

IN THE COURT OF COMMON PLEAS OF VENANGO COUNTY, PENNSYLVANIA

In re:

ADOPTION OF LOCAL RULES OF
JUDICIAL ADMINISTRATION:
Rule 5102 – Custody of Exhibits

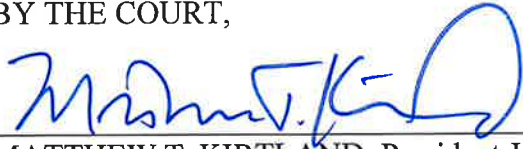
Civ. No. 537-2024

ORDER

AND NOW, this 23rd day of May 2024, it is hereby ORDERED that the Venango County Court of Common Pleas Local Rules of Judicial Administration – Rule 5102² Custody of Exhibits is ADOPTED as set forth hereinafter, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

In conformity with Pa.R.J.A. 103, one (1) copy of this Order shall be distributed to the Administrative Office of Pennsylvania Courts. Two (2) paper copies and one electronic copy shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. This Order shall also be published on the Court's website and incorporated into the complete set of the Court's Local Rules within thirty (30) days after the publication in the *Pennsylvania Bulletin*. This Order shall be continuously available for public inspection and copying in the office of the Prothonotary/Clerk of Courts.

BY THE COURT,


MATTHEW T. KIRTLAND, President Judge

LOCAL RULES OF JUDICIAL ADMINISTRATION – VENANGO COUNTY

Rule 5102 – Custody of Exhibits

- (a) **Purpose:** The purpose of this rule is to eliminate problems encountered by the Court relating to custody and storage of large exhibits. This rule is not intended to limit the exhibits which are either shown to the jury or sent out with the jury during deliberation.
- (b) **Definitions:** The following words and phrases when used in these rules shall have the following meanings:
- (1) “*Court Proceeding.*” Any trial, hearing, argument or similar event before a judge, panel, or hearing officer where evidence, if entered, is on the record including, but not limited to, civil and criminal trials, ancillary arguments, divorce, custody, support, delinquency, and dependency hearings before hearing officers and made of record. It does not include a proceeding before a magisterial district court, a judicial arbitration matter pursuant to Pa.R.Civ.P. 1301 et seq., a hearing before a register of wills pursuant to Pa.R.O.C.P. 10.3, or any matter that is not a record proceeding;
 - (2) “*Custodian.*” The Court Reporter shall be the custodian of all exhibits.
 - (3) “*Exhibit.*” A document, record, object, photograph, model, or similar item offered into evidence, whether or not admitted, in a court proceeding;
 - (4) “*Proponent.*” A party seeking the admission of an exhibit into the record in a court proceeding; and
 - (5) “*Records office.*” The entity with the responsibility and function to maintain and retain the official case file and list of docket entries as required by rule or law.
- (c) **Custody:**
- (1) **During Court Proceedings.** The Court Reporter shall be designated as the custodian during a court proceeding. The Court Reporter shall secure and maintain all exhibits during a court proceeding, including breaks and recesses, unless otherwise provided in herein.
 - (2) **After Court Proceedings.** The Court Reporter shall be designated as the custodian of all exhibits after court proceedings have concluded.

The Custodian shall:

- (i) retain or take custody of all documentary exhibits, photographs, and photographs of non-documentary exhibits accepted or rejected during the court proceeding;

- (ii) File the index of documentary exhibits, photographs, and photographs of non-documentary exhibits with the Prothonotary/Clerk of Courts within five (5) business days of the conclusion of the court proceeding unless otherwise directed by the court; and
 - (iii) secure and maintain all other non-documentary exhibits as directed by the court.
- (b) *Non-Documentary Exhibits.* Non-documentary exhibits may be returned to the proponent at the conclusion of the court proceeding unless the Court has concerns about the proponent's ability to retain an exhibit through the exhaustion of all appeals and post-trial actions, the possibility that a proponent may be incapable or unable to maintain and secure an exhibit, as well as the possibility that a proponent may tamper with or otherwise permit the degradation of an exhibit. Accordingly, the Court may direct other provisions for securing the exhibit.
- (c) *Index of Exhibits.* The Index of Exhibits shall be prepared and maintained by the Court Reporter and shall include all of the following information:
- (i) The case number;
 - (ii) The title of the court proceeding;
 - (iii) Initial start date of the court proceeding and of each successive session;
 - (iv) The name of the presiding judge;
 - (v) The exhibit number;
 - (vi) A written description of each exhibit;
 - (vii) The proponent of each exhibit;
 - (viii) The date on which the exhibit was offered, admitted or not admitted into evidence; and
 - (ix) The name of the Court Reporter.

(3) Special Considerations:

(a) Documentary Exhibits.

- (i) If a proponent offers into evidence an exhibit such as a letter, report, drawing, map, photograph, or other document that is larger in size than 8- ½ x 11 inches, the proponent shall ensure that a copy of the document reduced to 8- ½ x 11 inches (or smaller) is entered into the record.
- (ii) A proponent who provides a reduced copy of an oversized exhibit shall ensure that the reproduced document is clear and capable of further reproduction or transfer to digital media.

(b) *Photographs.*

- (i) If a proponent offers into evidence a photograph, the proponent shall ensure that the original or a copy of the photograph in lieu of the original (no larger in size than 8- ½ x 11 inches) is entered into the record.
- (ii) A proponent who provides a copy of a photograph shall ensure that the reproduced document is clear and capable of further reproduction or transfer to digital media.

(c) *Non-documentary Exhibits: Generally.*

- (i) If a proponent offers into evidence a non-documentary exhibit, the proponent shall ensure that a photograph (no larger in size than 8- ½ x 11 inches) of the exhibit is entered into the record in lieu of the non-documentary exhibit.
- (ii) A proponent who provides a photograph of a non-documentary exhibit shall ensure that the photograph is clear and capable of further reproduction or transfer to digital media.
- (iii) If the exhibit is bulky, oversized or otherwise physically impractical for a court staff-custodian to maintain, the court staff-custodian may direct that the proponent offering the exhibit maintain custody of it and secure it during the court proceeding.

(d) *Non-documentary Exhibits: Weapons, Contraband, Hazardous Materials.*

- (i) In any proceeding in which weapons, cash, other items of value, drugs, or other dangerous and hazardous materials are offered into evidence, the proponent shall secure the exhibits while the court proceeding is in session, as well as during all breaks and recesses.
- (ii) During the proceeding, the proponent shall exercise all appropriate safeguards necessary to protect the public based on the nature of the exhibit.
- (iii) Exhibits comprised of weapons, cash, other items of value, drugs, or other dangerous materials are prohibited from viewing in the jury room. The court may direct alternative viewing arrangements for such exhibits upon the request of the jury.

- (e) *Use of Digital Media.* Any digital exhibit that cannot be printed (i.e. audio or video recording) or is not also presented via photograph, and any documentary exhibits of extraordinary size or bulk, defined as documents in excess of 100 pages, shall be entered into the record on a Universal Serial Bus (USB) flash drive. Multiple digital exhibits may be submitted by a party on one USB flash drive.
- (f) *Duplicates.* The court may direct that the original item, and not a duplicate, be entered into the record.
- (4) **Confidentiality.** If an exhibit offered into evidence contains confidential information or confidential documents as defined in the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* (“Policy”), the proponent shall give a copy of the exhibit to the custodian and shall provide a certification to accompany each filing no later than five (5) days after the conclusion of the court proceeding. The certification shall be substantially in the following form: “I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.”
- (5) **Exhibits Under Seal.** Any exhibit sealed by the court during the court proceeding shall not be accessible to the public.

(d) **Retention**

- (1) All exhibits initially taken into custody by the custodian shall be taken from the custody of the custodian by the party who produced or offered them, or by such party’s attorney of record, within ninety (90) days after the discontinuance of the case or the entry of a final judgment by the Court, or, in the event of an appeal, within ninety (90) days of the disposition of the case by the appellate court; otherwise, such exhibits shall be deemed to have been abandoned.
- (2) Unless otherwise ordered, the proponent or filing office shall maintain non-documentary exhibits for the following time periods, at a minimum:
 - (a) *Non-criminal matters.* Retain exhibits until the later of the expiration of the appeal period or final disposition of the appeal, if one is taken.
 - (b) *Criminal matters.*
 - (i) *Homicides.* Retain exhibits 75 years.
 - (ii) *Summary cases.* Retain exhibits 5 years.
 - (iii) *Other cases.* Retain exhibits 20 years.

- (3) Any exhibit containing confidential information or equivalent to any of the categories enumerated in PA. Access Policy § 8.0 shall include a certification prepared in compliance with § (c)(4) to accompany each filing so that the document can be properly sealed by the Prothonotary/Clerk of Courts.

(e) **Disposal:**

- (1) The Custodian may petition the Court in writing for an order authorizing the destruction or disposal of any abandoned exhibits. Prior to disposing of a civil court exhibit, the Prothonotary shall notify by first class mail all counsel of record and any self-represented party at the party's last known address of the following:
 - (a) The exhibit will be disposed of if no claim is made within thirty (30) days and
 - (b) The exhibit will be returned to the party claiming the exhibit at the expiration of the thirty (30) days unless another party files an objection.
- (2) The notice shall be substantially in the form prescribed below.
- (3) After the destruction or disposal of an exhibit, the custodian shall verify such destruction or disposal by affidavit in the appropriate case file. The affidavit shall include a description of the method and date of disposal.

[CAPTION]

NOTICE OF INTENTION TO DESTROY OR DISPOSE OF COURT EXHIBITS

TO: _____ (Name of Person)

Please take notice that I intend to petition the President Judge of the Court of Common Pleas of Venango County for an order authorizing the destruction or disposal of the following exhibit(s) currently in my custody:

Under Local Rule No. 5102, you have thirty (30) days from the date of the mailing of this notice to retrieve custody of the exhibit from me; otherwise, I will present my petition and, if authorized by the President Judge, destroy or dispose of the same without further notice to you.

(a) You may retrieve the exhibit(s) at my office in the Venango County Courthouse, during regular business hours.

(b) Date of Mailing: _____

Signature of Official Custodian: _____

Title of Official Custodian: _____