

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

2 **Intent:**

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

4 **Applicability:**

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

8 **Statement of the Rule:**

9 **(1) Marking exhibits.**

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

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

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

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

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

33 (2)(B) **Custody of the Court.** Physical exhibits offered, other than those in paragraph  
34 (2)(A), must be placed in the custody of the clerk of court or designee. Digital exhibits  
35 offered ~~shall will~~ be stored electronically or on digital media such as a thumb drive and  
36 stored in accordance with paragraph (2)(C). The clerk of court or designee must list all  
37 exhibits in the exhibit list, and the list ~~shall will~~ be made a part of the court record. An

38 exhibit list may be the court's designated case management system or a form approved  
39 by the Judicial Council.

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

41 (2)(C)(i) Upon daily adjournment, the clerk of court or designee must compare  
42 the exhibit list with the exhibits offered that day. Digital exhibits in the custody of  
43 the court ~~shall~~will be stored electronically in a manner meeting the requirements  
44 outlined in paragraph (3)(A)(ii). Physical exhibits in the custody of the court must  
45 be stored in an envelope or container, marked with the case number, and stored  
46 in a secured storage location that meets the requirements outlined in paragraph  
47 (3)(A)(ii).

48 (2)(C)(ii) Exhibits may be stored in a temporary secured location for no more than  
49 72 hours, provided the temporary location is sufficient to prevent access by  
50 unauthorized persons, and the location is secured with a key lock, combination  
51 lock, or electronic lock. Access to the temporary storage location ~~shall~~will be  
52 limited to the clerk of court, judge, or a designee.

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

54 (3)(A) **Pending Disposition.** Exhibits in the court's custody pursuant to paragraph (2)(B)  
55 may not be taken from the custody of the clerk of court or designee until final disposition  
56 of the case, except upon order of the court and execution of a receipt that identifies the  
57 material, the party or law enforcement agency to whom the exhibit is released, and the  
58 date and time of the release. The receipt ~~shall~~will be made a part of the court record.

59 (3)(A)(i) **Exhibit Manager.** The clerk of court ~~shall~~will appoint an exhibit  
60 manager with responsibility for the security, maintenance, documentation of the  
61 chain of custody, and disposition of exhibits. The clerk of court may also appoint  
62 a person to act as exhibit manager during periods when the primary exhibit  
63 manager is absent. Unaccompanied or unauthorized access to secured storage  
64 locations by anyone other than the exhibit manager, acting exhibit manager, or  
65 the clerk of court is prohibited without a court order.

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

77 the location, access procedures, or security controls require recertification by the  
78 Court Security Director.

79 **(3)(B) Exhibit custody post disposition.**

80 (3)(B)(i) **Courts of record.** In courts of record, upon final disposition of the case,  
81 exhibits in the court's custody ~~shall~~will be disposed of or returned to the offering  
82 parties or appropriate law enforcement agency pursuant to paragraph (5). The  
83 clerk of court, exhibit manager, or designee ~~shall~~will execute a receipt identifying  
84 the material taken, the party to whom the exhibit is released, and the date and  
85 time of the release. The receipt ~~shall~~will be made a part of the court record.

86 (3)(B)(ii) **Courts not of record.** In civil cases in courts not of record, upon final  
87 disposition of the case, all exhibits in the court's custody ~~shall~~will be returned to  
88 the parties. In criminal cases in courts not of record, upon final disposition of the  
89 case, all exhibits in the court's custody ~~shall~~will be given to the offering party or  
90 appropriate law enforcement agency~~prosecuting agency~~, which must comply with  
91 Utah Code ~~T~~title 77, c~~C~~hapter 11c, Retention of Evidence. The clerk of court,  
92 exhibit manager, or designee ~~shall~~will execute a receipt identifying the material  
93 taken, the party or law enforcement officer to whom the exhibit is released, and  
94 the date and time of the release. The receipt ~~shall~~will be made a part of the court  
95 record.

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

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 or law enforcement agency with custody of  
104 the exhibits ~~shall~~will promptly make available for examination exhibits, or original or true  
105 copies of the exhibits.

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

108 (5) **Disposal of exhibits.** Exhibits ~~shall~~will be disposed of as follows:

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

110 (5)(A)(i) **Party custody.** Parties and law enforcement agencies with custody of  
111 evidence must comply with Utah Code ~~T~~title 77, c~~C~~hapter 11c, Retention of  
112 Evidence.

113 (5)(A)(ii) **Court custody.** Exhibits in the court's custody ~~shall~~will be transferred  
114 to the offering party or appropriate law enforcement agency ~~prosecuting agency~~  
115 no earlier than 365 days after the time for appeal has expired, provided no

116 appeal has been filed and there are no pending post-conviction relief actions or  
117 pending appeals of post-conviction relief actions.

118 (5)(B) **Civil.** In cases that are not criminal in nature:

119 (5)(B)(i) **Disposal time.** Provided no appeal has been filed, parties may dispose  
120 of, and exhibit managers, clerks of court, or designees ~~shall~~will dispose of any  
121 exhibits in their custody no earlier than 90 days after the time for appeal has  
122 expired.

123 (5)(B)(ii) **Court custody.** Exhibits in the court's custody ~~shall~~will be disposed of  
124 as follows:

125 (5)(B)(ii)(a) **No monetary value.** Property having no monetary value ~~shall~~  
126 will be destroyed by the exhibit manager, clerk of court, or designee. The  
127 exhibit manager ~~shall~~will create a certificate of destruction including a  
128 description of the exhibit, the case and exhibit numbers, and the date and  
129 time of the destruction. The certificate of destruction ~~shall~~will be made a  
130 part of the court record.

131 (5)(B)(ii)(b) **Monetary value.** Property having monetary value ~~shall~~will be  
132 returned to its owner or, if unclaimed, ~~shall~~will be given to the ~~offering~~  
133 ~~party~~prosecuting agency, sheriff of the county, or other law enforcement  
134 agency to be sold in accordance with Utah Code. The receiving agency  
135 ~~shall~~will furnish the court with a receipt identifying the receiving agency,  
136 the exhibit received, and the date and time the exhibit was received. The  
137 receipt ~~shall~~will be made a part of the court record.

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

140 *Effective: ~~9/1/2024~~ March 14, 2025*