

EXHIBITS - MARKING, LISTING AND CUSTODY
for United States District Court Judge
Susan R. Bolton

GENERAL INSTRUCTIONS:

Marking and listing of exhibits is the responsibility of counsel/party, not the courtroom deputy, and shall be delivered to the courtroom deputy the day of trial/hearing, unless otherwise instructed. Counsel are required to use the adhesive labels and/or cover sheets as described herein. **Counsel shall also prepare the exhibit worksheet and witness list and provide them to the courtroom deputy in triplicate (1 original and 2 copies) along with the exhibits the day of trial/hearing.** During trial/hearing, please be prepared to advise the courtroom deputy in advance which exhibits will be needed for each witness. If you need a format in which to prepare the exhibit and witness lists, please access the district court's website at www.azd.uscourts.gov and access "Judges' Info; Orders, Forms & Procedures." Open the form and click on "save a copy." You will be able to save the form to your hard drive and can edit it. **Counsel are to email one week prior to trial/hearing no later than noon (12:00 p.m.) their witness and exhibit lists, a list of medical and technical terms and terms specific to the case to the Court Reporter, Kim Portik at kim.portik@azd.uscourts.gov.**

USE OF LABELS/COVER SHEET:

1. Exhibit cover sheets and labels are divided by color to indicate whether the exhibit is offered by plaintiff (**YELLOW**) or defendant (**BLUE**).
2. Exhibit cover sheets are provided to counsel by the courtroom deputy (or by accessing the cover sheets via the court's website) for the purpose of numbering and labeling exhibits **PRIOR** to trial. Exhibit cover sheets shall be copied on yellow or blue paper and used in cover sheet fashion to identify standard sized paper exhibits. The cover sheet shall be stapled to the top of the original exhibit, and the exhibit shall be placed in a manila folder numbered to correspond with the exhibit number. Prepare extra cover sheets and provide extra manila folders to use for exhibits marked during trial.
3. If the exhibit is a photo, **STAPLE** the photo to the exhibit cover sheet.
4. Large or bulky items may require the use of tie tags with an exhibit label placed on a tag or may be marked in a logical location on the item or on the plastic bag containing the item.
5. Large charts should be identified in the lower right hand corner with a sticker exhibit label. If the item is an enlargement of another marked exhibit,

it should be numbered as a sub-part of the smaller exhibit.

NUMBERING:

1. Plaintiff starts with number 1 through the estimated number of exhibits. Defendant is to utilize numbers starting after plaintiff but allowing space for additional exhibits marked during trial (example: Plaintiff 1-80 and Defendant 100 -). Failure to comply with this directive will result in exhibits being remarked by counsel.

2. Plaintiff and defense counsel shall consult with one another prior to marking exhibits to AVOID MARKING DUPLICATES. If plaintiff marks a document, the defendant should **not** mark the same document. The exhibits are considered court exhibits, not plaintiff or defendant. Either side may move the other's exhibits into evidence.

3. Use **NUMBERS ONLY** except when identifying sub-parts (e.g. 3-1, 3-2, 3-3). Categorizing exhibits should be kept as simple and clear as possible.

4. Multiple-page exhibits should be stapled or ACCO fastened; please do not use paper or binder clips or rubber bands. **If submitted in this fashion, counsel will be handed back said exhibit to be then submitted either stapled or ACCO fastened.** Regarding bulky documents, BATES stamp numbers may be placed on each page and shall be continuously numbered for easy reference.

5. Blocks of numbers may be used to categorize exhibits (e.g. series 1-99 are bank records; series 100-199 are tax returns; series 200-299 are photographs, etc.)

USE OF FOLDERS:

1. Place exhibits loose in folders so that the exhibit may be pulled out of the folder during trial. **DO NOT** attach the exhibit to the file folder. Label the top of the folder to identify the exhibit. Provide extra folders and exhibit cover sheets to the courtroom deputy for exhibits marked during trial.

2. Place the exhibit folders in a box in numerical order. Mark the outside of the box as to what exhibits are contained therein. Leave room in the box for any extra exhibits that may be submitted during trial.

3. **DO NOT PLACE TRIAL EXHIBITS IN BINDERS** except when the binder is considered ONE exhibit. Mark the binder with an exhibit label in the lower right-hand corner. The judge's copies of exhibits are to be placed in binders and tabbed. The judge's copies should not have original exhibit cover sheets on them.

4. On the day of trial/hearing, counsel are to bring their marked exhibits [labeled/placed in folders/boxed], 3 copies each of the witness and exhibits lists and the judge's set of exhibits in tabbed binders and provide the above to the courtroom deputy.

EXHIBIT LISTS:

1. Exhibits may be listed on the exhibit list provided or reproduced on a word processor (which can be accessed via this court's website). The form is self-explanatory. Be sure to leave enough **SPACE** at the end of the list to add additional exhibits. Each page should be completed to the end with blank blocks. Extra blank pages would be appreciated for both the exhibit and witness lists. The exhibit number and description should be started at the top of each block.

2. Provide the courtroom deputy with three copies of the exhibit list with the exhibits **on the day of trial. Please do not arrive in court without these lists. Counsel are not to provide the courtroom clerk with the Pretrial Order (civil cases) in lieu of the exhibit list.**

WITNESS LISTS:

1. Witness names shall be listed on the witness list provided or the witness list may be reproduced on a word processor so long as it follows the same format. Please provide the full name of each witness and list them in alphabetical order. Names should be at the top of the block and extra spaces should be left at the end of the list. This is helpful when names have to be added that are not on the list. **Counsel are not to provide the courtroom clerk with the Pretrial Order (civil cases) in lieu of the witness list.**

2. Provide the courtroom deputy with three copies of the witness list along with the exhibits **on the day of trial. Please do not arrive in court without these lists.**

SENSITIVE EXHIBITS:

The courtroom deputy **will not** take custody of any sensitive exhibits. During lengthy breaks and at the close of each day, these exhibits are returned to the government (usually the agent) until court resumes. Pursuant to General Order 98-07 dated July 30, 1987:

"The arresting or investigative agency or designated representative shall retain custody of sensitive exhibits prior to, throughout and after trial. Sensitive exhibits shall include drugs and drug paraphernalia, guns and other weapons, money and any other exhibits designated as sensitive by the Court."

IMPEACHMENT EXHIBITS:

Impeachment exhibits are given to the courtroom deputy **the first day of trial**, not the day a witness testifies, in a SEALED envelope. The envelope should be marked with the caption of the case and shall identify the party presenting the exhibits (e.g. Plaintiff's Impeachment A). If there is more than one exhibit in the envelope, mark each one with a **SEPARATE NUMBER** so you (and the clerk) will be able to identify it. Identify these exhibits with a numbering system of your own for easy retrieval, and the courtroom deputy will assign the next available number on the exhibit list when the exhibit is used.

STIPULATED EXHIBITS:

In civil trials, parties may agree on most of the exhibits prior to trial and as listed in the Pretrial Order. Counsel may give the courtroom deputy a list of the stipulated exhibits to be marked in evidence before moving for their admission. In criminal trials, stipulated exhibits usually come in one at a time during the course of trial.

DEPOSITIONS:

Depositions **ARE NOT** to be marked as exhibits. Identify them by party (so they will be returned to the correct party after trial), place them in alphabetical order and give them to the courtroom deputy the morning of trial.

MEDICAL OR TECHNICAL TERMS:

Provide a list of medical or technical terms for the court reporter prior to the trial commencing (please refer to Page 1, Paragraph 1).

RETURN OF EXHIBITS

1. Pursuant to LRCiv 79.1(a), all exhibits are returned to respective parties for them to keep custody pending all appeals. If the exhibits are not retrieved by counsel within 30 days of the Notice of Return of Exhibits issuing, pursuant to LRCiv 79.1(c) the clerk may destroy or otherwise dispose of those exhibits.
2. Usually, trial exhibits are returned immediately to respective counsel upon conclusion of trial. Counsel will sign for returned exhibits. When a case is taken under advisement and a verdict or court ruling issues at a later date, a separate order will follow directing counsel to retrieve the exhibits from the courtroom deputy.

If you have any questions or need more exhibit labels, please contact the courtroom clerk.