

55.1 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 the 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 as 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) Trial or Evidentiary Hearing Exhibits.

- (1) Custody.** Exhibits offered or received into evidence during a hearing or trial must be left in the clerk's custody.
- (2) Special Cases.** In cases involving a large number of exhibits or in cases requiring special provisions for access, safekeeping, or inspection of exhibits, attorneys must confer with the courtroom deputy to establish procedures for handling exhibits during and after the trial. Attorneys should (1) prepare trial evidence that includes a large number of paper documents in an electronic format and (2) may consult with the court's information technology staff for assistance.

- (f) 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.

(g) 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, except that the government attorney may deliver the exhibits to the appropriate state or federal agency. In the latter case, the agency is subject to this rule. The government attorney for the state or federal agency maintaining custody of the exhibits may store the exhibits anywhere inside or outside this district;
- (ii) preserve the exhibits in the same condition that they were in when they were offered into evidence;

- (iii) if an 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) Length of Retention.** All withdrawn exhibits must be retained until at least 30 days after a case's final disposition, including:
 - (i) any appeal; (ii) the denial of or expiration of the time in which to file a petition for writ of certiorari; and (iii) the denial of or expiration of the statutory time (including any reasonably foreseeable tolling of that time) for filing a motion for post-conviction relief under 28 U.S.C. § 2255.
 - (C) Sanctions.** Sanctions may be awarded for failure to abide by this rule. Despite entry of judgment, the court retains jurisdiction over the parties, agencies, and attorneys for purposes of enforcing this rule.
- (2) Destruction.** The attorney or agency maintaining custody of the exhibits may destroy or otherwise dispose of them without notice 30 days after the final disposition of the case as defined by Nebraska Criminal Rule 55.1(g)(1)(B). A party opposing the destruction or disposal of the exhibits must file an objection before the 30-day period expires. The exhibit custodian may not destroy or dispose of the exhibits until the court rules on the objection.