

District Judge Scott H. Rash ONLY
EXHIBITS - MARKING, LISTING AND CUSTODY
United States District Court
District of Arizona

Exhibits shall be prepared by counsel or parties, if pro se, and delivered to the Courtroom Deputy Clerk AT LEAST 48 HOURS IN ADVANCE OF TRIAL or any other such time as ordered by the Court. Counsel shall also prepare the exhibit list and witness list and deliver them to the Courtroom Deputy Clerk (original and two copies) along with the exhibits.

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). Exhibit cover sheets are available on this website. If the parties need exhibit labels to affix to pictures or diagrams, they are available from the Courtroom Deputy Clerk.
2. Exhibit cover sheets shall be copied on yellow or blue paper and used in cover sheet fashion to identify standard size paper exhibits. The cover sheet shall be stapled to the top of the original exhibits, and the exhibit shall be placed in a manilla folder numbered to correspond to the exhibit number.
3. If the exhibit is a photo, use adhesive labels on the back of the photo.
4. Large or bulky items may require the use of tie tags with the exhibit label placed on the tag or may be marked in a logical location on the item or on the plastic bag containing the item.
5. Charts used for demonstration should be identified in the lower right-hand corner with an exhibit label or on the reverse side of the chart. If the item is an enlargement of another marked exhibit, it should be numbered as a sub-part of the smaller exhibit.
6. During trial, always advise the Courtroom Deputy Clerk **in advance** which exhibits will be needed for each witness.

NUMBERING

1. Plaintiff uses number 1 through the estimated number of exhibits. Defendant shall use letters A through ZZZ as necessary. Failure to comply with this procedure will result in exhibits being returned to counsel for remarking. Court time will not be used for the marking of exhibits.

2. Plaintiff and defendant shall consult regarding marking of exhibits to **AVOID MARKING DUPLICATES**. If plaintiff marks a document, defendant should not mark the same document. Exhibits are considered court exhibits, not plaintiff's or defendant's. Either side may move another's exhibits into evidence.

3. When identifying sub-parts, i.e., 3a 3b,3c for Plaintiff. If the sub-parts will be more than a - z, commence with another number; i.e. 4a,4b,4c. Defendant shall use A1, A2, A3. Categorizing exhibits should be kept as simple and clear as possible.

4. Multiple page exhibits should have each page marked for easy reference and should be stapled or ACCO fastened; please do not use paper or binder clips. In bulky documents, BATES stamp numbers may be placed on each page, at the bottom right corner, and can be continuous numbering.

5. Blocks of numbers may be used to categorize exhibits; i.e, series 1-99 are Bank Records; series 100-199 are Tax Returns; series 200-299 are photographs; series 300-399 are Miscellaneous. The exhibit list will break down the categories and should be tabbed accordingly.

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.

2. If there are many folders, place them in a box in numerical order. Mark the outside of the box with the exhibits contained therein. Leave room in the box for any additional exhibits that may be submitted during trial.

3. The box of exhibits is to be given to the Courtroom Deputy Clerk 48 hours in advance of trial.

4. **DO NOT PLACE ORIGINAL 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. An extra copy of the exhibits shall be provided to the judge in a binder that is tabbed. No original exhibit tags are needed in the judge's binder or set of exhibits.

EXHIBIT LISTS

1. Exhibits shall be listed on the exhibit list provided or reproduced on a word processor, as long as it follows the same format. The form is self-explanatory. Be sure to leave enough **SPACE** to add additional exhibits. Each page shall be completed to the end with blank blocks. Extra blank

pages are needed for both the exhibit and witness lists. The exhibit number and description should begin at the top of the block.

2. Provide the Courtroom Deputy Clerk with the original and two copies of the exhibit list along with the exhibits.

WITNESS LISTS

1. Witnesses shall be listed on the witness list provided or reproduced on a word processor, as long as it follows the same format. Witnesses should be listed in alphabetical order unless otherwise ordered by the Court. Names should be at the top of the block and extra blank spaces included at the end. This is helpful when names need to be added that are not on the list.

2. Provide the Courtroom Deputy Clerk with the original and two copies of the witness list.

SENSITIVE EXHIBITS

1. 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 the trial. Sensitive exhibits shall include drugs and drug paraphernalia, guns and other weapons, money and any other exhibits designated as sensitive by the court."

2. The Courtroom Deputy Clerk will not take custody of any sensitive exhibits. During lengthy breaks and at close of day, these exhibits are returned to the government (usually the agent) until Court resumes.

IMPEACHMENT EXHIBITS

1. Impeachment exhibits are given to the Courtroom Deputy Clerk 48 hours in advance of trial (unless other arrangements are made) in a **SEALED** envelope. The envelope should be marked with the caption of the case and plaintiff/defendant impeachment exhibits. 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 Clerk will assign the next available number when the exhibit is used.

STIPULATED EXHIBITS

1. 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 Clerk a list of the stipulated exhibits to be marked in evidence before moving for their admission.

2. In criminal trials, stipulated exhibits usually are admitted one at a time during the course of trial.

DEPOSITIONS

1. Depositions **ARE NOT** marked as exhibits. Identify them as plaintiff/defendant (so they will be returned to the correct party after trial), place them in alphabetical order and give them to the Courtroom Deputy Clerk 48 hours in advance of trial.

MEDICAL OR TECHNICAL TERMS

1. Provide a list of medical or technical terms for the court reporter prior to the trial commencing.

RETURN OF EXHIBITS

1. Pursuant to LRCiv 79.1(a), all exhibits are returned to respective counsel or parties to keep in their custody pending all appeals. If exhibits are not retrieved within 30 days of the Notice of Return of Exhibits, LRCiv 79.1(c), the Clerk may destroy or otherwise dispose of those exhibits.

2. Usually trial exhibits are returned immediately to respective counsel or parties at the conclusion of trial. Counsel or parties may sign for the 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 which may require counsel or parties to retrieve exhibits from the Courtroom Deputy Clerk.