



United States District Court

DISTRICT OF SOUTH DAKOTA

LR 43.1 EXHIBITS

- A. Marking of Exhibits.** Exhibits in civil trials and hearings must be marked in accordance with instructions from the court.
- B. Electronically Filing Documentary Exhibits**
1. **By the Clerk.** At the conclusion of a trial or other court proceeding, the Clerk of Court will electronically file all documentary exhibits offered and/or received in CM/ECF. The exhibits electronically filed by the Clerk will be restricted to court users and case participants. After filing, the Clerk will return documentary exhibits to the offering party.
 2. **By the Parties.** The parties will have twenty-one (21) days to review their returned documentary exhibits to determine whether redactions are required pursuant to D.S.D. Civ. LR 5.2.
 - a. **Redactions required.** If redactions are required, the offering party must electronically file all of its documentary exhibits, including redacted exhibits and exhibits that do not require redaction in CM/ECF. This requirement does not apply to exhibits that were sealed when offered and/or received.
 - b. **Redactions not required.** If no redactions are required, the Clerk will remove the restrictions and enter a Notice of Unrestricting Trial/Hearing Exhibits in CM/ECF.
 - c. **Sealing.** If a party moves to seal documentary exhibits after a hearing or trial has concluded and the motion is granted, the movant is responsible for refileing public exhibits.
- C. Physical Exhibits.** Physical exhibits, including recordings, will be returned to the offering party at the conclusion of a trial or other proceeding for retention and preservation. This includes all physical exhibits submitted to the clerk even those not used at trial or in a hearing.
1. **Duty to Retain.** When physical exhibits are returned, they must be retained by the offering party, who will maintain and document the chain of custody, and make the exhibits available to the court, if necessary, and to other parties for use in preparing an appeal.
 2. **Duty to Preserve.** Returned physical exhibits must be preserved in an unaltered condition until at least 120 calendar days after the resolution of any appeal to allow for the filing of a writ of certiorari under Rule 13 of the Rules of the Supreme Court of the United

States. Before such exhibits may be destroyed, the custodial party must seek and obtain a court order authorizing destruction.

- D. Exhibits Necessary for Appeal.** Consistent with the Eighth Circuit's local rule on exhibits, the offering party is responsible for ensuring any non-public exhibits or physical exhibits necessary for an appeal are submitted to the appellate court.