)(A) shall remain in the custody of the parties until they
98 are eligible for disposal pursuant to paragraph (5). Parties are responsible for preserving
99 exhibits in the same condition as when they were first admitted into evidence.

100
101 (3)(D) **Access to exhibits by parties.** Parties may file a motion requesting access to an
102 exhibit in the custody of the court or another party. Upon order of the court, the clerk of
103 court, exhibit manager or designee, or party with custody of the exhibits shall promptly
104 make available for examination exhibits, or original or true copies of the exhibits.

105
106 (4) **Appeals.** Exhibits and exhibit lists shall be provided upon appeal in accordance with the
107 Utah Rules of Appellate Procedure.

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109 (5) **Disposal of exhibits.** Parties with custody of biological evidence must comply with Title
110 7753, Chapter 11c20, Forensic Biological Retention of Evidence Preservation. Parties may
111 dispose of, and exhibit managers, clerks of court, or designees shall dispose of any other
112 exhibits in their custody.

113 (5)(A) Exhibits shall be disposed of as follows:

114 (5)(A)(i) For all cases that are not criminal in nature, 90 days after the time for
115 appeal has expired, as long as no appeal has been filed, or the statute of
116 limitations for post-conviction relief, including the time for appeal from post-
117 conviction relief has expired, whichever is later.

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119 (5)(A)(ii) For all cases that are criminal in nature, 365 days after the time for
120 appeal has expired, as long as:

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122 (5)(A)(ii)(a) no appeal has been filed; and

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124 (5)(A)(ii)(b) there are no pending post-conviction relief actions or pending
125 appeals of post-conviction relief actions.

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127 (5)(B) Upon receipt of remittitur from an appellate court, the time period for all cases is
128 reset.

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130 (5)(C) Exhibits in the court's custody shall be disposed of as follows:

131 ~~(5)(A)~~ (5)(C)(i) Property having no monetary value shall be destroyed by the
132 exhibit manager, clerk of court, or designee. The exhibit manager shall create a
133 certificate of destruction including a description of the exhibit, the case and
134 exhibit numbers, and the date and time of the destruction. The certificate of
135 destruction shall be made a part of the court record.

136 ~~(5)(B)~~ (5)(C)(ii) Property having monetary value shall be returned to its owner or,
137 if unclaimed, shall be given to the prosecuting agency, sheriff of the county, or
138 other law enforcement agency to be sold in accordance with Utah Code. The
139 receiving agency shall furnish the court with a receipt identifying the receiving
140 agency, the exhibit received, and the date and time the exhibit was received. The
141 receipt shall be made a part of the court record.

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143 *Effective: ~~May~~November 1, 202~~4~~2*