

CHAPTER 3

EXHIBITS

I. Marking Exhibits

Alabama law does not provide for a standard marking system for exhibits offered and received into evidence in trials or depositions in court cases. Several useful methods follow.

A. Trial Exhibits

It is suggested that court reporters pre-mark exhibits to be used during trials when possible. Court reporters should seek guidance from the attorneys involved in the trials as to the order in which they wish the exhibits to be marked. Marking exhibits numerically is recommended. Court reporters should make a list identifying the exhibit number and the type of exhibit (scene photo, surveillance DVD, etc.) when marking the exhibits. This practice will make it easier during trials to mark exhibits as offered, admitted, or not admitted, and to add any additional exhibits that are marked during the trials. Court reporters should notate the marking of exhibits as well as their admission or non-admission in their stenographic notes and on their written lists. This practice allows court reporters to remain in control of exhibits, eliminating confusion during trials. Also, if questions arise concerning the location of the exhibits, even years after the trials, the appropriate exhibits can be located.

B. Deposition Exhibits

Court reporters should take charge of marking exhibits in depositions. It is less confusing if exhibits are marked numerically beginning with Deposition Exhibit No. 1. Then, if the exhibits are used in court, there is no conflict.

II. Custody of Exhibits

Traditionally, court reporters are responsible for the safekeeping of all exhibits offered, admitted, or not admitted. If a case is appealed, [Rule 11\(e\), Ala. R. App. P.](#), provides that "...[t]he court reporter shall file all exhibits, including photographs, with the clerk of the trial court within 14 days (2 weeks) of the notice of appeal in both civil and criminal cases, assembled in a flat file. All exhibits incapable of being assembled in a flat file shall be delivered to the clerk's office in a suitable separate container. An index of the exhibits, including those that are delivered to the clerk of the trial court in a separate container, shall be included in the flat file. The index shall also indicate those

exhibits that were offered and not admitted, as well as the exhibits that were admitted.” This provision applies to juvenile cases appealed to the appropriate appellate courts pursuant to [Rule 28\(A\), Ala. R. Juv. P.](#)

[Form ARAP-11, Court Reporter’s Index of Trial Exhibits – ARAP Rule 11\(e\)](#), is available for use.

Any questions concerning who has custody of exhibits and where exhibits should be stored should be directed to the court reporters’ judges or the presiding circuit judges. Any questions concerning the filing of exhibits for cases on appeal should be directed to the Clerks of the Alabama Court of Civil Appeals, the Alabama Court of Criminal Appeals, and the Alabama Supreme Court.

III. Retention/Storage of Exhibits

Please see Chapter 8, Records Retention Schedule, Section D. for complete instructions regarding retention of exhibits.

At the conclusion of a hearing or trial, an index should be made of all exhibits and kept with the exhibits. It is a good practice to write the case number(s) on the exhibit stickers of all exhibits to avoid confusion should an exhibit be separated from its proper container. The exhibits and the exhibit index should then be placed in a manila envelope, box, etc., for storage. The container also should be marked with the date(s) of the hearing or trial, case number(s), and style of the case. This practice will make it easy to identify what is in the container and locate exhibits.

In criminal cases, upon a finding of not guilty, all exhibits may be returned to the appropriate parties. It is a good practice to note in writing the return of exhibits to the parties. (Please see Chapter 8, Records Retention Schedule, Section D., page 13.)

Note: See exhibit-related examples at the end of this Chapter.