

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.

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6 **Applicability:**

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

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11 **Statement of the Rule:**

12 **(1) Marking exhibits.**

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

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

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

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

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

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40 (2)(B) **Custody of the Court.** Physical exhibits received during trial, other than those in
41 paragraph (2)(A), must be placed in the custody of the clerk of court or designee. Digital
42 exhibits received as evidence by the court during the trial shall be stored electronically or
43 on digital media such as a thumb drive and stored in accordance with paragraph (2)(C).
44 The clerk of court or designee must list all exhibits in the exhibit list, and the list shall be
45 made a part of the court record. An exhibit list may be the court's designated case
46 management system or a form approved by the Judicial Council.

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

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

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

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

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

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

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

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

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

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

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

(5) **Disposal of exhibits.** Parties with custody of biological evidence must comply with Title 53, Chapter 20, Forensic Biological Evidence Preservation. Parties may dispose of, and exhibit managers, clerks of court, or designees shall dispose of any other exhibits in their custody 90 days after the time for appeal has expired, or the statute of limitations for post-conviction relief, including the time for appeal from post-conviction relief has expired, whichever is later. Exhibits in the court's custody shall be disposed of as follows:

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

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

| *Effective: November 1, 202~~2~~4*