



FOURTH JUDICIAL DISTRICT, STATE OF COLORADO

CHIEF JUDGE ORDER 2018-03

**RE: ELECTRONIC SUBMISSION OF ALL EXHIBITS THROUGH THE COLORADO COURTS
E-FILING SYSTEM (CCE); EXCEPTIONS**

I. Electronic Submission of Documentary Exhibits.

- A. Documentary Exhibits That Meet E-Filing Size Restrictions. All exhibits submitted by attorneys must be uploaded to the Colorado Court E-filing system (CCE) and made a part of the court record in their original format (grayscale preferred), either before or within 21 days of the conclusion of any hearing or trial. Exhibits submitted by pro se parties shall be scanned and uploaded into the Judicial Paper on Demand (jPOD) system by court staff. If the pro se party's exhibits are filed with the Clerk's Office prior to a hearing or trial, the Clerk's Office shall upload the exhibits. If the pro se party's exhibits are introduced for the first time at the hearing or trial, the Division Court Judicial Assistant shall upload them.

Exhibits shall be filed as one filing submission when possible. Exhibits shall be titled according to the party's designation in the case. (For example: Plaintiff's or Defendant's Exhibits). Each exhibit shall be a separate file within the filing submission. (For example: Exhibit 1—PDF File; Exhibit 2—Excel spreadsheet). The exhibit designation shall be legible when electronically filed.

- B. Documentary Exhibits that Exceed E-Filing Size Restrictions. A party intending to submit any documentary exhibit that exceeds the megabyte file size limit of CCE shall separate the exhibit into electronic files as provided in Chief Justice Directive 11-01. If the document cannot be separated, then the party shall place it on a CD or DVD for filing with the Court pursuant to paragraph II(A) of this CJO. This option should be a last resort. All CDs and DVDs shall be marked by the party with the case number and exhibit number directly on the CD and DVD.

At the conclusion of any hearing or trial, the party that introduced any exhibit(s) shall sign an exhibit receipt for the release of the original exhibit(s), which shall include the exhibit number or letter and a brief description of each exhibit being released. The Court Reporter or Division Court Judicial Assistant will deliver a copy of the receipt releasing the original exhibit(s) directly to the party, and the party shall immediately thereafter file a notice with the Court verifying that each released exhibit has been uploaded into the electronic court file. The original exhibit receipt will be retained by the Court Reporter or Division Court Judicial Assistant to scan and upload into jPOD.

II. Exceptions to Electronic Filing of Exhibits.

- A. Audio and Video Exhibits. Audio or video exhibits cannot be submitted through CCE at this time. Such exhibits shall be placed on a CD or DVD and submitted to the Court by filing with either the assigned Division Court Judicial Assistant or the Clerk of Court's Office prior to the hearing or trial or within 21 days after the hearing or trial. All CDs and DVDs shall be marked by the party with the case number and exhibit number directly on the CD and DVD.
- B. Exhibits of Large Physical Size and Non-Documentary Exhibits. If a party intends to submit an exhibit or document or use a demonstrative aid during a hearing or trial that cannot be submitted through CCE because of its physical size or because it is non-documentary in nature, a digital photograph of the exhibit or document shall be electronically filed by the party in order to make it part of the record. Such electronic filing shall occur prior to or within 21 days after the hearing or trial.

At the conclusion of any hearing or trial in a criminal, traffic, or juvenile delinquency case, all physical evidence introduced by the People shall be returned to the District Attorney's Office, and all physical evidence introduced by a defendant shall be returned to defense counsel or, in the event the defendant is pro se, to the defendant. The party receiving physical evidence at the conclusion of any hearing or trial in such a case shall sign a receipt for those exhibits specifically identified by exhibit number and by brief description of the exhibit. The party receiving such evidence (i.e. the People, defense counsel, or pro se defendant) shall photograph the returned exhibits, and digital copies of the photographs shall be submitted to the court through CCE within 21 days of the conclusion of the hearing or trial or, in the case of a pro se party, shall be submitted to the Clerk's Office in order to preserve the record as to the released exhibits. The receipt for the returned exhibits shall be uploaded by the Court Reporter or Division Court Judicial Assistant and a digital copy of the photographs shall be retained by the party that introduced the evidence.

For exhibits introduced by the People, the District Attorney's office shall deliver the returned exhibits to the evidence custodian for the law enforcement agency that investigated the case. That law enforcement custodian shall retain those exhibits until notified by the District Attorney that they may be destroyed.

At the conclusion of any hearing or trial in a non-criminal case, all admitted physical evidence shall be returned to the party that introduced it. That party shall sign a receipt for those exhibits specifically identified by exhibit number and by a brief description of the exhibit. The party shall photograph the returned exhibits, and digital copies of the photographs shall be submitted to the court through CCE (or, for pro se parties, to the Clerk of Court) within 21 days of the conclusion of the hearing or trial in order to preserve the record as to the released exhibits. The receipt for the returned exhibits shall be uploaded by Division Court Judicial Assistant, and a digital copy of the photographs shall be retained by the party that introduced the evidence.

"Physical evidence" includes such items as: clothing, weapons, controlled substances, and the originals of all documents, such as a check, handwritten note, and—for those cases prosecuted by the People of the State of Colorado—any other item of evidence the District Attorney determines should be returned to law enforcement agencies directly in order to maintain a chain of custody.

- C. Sexually Exploitative Material Evidence. Evidence submitted during a hearing or trial that meets the definition of "sexually exploitative material," C.R.S. §18-6—403(2)(j), shall not be electronically uploaded into the file by any party, attorney for a party, or court personnel.

Evidentiary items that are subject to the provisions of this Paragraph C shall not be submitted to the appellate court as part of the record on appeal, irrespective of any designation of record submitted by an attorney or party requesting that all exhibits offered or received into evidence be certified by the trial court as part of the appellate record. The Trial Court Appeals Clerk will include the following statement when certifying the record: "Exhibits containing sexually exploitative materials have not been included as part of the record submitted on appeal unless those items are specifically ordered by the Appellate Court to be included with the appellate record." If the appellate court specifically orders the sexually exploitative materials to be transmitted as part of the record on appeal, the evidence will then be transmitted to the appellate court by law enforcement.

- D. Depositions. Depositions submitted to the Court pursuant to C.R.Crim.P. 15 shall be uploaded into CCE when possible. If the deposition cannot be uploaded into CCE, a CD or DVD of the deposition shall be submitted to the Court. Depositions submitted in accordance with this paragraph D shall be filed upon completion of the deposition. All CDs and DVDs shall be marked by the party with the case number and exhibit number directly on the CD and DVD.

- E. Records Submitted for In Camera Review. Records submitted to the Court for an in camera review should be submitted on a CD or DVD when possible. The CD, DVD, or other in camera records not released in discovery shall be maintained by the Court for appellate purposes and not returned to the parties or the custodian of records. All items retained by the Court pursuant to this Paragraph E, including CDs and DVDs, shall be marked with the case number and exhibit number. All confidential records shall be sealed and labeled as such.

In retaining any records pursuant to this paragraph E, the Division Court Judicial Assistant shall draft a cover page with the caption of the case. The cover page shall state that the items of evidence are retained by the court in the records department of the Clerk's Office. The cover page shall be scanned and uploaded into the electronic file for the case. All exhibits retained by the Court, along with the cover page, shall be sent to the records department of the Clerk's Office. The records department of the Clerk's Office shall retain all items submitted.

- F. Release Of Records Pursuant to Paragraphs II(A) through (E) of this order. Once the mandate in an appealed case is issued, the records department shall send a "Notice to Reclaim Exhibits" to the submitting party or custodian of records to reclaim the record, CD, or DVD retained by the Court pursuant to Paragraphs II(A)-(E) of this CJO. Any records maintained for a case where an appeal is not taken shall be maintained and released pursuant to the Judicial Department's Records Retention Manual.

This Order supersedes Chief Judge Orders 2016-02, 2010-01, and 2007-06.

DONE AND SIGNED ON THIS 20th DAY OF April, 2018.

A handwritten signature in blue ink, appearing to read "William B. Bain". The signature is written in a cursive style with a large initial "W".

WILLIAM B. BAIN
Chief Judge
Fourth Judicial District