

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

7 **Statement of the Rule:**

8 **(1) Marking exhibits.**

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

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

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

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

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

32 (2)(B) **Custody of the Court.** Physical exhibits offered, other than those in paragraph
33 (2)(A), must be placed in the custody of the clerk of court or designee. Digital exhibits
34 offered will be stored electronically or on digital media such as a thumb drive and stored
35 in accordance with paragraph (2)(C). The clerk of court or designee must list all exhibits
36 in the exhibit list, and the list will be made a part of the court record. An exhibit list may
37 be the court's designated case management system or a form approved by the Judicial
38 Council.

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

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

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

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

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

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

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

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

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

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

(3)(C) **Exhibits in the custody of the parties.** Unless otherwise ordered by the court, exhibits identified in paragraph (2)(A) will remain in the custody of the parties or law enforcement agency until they are eligible for disposal pursuant to paragraph (5)(A)(i) or (5)(B)(i). 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 or law enforcement agency with custody of the exhibits will promptly make available for examination exhibits, or original or true copies of the exhibits.

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

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

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

(5)(A)(i) **Party custody.** Parties and law enforcement agencies with custody of evidence must comply with Utah Code title 77, chapter 11c, Retention of Evidence.

(5)(A)(ii) **Court custody.** Exhibits in the court's custody will be transferred to the offering party or appropriate law enforcement agency no earlier than 365 days after the time for appeal has expired, provided no appeal has been filed and there are no pending post-conviction relief actions or pending appeals of post-conviction relief actions.

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

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

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

(5)(B)(ii)(a) **No monetary value.** Property having no monetary value will be destroyed by the exhibit manager, clerk of court, or designee. The exhibit manager will 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 will be made a part of the court record.

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

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

Effective: ~~March 14~~July 1, 2025