

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

2

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.

17

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.

21

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.

25

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.

36

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

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

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

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

55 (2)(C)(ii) Exhibits may be stored in a temporary secured location for no more than  
56 72 hours, provided the temporary location is sufficient to prevent access by  
57 unauthorized persons, and the location is secured with a key lock, combination  
58 lock, or electronic lock. Access to the temporary storage location shall be limited  
59 to the clerk of court, judge, or a designee.  
60

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

62 (3)(A) **Pending Disposition.** Exhibits in the court's custody pursuant to paragraph (2)(B)  
63 may not be taken from the custody of the clerk of court or designee until final disposition  
64 of the case, except upon order of the court and execution of a receipt that identifies the  
65 material, the party to whom the exhibit is released, and the date and time of the release.  
66 The receipt shall be made a part of the court record.  
67

68 (3)(A)(i) **Exhibit Manager.** The clerk of court shall appoint an exhibit manager  
69 with responsibility for the security, maintenance, documentation of the chain of  
70 custody, and disposition of exhibits. The clerk of court may also appoint a person  
71 to act as exhibit manager during periods when the primary exhibit manager is  
72 absent. Unaccompanied or unauthorized access to secured storage locations by  
73 anyone other than the exhibit manager, acting exhibit manager, or the clerk of  
74 court is prohibited without a court order.  
75

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

85 certification must be made in writing and shall fully describe the secured storage  
86 location, local access procedures, and security controls. Any changes to the  
87 location, access procedures, or security controls require recertification by the  
88 Court Security Director.

89  
90 **(3)(B) Exhibit custody post disposition.**

91  
92 **(3)(B)(i) Courts of record.** In courts of record, upon final disposition of the case,  
93 exhibits in the court's custody shall be disposed of or returned to the offering  
94 parties pursuant to paragraph (5). The clerk of court, exhibit manager, or  
95 designee shall execute a receipt identifying the material taken, the party to whom  
96 the exhibit is released, and the date and time of the release. The receipt shall be  
97 made a part of the court record.

98  
99 **(3)(B)(ii) Courts not of record.** In civil cases in courts not of record, upon final  
100 disposition of the case, all exhibits in the court's custody shall be returned to the  
101 parties. In criminal cases in courts not of record, upon final disposition of the  
102 case, all exhibits in the court's custody shall be given to the prosecuting agency,  
103 which must comply with Title 77, Chapter 11c, Retention of Evidence. The clerk  
104 of court, exhibit manager, or designee shall execute a receipt identifying the  
105 material taken, the party to whom the exhibit is released, and the date and time  
106 of the release. The receipt shall be made a part of the court record.

107  
108 **(3)(C) Exhibits in the custody of the parties.** Unless otherwise ordered by the court,  
109 exhibits identified in paragraph (2)(A) shall remain in the custody of the parties until they  
110 are eligible for disposal pursuant to paragraph (5)(A)(i) or (5)(B)(i). Parties are  
111 responsible for preserving exhibits in the same condition as when they were first  
112 admitted into evidence.

113  
114 **(3)(D) Access to exhibits by parties.** Parties may file a motion requesting access to an  
115 exhibit in the custody of the court or another party. Upon order of the court, the clerk of  
116 court, exhibit manager or designee, or party with custody of the exhibits shall promptly  
117 make available for examination exhibits, or original or true copies of the exhibits.

118  
119 **(4) Appeals.** Exhibits and exhibit lists shall be provided upon appeal in accordance with the  
120 Utah Rules of Appellate Procedure.

121  
122 **(5) Disposal of exhibits.** Exhibits shall be disposed of as follows:

123  
124 **(5)(A) Criminal.** In criminal and juvenile delinquency cases:

125  
126 **(5)(A)(i) Party custody.** Parties with custody of ~~biological~~ evidence must comply  
127 with Title ~~7753~~, Chapter ~~11c20~~, ~~Forensic Biological Retention of~~ Evidence  
128 ~~Preservation.~~

129  
130 (5)(A)(ii) Court custody. Exhibits in the court's custody shall be transferred to  
131 the prosecuting agency no earlier than 365 days after the time for appeal has  
132 expired, provided no appeal has been filed and there are no pending post-  
133 conviction relief actions or pending appeals of post-conviction relief actions.

134  
135 (5)(B) Civil. In cases that are not criminal in nature:

136  
137 (5)(B)(i) Disposal time. Provided no appeal has been filed, parties may dispose  
138 of, and exhibit managers, clerks of court, or designees shall dispose of any ~~other~~  
139 exhibits in their custody no earlier than 90 days after the time for appeal has  
140 expired, ~~or the statute of limitations for post-conviction relief, including the time~~  
141 ~~for appeal from post-conviction relief has expired, whichever is later.~~

142  
143 (5)(B)(ii) Court custody. Exhibits in the court's custody shall be disposed of as  
144 follows:

145  
146 (5)(BA)(ii)(a) No monetary value. Property having no monetary value  
147 shall be destroyed by the exhibit manager, clerk of court, or designee.  
148 The exhibit manager shall create a certificate of destruction including a  
149 description of the exhibit, the case and exhibit numbers, and the date and  
150 time of the destruction. The certificate of destruction shall be made a part  
151 of the court record.

152 (5)(B)(ii)(b) Monetary value. Property having monetary value shall be  
153 returned to its owner or, if unclaimed, shall be given to the prosecuting  
154 agency, sheriff of the county, or other law enforcement agency to be sold  
155 in accordance with Utah Code. The receiving agency shall furnish the  
156 court with a receipt identifying the receiving agency, the exhibit received,  
157 and the date and time the exhibit was received. The receipt shall be made  
158 a part of the court record.

159  
160 (5)(C) Time Period. Upon receipt of remittitur from an appellate court, the time period for  
161 all cases is reset.

162  
163 Effective: ~~November~~ September 1, 202~~4~~2