

79.1 Custody of Files and Exhibits.

- (a) **Clerk's Custody.** In general, documents or physical items belonging to the court's paper or electronic files remain in the clerk's custody throughout a judicial proceeding.
- (b) **Viewing and Copying Court Files.**

 - (1) **Paper Files.** The public may view files and documents in the clerk's office in Omaha and Lincoln between 8:00 a.m. and 4:30 p.m. on days when the courthouses are open for business. Upon request, the clerk's staff copies public documents for a fee as allowed by 28 U.S.C. § 1914.
 - (2) **Electronic Files.** Electronic access to the electronic docket and documents filed in the System is available to the public at no charge at the clerk's office in Omaha and Lincoln between 8:00 a.m. and 4:30 p.m. on days when the courthouses are open for business. Fees to print a paper copy of an electronic filing and to obtain a certified copy of an electronically filed document are allowed by 28 U.S.C. § 1914.
 - (3) **Payment for Copies.** Payment must be made when service is requested in cash, by credit card, or by check or money order payable to "Clerk, U.S. District Court." Fees apply to copying services for the United States if the record or paper requested can be electronically accessed. Clerk's staff cannot make change for cash payments.
- (c) **Inspecting Physical Evidence.** No one may inspect physical evidence in the clerk's custody, including photographic negatives, tape recordings, contraband (including drugs and narcotics, firearms, and ammunition), currency, negotiable instruments, computer disks or tapes, and other items designated by a judicial officer except while in the presence and under the control of the clerk. The clerk may limit or preclude access and copying in order to preserve evidence.
- (d) **Temporary Withdrawal of Paper Court Files, Exhibits, and Documents.** Paper court files, exhibits, documents, and transcripts may not be taken from the clerk's office or custody without a written order of the assigned judge. To request permission to check out a court file, exhibit, document, or transcript, an attorney must electronically file a written motion. If the assigned judge grants the motion, the attorney may have the court file, exhibit, document, or transcript upon delivery of a receipt for the file to the clerk. The attorney must return the court file, exhibit, document, or transcript when the judge

directs or no later than 7 days, in the same condition and order in which it was filed in the clerk's office. The judge may direct the file, exhibit, document, or transcript to be returned the next morning.

- (e) **Permanent Withdrawal of Files and Documents.** Upon a showing of good cause, the court may order an item in a file to be permanently withdrawn. The clerk may require a party requesting withdrawal to provide a copy of the item for certification and a receipt for the original. The certified copy and receipt are filed in lieu of the original, and the party receiving the original must pay the clerk any costs.

(f) **Withdrawal or Destruction of Exhibits at Case Conclusion.**

- (1) **Withdrawal.** After trial or as soon as possible, but within 14 days after a verdict is rendered or a judgment is entered, the offering attorney must withdraw all exhibits in the clerk's custody and give the clerk a receipt for the exhibits.

(A) **Duty to Retain Exhibits.** An attorney must:

- (i) retain exhibits withdrawn from the clerk's custody for at least 1 year after the judgment is final and is therefore no longer subject to appellate review;
- (ii) preserve the retained exhibits in the same condition they were in when offered into evidence;
- (iii) if an opposing attorney requests the exhibits, make them available for examination and use at reasonable times and places; and
- (iv) upon request, promptly return the exhibits to the clerk.

(B) **Sanctions.** Sanctions may be awarded for the failure to abide by this rule. Despite entry of judgment, the court retains jurisdiction over the parties and attorneys for purposes of enforcing this rule.

- (2) **Destruction.** After the judgment is no longer subject to appellate review, the attorney may destroy or otherwise dispose of the exhibits without further authorization. If the attorney does not claim and withdraw the exhibits, the clerk may destroy or otherwise dispose of any exhibits not claimed and withdrawn. On the date the clerk

destroys the exhibits, the clerk enters a remark on the docket sheet reflecting the date of destruction.