

LOCAL RULE 79.1
REMOVAL OF FILES OR WITHDRAWAL OF PAPERS AND EXHIBITS

(a) **Temporary Removal.** No record or material may be removed from the Clerk's office without written leave of the Court previously obtained except by a master, auditor, or other person to whom the record or material has been referred. Any person withdrawing any record or material shall give to the Clerk at the time of withdrawal a receipt specifying the items withdrawn, the date of withdrawal and the date the item is to be returned.

(b) **Permanent Withdrawal.** The Court may by prior order permit a document or exhibit to be permanently withdrawn from the file maintained by the Clerk, but the party requesting the same shall furnish the Clerk a receipt and an appropriate replacement for the original. The replacement shall then be filed in lieu of the withdrawn original.

(c) **Judge's Files.** In no event shall the Judge's files be removed or examined without order of the Court.

(d) **Custody of Exhibits.**

(1) All exhibits offered in evidence, whether admitted or excluded, shall be held in the custody of the Clerk until the trial of the cause is completed. Exhibits offered at trial shall be marked for identification by the Clerk. During the course of the trial, the Court may permit counsel to withdraw or substitute exhibits. At the end of the trial the Clerk or the courtroom deputy acting for the Clerk is directed to return to respective counsel all exhibits introduced during the trial, and to obtain a receipt therefor from counsel. The exhibits are to be retained by counsel until the time for filing notice of appeal has expired.

(2) Upon the filing of a notice of appeal, or at any other time, counsel shall, upon request by the Clerk, return the exhibits to the Clerk within 24 hours after such request is made. Sensitive exhibits such as firearms, explosive devices, untaxed whiskey, counterfeit money, and narcotics are excluded from this portion of the order pertaining to returning exhibits to the Clerk. During the trial of a cause the sensitive exhibits named above shall be retained by the United States Attorney or the representative of the agency of the United States involved in that particular cause.

(3) Upon the return of a not guilty verdict in a case in which a sensitive exhibit has been introduced and it is questionable whether the exhibit should be returned to the defendant, the Clerk is directed to take custody of the exhibit pending an order from the Court for its disposition.

(4) In the event of a mistrial, it shall be the responsibility of counsel to preserve and protect the exhibits which will be needed for the retrial.

(5) If a case is taken under advisement by the Court and the Court is of the opinion that the exhibits will be needed in preparing its findings of fact and conclusions of law, or in the writing of its memorandum opinion, the Court shall then direct that the exhibits be retained by the courtroom deputy.

(a) through (c) adopted and effective May 1, 1980

(d) Adopted and effective November 22, 1982