

EXHIBITS - MARKING, LISTING AND CUSTODY

Magistrate Judge Michelle H. Burns

Prior to meeting with the Courtroom Clerk, the following procedure shall be followed by counsel or counsel's representative:

USE OF LABELS/COVER SHEET

1. Exhibit labels are divided by color to indicate whether the exhibit is offered by plaintiff (YELLOW) or defendant (BLUE).
2. Place the exhibit label in the lower right hand corner of a blank sheet of paper (see attachment #1), make as many copies as needed in the appropriate color, and staple one to the top of each exhibit.
3. If the exhibit is a photo or item smaller than 8"x10", **STAPLE** it to plain paper or the cover sheet label form. **Photos** that are 8"x10" should have the exhibit tag sticker on the reverse side, **LOWER** right hand **CORNERS**.
(Exhibit tag stickers can be obtained from the courtroom clerk, on a limited basis). The exhibit tag sticker can also be used for large demonstrative items that will possibly be admitted as evidence.
4. Large or bulky items may require the use of tie tags. The exhibit label is 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 an 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. Blocks of numbers are assigned to each side. Plaintiff is normally given number 1 through the estimated number of exhibits. Defendant is given numbers starting after plaintiffs but allowing space for additional exhibits marked during trial (example: Plaintiff 1-80 and Defendant 100-).
2. Plaintiff and defendant should consult while marking exhibits to avoid **HAVING DUPLICATES**. If the plaintiff marks a document, the defendant should not mark the same document. The exhibits are considered court exhibits, not plaintiff(s) or defendant(s) exhibits. Either side may move the other side's exhibits into evidence.
3. Use **NUMBERS ONLY** with the exception of identifying sub-parts (i.e., 3a, 3b, 3c). If the sub-parts will be more than a - z, commence with another number (i.e., 4a, 4b, 4c). Categorizing exhibits should be kept as simple and clear as possible.
4. Each page of multiple page exhibits should be 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 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, indicate which exhibits are contained therein. Leave room in the box for any extra exhibits that may be submitted during trial.
3. The boxes of exhibits are to be given to the courtroom clerk by noon of the working day immediately prior to trial/hearing or any such time as the court requires.
4. **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.

JUDGE'S SET

The judge's copies of exhibits **must** placed in binders and tabbed. The judge's copies should not have original exhibit stickers.

EXHIBIT LISTS

1. Exhibits shall be listed on the exhibit list provided (see attachment #2) or reproduced on a word processor, as long as it follows the same format. The form is self-explanatory. Leave enough **SPACE** at the end of the list to add additional exhibits. Each page should be completed to the end with blank blocks. Leave extra blank pages for both the exhibit and witness list. The exhibit number and description should be started at the top of each block. Leave blank spaces between each exhibit.
2. Provide the courtroom clerk with the original and two copies of the exhibit list with the exhibits.

WITNESS LISTS

1. Witnesses shall be listed on the witness list provided (see attachment #3) or reproduced on a word processor, as long as it follows the same format. List witnesses in alphabetical order. Place names at the top of the block and leave extra spaces between names to allow for additional names.

2. Provide the courtroom clerk with the original and two copies of the witness list along with the exhibits.

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 clerk 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) until Court resumes.

IMPEACHMENT EXHIBITS

1. Give impeachment exhibits to the courtroom clerk at least one full court business day prior to the trial or hearing (not the day a witness testifies), in a SEALED envelope. Mark the envelope 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 courtroom clerk) can identify it. Identify these exhibits with your own numbering system for easy retrieval and the courtroom 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 or hearing and as listed in the pretrial order. Counsel may give the courtroom clerk a list of the stipulated exhibits to be marked in evidence before moving for their admission. In criminal trials, stipulated exhibits are usually admitted one at a time during the course of trial.

DEPOSITIONS

1. Depositions **DO NOT** have to be marked as an exhibit. Identify them as plaintiff/defendant (so they can be returned to the correct party after trial), place them in alphabetical order and give them to the courtroom clerk the morning of trial/hearing.

MEDICAL OR TECHNICAL TERMS

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

ADDITIONAL EXHIBITS INTRODUCED AT TRIAL/HEARING

When adding exhibits during the course of the trial, you **MUST** provide the courtroom clerk with two sets along with corresponding cover sheets and tabs. You must also provide the courtroom clerk with two sets of updated exhibit listing (one for the court record and the other for the judge's set).

ADMITTED EXHIBITS

Toward the last day of the trial/hearing the courtroom clerk will provide counsel with a copy of the exhibit listing showing which exhibits have been admitted into evidence. Counsel is responsible for seeking the admission of any exhibits that have not been admitted.

RETURN OF EXHIBITS

1. Pursuant to Local Rule of Civil Procedure 79.1, all exhibits are returned to respective parties after trial, for retention pending all appeals. If any party, having received notice from the courtroom clerk concerning the removal of exhibits, fails to remove exhibits within 30 days after having received such notice, the courtroom clerk may destroy or otherwise dispose of those exhibits pursuant to Local Rule of Civil Procedure 79.1.

2. Trial exhibits are usually handed back immediately to respective counsel, and counsel will sign for them. When the verdict or court ruling issues, a separate order will follow.

EQUIPMENT

If counsel has the need for certain equipment such as an overhead projector, laptop, etc., to use during the trial, counsel shall give the courtroom clerk as much notice as possible (not less than 48 hours) so that said equipment may be located and set up without delaying the trial.

If you have any questions, or need exhibit labels, please do not hesitate to contact the courtroom clerk.

Thank you,

Molly Frasher
Magistrate Judge's Courtroom Clerk
(602) 322-7204

Elida Carranza
Judge Burns Judicial Assistant
(602) 322-7610

ATTACHMENT #1

CASE NO. _____

VS. _____

PLAINTIFF'S EXHIBIT _____

DATE: _____ IDEN.

DATE: _____ EVID.

BY: _____

Deputy Clerk

CASE NO. _____

VS. _____

DEFENDANT'S EXHIBIT _____

DATE: _____ IDEN.

DATE: _____ EVID.

BY: _____

Deputy Clerk

ATTACHMENT #2

ATTACHMENT #3

