

EXHIBITS - MARKING, LISTING AND CUSTODY
for United States District Judge
Frederick J. Martone

GENERAL INSTRUCTIONS:

Exhibits shall be prepared by counsel and delivered to the courtroom deputy at a time arranged with the courtroom deputy **AT LEAST 24 HOURS IN ADVANCE OF TRIAL** or any such time as the court requires. Counsel are required to use the court's adhesive labels and/or cover sheets described below. Counsel shall also prepare the exhibit list and witness list and deliver them to the courtroom deputy in triplicate (1 original and 2 copies of the lists) along with the original exhibits (and copy for judge). During trial, please be prepared to advise the courtroom deputy **in advance** which exhibits will be needed for each witness. At the conclusion of trial, all exhibits will be returned to appropriate counsel for custody during any appeals process. Exhibits not retrieved by counsel may be destroyed by the clerk. (See LRCiv. 79.1) Please e-mail the courtroom deputy at lisa_richter@azd.uscourts.gov for copies of exhibit and witness forms used by this court. Also, please e-mail the courtroom deputy attaching copies of the exhibit list and witness list in Wordperfect or Word format so that the lists can be added to as needed during course of proceedings.

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). Counsel shall use the cover sheets provided (attached at page 5 and 6) to make colored copies for attaching to exhibits. If adhesive labels are required (for items such as photos or disks), counsel shall request same from the courtroom deputy **before** trial.

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 exhibit, and the exhibit shall be placed in a manila folder numbered on the tab to correspond with the exhibit number. Prepare extra cover sheets to use for exhibits marked during trial.

3. If the exhibit is a photo, use adhesive labels on the back of the photo. Adhesive labels should also be used for compact disk sleeves.

4. Large or bulky items may require the use of tie tags with the exhibit label placed on the tag or placed in a logical location on the item or on the plastic bag containing the item.

5. Large charts should be labeled with an adhesive label on the lower right-hand corner 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.

NUMBERING:

1. Blocks of numbers are assigned to each side; plaintiff uses numbers 1 thorough the estimated number of exhibits. Defendant is given numbers starting after plaintiff but allowing space for additional exhibits marked during trial (example: Plaintiff 1-80 and Defendant 100-150). Counsel shall confer to determine the number of exhibits that each side will need. **If counsel fail to comply with this instruction, counsel will be required to remark the exhibits.**

2. Plaintiff and defendant shall consult with one another before 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; either side may move the other's exhibits into evidence.

3. Use **NUMBERS ONLY** except when identifying sub-parts (e.g., 3a, 3b, 3c). If the sub-parts total more than a through z for a single exhibit, do not use letters; instead, use separate numbers for each sub-part. Categorizing exhibits should be kept as simple and clear as possible. For the most part, **USE NUMBERS**.

4. Multiple-page exhibits should be stapled or ACCO fastened; **please do not use paper clips or binder clips**.

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; series 300-399 are miscellaneous).

USE OF FOLDERS:

1. Place exhibits with the attached coversheet loose in the folders so that the exhibit may be pulled from the folder during trial. **DO NOT** attach the exhibit to the file folder itself in any way. Label the tab of the folder to identify the exhibit number. Have extra folders on hand for exhibits marked during trial.

2. If there are many folders, place them in a box in numerical order. Mark the outside of the box as to which 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.

COPIES OF EXHIBITS FOR JUDGE:

Judge Martone does appreciate bench copies of exhibits, numbered and in a binder with tabs. Counsel are encouraged to use the document camera or other audio/video methods for presentation of exhibits during trial.

EXHIBIT LISTS:

1. Exhibits shall be listed on the exhibit list provided, or the exhibit list may be reproduced so long as it follows the same format. The form is self-explanatory. Be sure to leave enough **SPACE** at the end of the list to add additional exhibits. Each page shall be completed to the end or finished with blank blocks. Extra blank pages are appreciated for both the exhibit and witness lists. The exhibit number and description should be started at the top of each block. **PLEASE USE BRIEF DESCRIPTIONS.**

2. Provide the courtroom deputy with the original and two copies of the exhibit list along with the one set of original exhibits. Also, please e-mail the courtroom deputy at **lisa_richter@azd.uscourts.gov** attaching copies of the exhibit list in Wordperfect or Word format so that the list can be added to as needed during course of proceedings.

WITNESS LISTS:

1. Witnesses shall be listed on the witness list provided, or the witness list may be reproduced so long as it follows the same format. Please provide **full correct names** and list them in alphabetical order. Names should be at the top of the block and extra blank spaces included at the end--this is helpful when names have to be added that are not on the list.

2. Provide the courtroom deputy with the original and two copies of the witness list. Also, please e-mail the courtroom deputy at **lisa_richter@azd.uscourts.gov** attaching copies of the witness list in Wordperfect or Word format so that the list can be added to as needed during course of proceedings.

SENSITIVE EXHIBITS:

The courtroom deputy will not take custody of any sensitive exhibits. During lengthy breaks and at close of the day, these exhibits are returned to the government (usually the agent) or appropriate party until court resumes. Pursuant to General Order 98-7 dated July 30, 1987:

"[T]he 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."

IMPEACHMENT EXHIBITS:

1. 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 shall be marked with the caption of the case and shall identify the party

presenting the 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 will assign the next available trial exhibit number when the exhibit is used. Remember that if an exhibit has value in addition to impeachment, it is not an impeachment exhibit and must be disclosed. See, e.g., Rule 26(a)(1)(ii), Fed. R. Civ.P. ("solely for impeachment").

STIPULATED EXHIBITS:

In civil and criminal trials, parties may agree to the admission of some or most of the exhibits before trial. Counsel shall prepare a written stipulation listing those exhibits to be marked in evidence. This greatly expedites the proceeding.

DEPOSITIONS:

Depositions **ARE NOT** 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 before trial.

RETURN OF EXHIBITS:

1. Pursuant to LRCiv. 79.1, all exhibits are returned to respective parties for them to retain custody pending all appeals. If exhibits are not retrieved by counsel within 30 days of the Notice of Return of Exhibits, pursuant to LRCiv. 79.1, 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 wish to receive exhibit forms electronically, please e-mail or call the courtroom deputy.

Lisa Richter
Courtroom Deputy to Judge Frederick J. Martone
(602) 322-7244
lisa_richter@azd.uscourts.gov

CASE NO. CV/CR

VS. _____

PLAINTIFF'S EXHIBIT _____

DATE: _____ IDEN.

DATE: _____ EVID.

BY: _____

Deputy Clerk

CASE NO. CV/CR

VS. _____

DEFENDANT'S EXHIBIT _____

DATE: _____ IDEN.

DATE: _____ EVID.

BY: _____

Deputy Clerk