

IN THE SUPREME COURT OF THE STATE OF NEVADA

IN THE MATTER OF THE CREATION
OF A COMMITTEE TO REVIEW THE
PRESERVATION, ACCESS, AND
SEALING OF COURT RECORDS

ADKT. No. 410

FILED

DEC 27 2010

TRACIE LINDEMAN
CLERK OF SUPREME COURT
BY *[Signature]*
CHIEF DEPUTY CLERK

ORDER ADOPTING PART XI OF THE SUPREME COURT RULES

WHEREAS, the Nevada Supreme Court is concerned about the lack of standardized rules regarding evidentiary exhibits; and

WHEREAS, the Subcommittee on Evidence presented a proposed addition to the Supreme Court Rules pertaining to exhibits marked and/or admitted into evidence ; and

WHEREAS, this court has considered the proposed rules and determined that the addition is warranted; accordingly,

IT IS HEREBY ORDERED that Section XI of the Supreme Court Rules shall be adopted and shall read as set forth in Exhibit A.

IT IS FURTHER ORDERED that the adoption of these rules shall be effective thirty days from the date of this order. The clerk of this court shall cause a notice of entry of this order to be published in the official publication of the State Bar of Nevada. Publication of this order shall be accomplished by the clerk disseminating copies of this order to all subscribers of the advance sheets of the Nevada Reports and all persons and agencies listed in NRS 2.345, and to the executive director of the State Bar of Nevada. The certificate of the clerk of this court as to the accomplishment of the above-described publication of notice of entry and

dissemination of this order shall be conclusive evidence of the adoption and publication of the foregoing rules.

Dated this 27th day of December, 2010.

Parraguirre, C.J.
Parraguirre

Hardesty, J.
Hardesty

Douglas, J.
Douglas

Cherry, J.
Cherry

Saitta, J.
Saitta

Gibbons, J.
Gibbons

Pickering, J.
Pickering

cc: All District Court Judges
All Justices of the Peace
All Municipal Court Judges
All District Court Clerks and County Clerks
Administrative Office of the Courts

EXHIBIT A
ADDITION TO THE SUPREME COURT RULES

PART XI. RULES PERTAINING TO EXHIBITS MARKED
AND/OR ADMITTED INTO EVIDENCE

Rule 1. “Evidence Custodian” means any court administrator, county clerk, clerk of court or his/her designee who has physical possession of any item which has been marked as an exhibit and/or been admitted into evidence by any court of law. The Evidence Custodian shall keep a list of all of the exhibits, including the sealed exhibits, and insure that the integrity of the evidence is maintained.

Rule 2. The Evidence Custodian shall schedule appointments or establish a reasonable schedule of days of the week and hours of availability for accessing exhibits. Any person who contacts the Evidence Custodian for the purpose of viewing, listening to or photographing any exhibit must first present a government issued, current and valid photo identification. The form of identification presented, its corresponding number if one exists, along with the person’s printed legible name, signature, date and time of accessing the exhibit(s), case number, and the defendant’s name shall be entered onto a log to be kept by the Evidence Custodian.

(a) If the person is a lawyer, he or she shall also list the state(s) where he or she is licensed, and his/her corresponding bar number(s).

(b) Any copying of any exhibit shall be done by the Evidence Custodian and any viewing, listening to or photographing of

any exhibit shall only be conducted in the presence of the Evidence Custodian.

(c) Except as to documents and/or unless otherwise ordered by the Judge pursuant to Rule 5, any handling of exhibits shall be done by the Evidence Custodian.

Rule 3. Whenever a weapon and the ammunition corresponding thereto are both in the possession of the Evidence Custodian, they shall be separated for viewing and/or photographing purposes with the weapon being produced first, then the weapon shall be re-secured. Thereafter, separately, the corresponding ammunition shall be viewed and/or photographed.

Rule 4. The sealing, unsealing, and redacting provisions of Rule 5 do not apply to civil cases for which such issues are controlled by the Nevada Rules for Sealing and Redacting Court Records (SRCR), SCR Part VII.

Rule 5. At any time, the assigned Judge in the court having physical custody of an exhibit shall retain jurisdiction and may sua sponte, upon an oral or clearly-titled written motion by a party in the presence of or with notice to all of the other parties, or upon a clearly-titled written motion brought by any individual or entity with notice to all of the parties, issue orders pertaining to the handling of the exhibit in accordance with Rule 2(c), the redacting, sealing, or unsealing of the exhibit. The Judge has discretion to issue written findings and a written order, or may issue oral findings and an oral order on the record, after which the order shall be memorialized in writing.

(a) Unless the Judge has issued an order to unseal an exhibit, any exhibit in the possession of the Evidence Custodian which is sealed shall remain sealed, whether the exhibit was sealed before or after the enactment of this rule by either law enforcement, forensic scientists, a forensic laboratory, and/or court order.

Rule 6. Exhibits marked and/or admitted into evidence are presumed to be public documents subject to public disclosure; however, this presumption of openness may be overcome if a Judge finds and articulates with specificity, upon performing a balancing test, that there exists a countervailing interest in limiting public access. The order sealing or redacting must be as narrowly tailored as possible.

In determining whether to grant a motion to handle an exhibit (see Rule 2(c)), redact, seal or unseal an exhibit, the Judge shall balance this state's policy favoring open public access to court records including exhibits with the countervailing and compelling government interests. Such interests shall include, but are not limited to the following: ensuring the fair and orderly administration of justice; and/or protecting public safety; and/or confidentiality.

