

IN RE: ADOPTION OF LOCAL RULES
REGARDING CUSTODY OF EXHIBITS
IN COURT PROCEEDINGS

: IN THE COURT OF COMMON PLEAS OF
: POTTER COUNTY, PENNSYLVANIA
: AD 3-2024


ORDER OF COURT

AND NOW, this 15 day of March 2024, effective April 1, 2024 or thirty (30) days after publication in the *Pennsylvania Bulletin*, in accordance with Pa.R.J.A. 5101-5105, which address Exhibit Retention and were issued by an Order of the Pennsylvania Supreme Court (to take effect on April 1, 2024), the Local Rules of the Potter County Court of Common Pleas are hereby amended to include the new local rules 5102 and 5103 which are set forth below.

The Potter County District Court Administrator is Ordered and Directed to do the following:

1. File one (1) copy to the Administrative Office of Pennsylvania Courts via email to admin.rules@pacourts.us.
2. File two (2) paper copies and one (1) electronic copy in a Microsoft Word format only to bulletin@palrb.us with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. Publish these Rules on the Potter County Court website at: pottercountypa.net
4. Incorporation of the local rule into the set of Potter County local rules within thirty (30) days after the publication of the local rule in the *Pennsylvania Bulletin*.
5. File one (1) copy of the local rule in the appropriate filing office for public inspection and copying.

BY THE COURT


STEPHEN P. B. MINOR

PRESIDENT JUDGE OF POTTER COUNTY

2024 MAR 15 PM 3:10
JUDICIAL ADMINISTRATION
POTTER COUNTY

FILED

CHAPTER II. CUSTODY OF EXHIBITS

Rule 5102. General Provisions.

Local Rules 5102 and 5103 are issued to align Potter County Court of Common Pleas practice and procedure with Pa.R.J.A. 5101 – 5105. Reference to Pa.R.J.A. 5102 – 5105 shall be made when interpreting Potter County Local Rules 5102 and 5103 and when determining the procedure and practice for Exhibit Retention in Potter County.

The court recorder /monitor or court reporter for all, or a portion, of a court proceeding shall be designated as the "Custodian," as defined by Pa.R.J.A. 5101(a)(2), for all documentary exhibits, photographs, and photographs of non-documentary exhibits accepted during the court proceeding.

(a) If only one custodian is involved with a proceeding, they shall file with the appropriate records office (Prothonotary / Clerk of Courts or Orphan's Court) all submitted exhibits, with the exception of non-documentary exhibits, and index of exhibits within 5 business days of the conclusion of the proceeding.

(b) The proponent (party that moved exhibit into evidence) shall assure that document evidence is in a format, including size and material, that is compatible with being filed and easily stored by the records office. If, due to the nature of the proceeding and the requirement that an oversized or undersized document exhibit be entered into evidence that is not easily capable of storage by the records office, then the records office may request that alternate measures be undertaken for storage of this document evidence, including that the proponent retain custody in conformance with Rule 5103 for physical evidence.

(c) If multiple custodians are involved with a proceeding, the first custodian shall provide the subsequent custodian (and so on, if more than two custodians) with the submitted exhibits and index of exhibits. The custodian at the conclusion of the proceeding shall file with the appropriate records office all submitted exhibits and index of exhibits within 5 business days of the conclusion of the proceeding.

Rule 5103. Custody of Exhibits. Special Provisions.

(a) The proponent shall retain custody of non-documentary evidence (including, but not limited to weapons, cash, other items of value, drugs, or other dangerous materials) and bulky, oversized, or otherwise physically impractical exhibits at all times during and after a court proceeding. The court may issue an order in exceptional circumstances for the court to retain said exhibits.

(b) These non-documentary exhibits which are not retained must be photographed by the proponent, converted to a letter sized document (8 ½ x 11), and appropriately marked and produced during the court proceeding for inclusion in the documentary record. Photographs must be in color unless otherwise directed by the Court.

(c) Digital media such as CDs, thumb drives, etc. shall also be retained by the records office.

(d) Unless otherwise provided by the presiding judge, at the conclusion of the court proceeding, non-documentary evidence shall be returned to the proponent for safekeeping.

(e) Non-documentary exhibits such as, but not limited to, knives, firearms, drugs, car parts, etc., shall be held by the proponent until an appropriate order such as: Order for Forfeiture; Order for Destruction; Order for Return, etc. is obtained. When addressing such a request the court will consider the nature of the action, the status of the proceedings including whether there is an active appeal or the potential for future litigation and the position of the opposing party.

(f) Any digital exhibit that cannot be printed (i.e., audio or video recording) shall be entered into the record on a Universal Serial Bus (USB) flash drive (or other format if expressly approved by the court). If one party has multiple digital exhibits, they may be submitted together on one USB flash drive.

(g) Any exhibit containing confidential information or equivalent to any of the categories enumerated in Pa. Access Policy § 8.0 shall include a Confidential Document Form or Confidential Information Form so that the document can be properly sealed by the record office.

(h) Document evidence shall be retained by the records office in accordance with existing authority for record retention.

Exceptions:

Excluded from the requirements of these Exhibit Retention Local Rules are record hearings that may be appealed *de novo* to a court of common pleas or upon which exceptions or objections can be filed to a court of common pleas from the provisions of this chapter, such as: proceedings before hearing officers in divorce, custody, support, delinquency, and dependency matters. Also excluded are hearings before magisterial district courts.