

RULE 5.3 | FILES AND EXHIBITS

(a) Removal of Original Papers. Except as provided in this rule, no original papers in the custody of the Clerk of the Court shall be removed by anyone without order of the Court until final adjudication of the action or proceeding and disposition of the appeal, if one is filed, or expiration of the appeal period without appeal being filed, and then only with permission and on terms of the Clerk of the Court. However, official court reporters, special masters, or commissioners may remove original papers as may be necessary.

(b) Exhibits.

(1) Delivery to and Retention by Clerk. Except as provided by Section 5H of the CM/ECF Administrative Procedures, each exhibit offered or introduced in evidence at any hearing or trial shall be delivered to the Clerk of the Court, who shall keep the exhibit in the Clerk of the Court's custody, until the exhibit is electronically filed and served with the Court in accordance with subsection (b) (2) of this rule. However, when a party offers or introduces into evidence an exhibit that consists of narcotics, cash, counterfeit notes, weapons, precious stones or other items which, because of size or nature, require special handling, that party shall contemporaneously deliver to the Clerk of the Court a photograph of that physical exhibit, which shall later be electronically filed and served with the Court in accordance with subsection (b) (2) of this rule, and that party shall retain that exhibit (or a representative sample in the case of narcotics and other contraband substances) during the pendency of the proceeding and any appeal, and, in a criminal case, shall retain the exhibit for an additional period of one year after the date on which the pertinent defendant's judgment of conviction becomes final. Nothing contained in this Local Rule shall prevent the Court from entering an order with respect to the handling, custody or storage of any exhibit. The Clerk of the Court shall permit United States Magistrate Judges and official court reporters to have custody of exhibits as may be necessary.



(2) Mandatory Electronic Filing. Unless otherwise ordered by the Court, within ten (10) days of the conclusion of a hearing or trial, a party must file and serve in the CM/ECF system (a) an electronic version of each documentary exhibit that the party offered or introduced into evidence and (b) a digital photograph of each non-documentary physical exhibit that the party offered or introduced into evidence. Before the electronic filing and service of such exhibits, the filer must review each exhibit and redact any sensitive, confidential, or private information in accordance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, and CM/ECF Administrative Procedures, Section 6, Redaction of Personal Information, Privacy Policy, and Inappropriate Materials, or seek an order from the Court either to seal the exhibit or to exempt the exhibit from electronic filing and service under subsection (b)(3)(C) of this rule. Copies of any items filed under this rule shall also be served pursuant to Fed. R. Civ. P. 5(b)(2) on any pro se parties.

(3) Exemptions from Mandatory Electronic Filing. The following exhibits shall be exempt from mandatory electronic filing and service in the CM/ECF system:

(A) Sealed and ex parte exhibits in criminal cases, which must be conventionally filed in accordance with Rule 5.4.

(B) Contraband images, audio recordings, and video recordings, which must be physically filed with the Clerk of the Court within ten (10) days of the conclusion of the hearing or trial, unless otherwise ordered, in the following form: (i) on a CD, DVD, or other electronic medium containing a copy of the exhibit that included the contraband image, audio recording, or video recording, if the exhibit was offered or introduced at trial in electronic form; or (ii) in original physical form if the contraband image was not offered or introduced at trial in electronic form.



(C) When permitted by order of the Court, exhibits containing voluminous amounts of confidential information that is subject to privacy protections in accordance with Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1, or other applicable rule or statute; within ten (10) days of the conclusion of the hearing or trial, unless otherwise ordered, such exhibits must be delivered to the Clerk of the Court either in original physical form or on a CD, DVD, or other electronic medium containing a copy of the exhibit, but such exhibits are not to be filed and served in the CM/ECF system, and the filer is not required to comply with CM/ECF Administrative Procedures, Section 6, Redaction of Personal Information, Privacy Policy, and Inappropriate Materials.

(4) Certification of Compliance Requirement. When the exhibits that were offered or introduced at a trial or hearing are: (i) electronically filed and served by a party; or (ii) delivered to the Clerk of the Court in accordance with the procedures for exhibits that are exempt from electronic filing and service, the attorney for that party shall also complete and electronically file and serve a Certification of Compliance Re Admitted Evidence form, which can be found at the Court's website (<http://www.flsd.uscourts.gov>).

(5) Attorney Responsibility and Failure to Comply. Unless otherwise ordered, the responsibility for discharging a party's obligations under subsection (b) belongs to the attorney who represented that party at the trial or hearing at which that party offered or introduced an exhibit. A party's failure to timely file and serve exhibits electronically as required by this rule or to timely file and serve its Certification of Compliance Re Admitted Evidence may result in the imposition of sanctions.

(6) Dismissals, Acquittals, and Voluntary Dismissals. Unless the Court, sua sponte or on motion of a party, orders compliance with subsection (b), such compliance is not required for a criminal jury trial that has concluded in a verdict of acquittal and/or pre-verdict dismissal pursuant to Fed. R. Crim. P. 29(a)-(b) on all



charges, or for a civil case that has been dismissed pursuant to Fed. R. Civ. P. 41(a)(1).

(c) Removal of Exhibits. Within ten (10) days after a party electronically files and serves the exhibits it offered or introduced into evidence at a hearing or trial, the party shall make arrangements with the Clerk of the Court to retrieve all of the original exhibits that were electronically filed and served. Any original exhibits that have been returned to or retained by the filing party after either electronic filing and service or the submission of electronic copies pursuant to subsections (b)(3)(B) or (b)(3)(C) shall be kept for safe keeping until the conclusion of any appeals, and, in a criminal case, shall be retained for an additional period of one year after the date on which the pertinent defendant's judgment of conviction becomes final; upon order of the Court, the filing party must return the original exhibits to the Clerk of the Court. For any other original exhibit that was offered or introduced in evidence at a hearing or trial and that was retained by the Clerk of the Court because the exhibit was exempt from electronic filing and service, the party that offered or introduced that exhibit shall retrieve the exhibit from the Clerk of the Court within three (3) months after final adjudication of the action or proceeding and disposition of any appeal and, in a criminal case, shall retain the exhibit until one year after the date on which the pertinent defendant's judgment of conviction becomes final; otherwise, such original exhibit may be destroyed or otherwise disposed of as the Clerk of the Court may deem proper.

[Subsection (d) has been moved to Court's I.O.P.]

Effective December 1, 1994. Amended effective April 15, 2007; April 15, 2010; December 1, 2015; December 1, 2017; December 2, 2019.

Authority

(1993) Former Local Rule 8, as amended by Administrative Order 91-54.

