

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
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In re

ADMINISTRATIVE ORDER ON THE
USE OF ELECTRONICALLY STORED
EXHIBITS IN EVIDENTIARY
HEARINGS AND TRIALS

Administrative Order
FLMB-2014-6

**ORDER SUPPLEMENTING LOCAL RULE 9070-1
TO PROVIDE FOR SUBMISSION OF
EXHIBITS IN ELECTRONICALLY STORED FORMAT**

Many of the evidentiary hearings and trials conducted in this Court involve the use of voluminous and burdensome paper exhibits. The parties, the Court, and court staff spend considerable time handling paper exhibits during the hearing or trial and in post-trial proceedings. To alleviate this burden, this Administrative Order provides procedures for the use of electronically stored exhibits in evidentiary hearings and trials. This Administrative Order incorporates the existing requirements of Local Rule 9070-1 with respect to paper exhibits and supplements those requirements for the use of electronically stored exhibits.

Accordingly, it is **ORDERED**:

Effective December 1, 2014, parties in evidentiary hearings and trials shall follow these procedures in the use of exhibits:

a. ***Determination of Whether Parties Shall Submit Exhibits in Paper or Electronic Format.*** Unless the Court previously has ordered the use of exhibits in electronic format under the procedures set forth in section (e), the parties shall meet and confer no later than seven days before the deadline for the exchange of exhibits to discuss the use of electronically stored exhibits. If the parties are unable to agree on the use of electronically stored exhibits, the parties shall use paper exhibits. Electronically stored exhibits may not be used in cases in which any of the parties is *pro se*.

b. ***Numbering Exhibits and Exhibit Cover Sheet.*** Exhibits shall be identified numerically, commencing with Arabic numeral 1. Each exhibit shall be preceded by an 8 ½ x 11-inch Exhibit Cover Sheet (Appendix B to Local Rule 9070-1).

c. ***Exhibit List.*** All exhibits shall be listed, in numerical order, on a separate paper that sets forth the case caption, identifies the party submitting the exhibits (e.g., plaintiff, defendant, debtor, creditor, etc.) and includes columns with the following headings: Exhibit Number, Document Description, Date Identified, Date Admitted, and With or Without Objection (Appendix A to Local Rule 9070-1). No markings should be made in the “Identified” and “Admitted” lines, which shall be used by the courtroom deputy to record the exhibits that are offered into evidence and those that are received into evidence. A paper copy of the Exhibit List shall be provided to the courtroom deputy before the start of the evidentiary hearing or trial. After the conclusion of the evidentiary hearing or trial, the completed Exhibit List will be filed by the courtroom deputy on the case or adversary proceeding docket.

d. ***Paper Exhibits.***

1) ***Submitting Exhibits to the Court.*** At the commencement of a hearing or trial, each party shall deliver to the courtroom deputy the original and one copy of the Exhibit List and all exhibits to be introduced into evidence in paper format. Original exhibits shall not be stapled or permanently bound. Additional copies of the exhibits, either stapled or in binders or folders, shall be provided for use by witnesses, to opposing counsel, and the Judge. Parties should confirm the preferred procedure for preparing exhibit binders with the assigned judge’s chambers. Any exhibits introduced at hearing or trial that have not been pre-marked shall be tendered to and marked by the courtroom deputy as they are presented in evidence.

2) ***Large Items or Exhibits Other than Paper Documents.*** Items other than paper documents to be introduced into evidence shall be photographed, accompanied by an Exhibit Cover Sheet, and listed on the Exhibit List. Paper documents larger than 8 ½ x 11 inches shall be listed on the Exhibit List and accompanied by a reduced 8 ½ x 11-inch copy and an Exhibit Cover Sheet. Counsel shall attach Exhibit Cover Sheets to both the original physical exhibit and the photograph or reduced copy of the exhibit (“substitutes”), identifying the exhibits and corresponding substitutes with the same exhibit number. Unless the Court orders otherwise, at the conclusion of the trial or hearing at which the exhibits are offered, if the Clerk has custody of substitutes, the Clerk will return the corresponding original exhibits to counsel. If an appeal is taken, substitutes will be included in the record on appeal.

3) ***Disposal of Paper Exhibits.*** The Clerk, with or without notice, may dispose of any unclaimed paper exhibits unless notified by the appropriate party within 30 days after entry of an order or judgment concluding a contested matter or an adversary proceeding, including the entry of an order determining any post-judgment motions, provided that no appeal is pending, or if an appeal is taken, upon filing of the mandate. Parties shall bear all costs associated with reclaiming exhibits.

e. **Electronically Stored Exhibits.**

1) **Format and Exchange of Exhibits.** Each numbered and marked exhibit shall include an Exhibit Cover Sheet and shall be electronically stored in an individual Portable Document Format (PDF) file. Each PDF file shall have a unique identification name and number (e.g., “Debtor’s Exhibit 1”).

i. **Twenty-five (25) or Fewer Exhibits.** If 25 or fewer exhibits are listed on the Exhibit List, the party submitting the exhibits shall file them with the Exhibit List on the case or adversary proceeding docket via CM/ECF as separate attachments to a filing titled “Notice of Filing [Party’s Name]’s Exhibit List and Exhibits for [Trial or FEH] on Doc. No. ___.” The filing of the Exhibit List and exhibits via CM/ECF shall effectuate a party’s delivery of exhibits to opposing party[ies].

ii. **More than 25 Exhibits.** If more than 25 exhibits are to be marked for identification, the exhibits shall be stored on a USB flash drive or compact disc in a file named with the case name, case number, and the party introducing the exhibit (e.g., “In re Acme Corp., 13-ap-01111, Debtor’s Exs. for [Trial or FEH] on Doc. No. ___”). Parties may exchange exhibits by delivering a compact disc or USB flash drive containing exhibits to opposing party[ies] by the time set forth in the Court’s pretrial order for the exchange of exhibits. A compact disc or USB flash drive containing the Exhibit List and the electronically stored exhibits shall be delivered to the courtroom deputy before the start of the evidentiary hearing or trial.

2) **Use of Exhibits in Court.** The Electronically Stored Exhibits shall be considered the official exhibits for purposes of the evidentiary hearing or trial. However, a party using exhibits during the examination of a witness shall, at the commencement of the party’s questioning of the witness, provide paper copies of the exhibits to be used during the examination of the witness to the Court, the witness, and other parties. Paper exhibits used during the examination of a witness shall be removed from the courtroom following their use by the party using the paper exhibits.

3) **Additional Exhibits.** In the event additional exhibits are offered or introduced during the course of the evidentiary hearing or trial that were not either filed with the Court or included on the USB flash drive or compact disc furnished to the courtroom deputy, a complete set of the additional exhibits introduced into evidence shall be filed on the case or adversary proceeding docket via CM/ECF as separate attachments to a filing titled “Notice of Filing [Party’s Name]’s Additional Exhibits” within seven days following the conclusion of the evidentiary hearing or trial.

DATED: November 24, 2014 .

A handwritten signature in black ink, appearing to read "Karen S. Jennemann", with the initials "K.S." written in the upper right corner of the signature.

KAREN S. JENNEMANN
Chief United States Bankruptcy Judge

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