

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

GENERAL ORDER AMENDING LOCAL RULES CV-79, CR-49 and CR-55

It is hereby ORDERED that the following amendment to the local rules, having been approved by the judges of this court, are adopted for implementation.¹

1. LOCAL RULE CV-79 Books and Records Kept by the Clerk

(a) **Submission of Hearing/Trial Exhibits.**

(1) The parties shall not submit exhibits to the clerk's office prior to a hearing/trial without an order of the court. The clerk shall return to the party any physical exhibits not complying with this rule.

(2) ~~Trial~~ Exhibits shall be properly marked but not placed in binders. Multiple-paged documentary exhibits should be properly fastened. Additional copies of ~~trial~~ exhibits may be submitted in binders for the court's use.

(3) The parties shall provide letter-sized copies of ~~pictures~~ of any physical or oversized exhibit to the court prior to the conclusion of hearing/trial. The court may order the parties to provide CD-ROM disk(s) containing PDF copies of all exhibits that were admitted by the court. Oversized exhibits will be returned at the conclusion of the trial or hearing. If parties desire the oversized exhibits to be sent to the appellate court, it will be their responsibility to send them.

(4) In cases appealed to the Fifth Circuit in which there was a hearing/trial, counsel must file all admitted exhibits within 14 days of the filing of the notice of appeal. See also

¹ New language appears in underlined text, and deleted language appears in ~~strikeout~~ text.

Local Rule CR-55(a)(4).

~~(b) **Removal of Papers, Records, etc.** The clerk shall not allow the original copy of any papers, records, proceedings, or any other paper, writing, or memorandum belonging to or related to and filed in any civil action in this court to be removed from the clerk's office except by an employee of the court.~~

(e b) **Disposition of Exhibits by the Clerk.** Thirty days after any direct appeal has been exhausted or the time for taking that appeal has lapsed, and no further action is required by the trial court, the clerk is authorized to destroy any sealed or unsealed exhibits ~~filed therein~~ which have not been previously claimed by the attorney of record for the party offering the same in evidence at the hearing/trial.

~~(d c)~~ **Hazardous Papers Documents or Items Sent to the Court.** Prisoners and other litigants shall not send to this court (including the district clerk, any judges, and any other court agency) ~~papers~~ documents or items that constitute a health hazard as defined below:

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Comment: The word "hearing" was added because exhibits are admitted in both hearings and trials. Section (a)(4) was added to ensure that all admitted hearing/trial exhibits in Fifth Circuit appeals are filed in CM/ECF, as requested by the Fifth Circuit. Similar language was added to the pertinent local criminal rule, LR CR-55(a)(3).

Former section (b) of this rule was deleted, as paper documents are no longer filed with the court.

2. LOCAL RULE CR-49 Service and Filing

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(b) **Filing of Sealed Documents in Criminal Cases.** Documents in criminal cases that are filed under seal pursuant to general order² or rule of this court shall be filed under seal without need for a motion to seal or a certification by counsel. Other types of documents in criminal cases may not be filed under seal unless counsel certifies that: (1) a motion for leave to seal the document in question has been filed; or (2) the court has already granted authorization to seal. ~~All~~ Sealed criminal case documents ~~from the U.S. Attorney and the Federal Public Defender shall be filed electronically, unless otherwise specified by these rules, by those offices.~~ When the entire case is sealed, all sealed criminal case documents ~~from appointed or retained defense counsel~~ shall be e-mailed to the following addresses for filing by the relevant divisional clerk's office:

Beaumont	bmtcrimdocs@txed.uscourts.gov
Lufkin	lufcrimdocs@txed.uscourts.gov
Marshall	marcrimdocs@txed.uscourts.gov
Sherman	shrcrimdocs@txed.uscourts.gov
Texarkana	texcrimdocs@txed.uscourts.gov
Tyler	tylcrimdocs@txed.uscourts.gov

All sealed criminal case documents from defendants proceeding *pro se* shall be submitted to the clerk's office for filing in paper format.

(1) Counsel filing a document under seal must send a paper copy of that document to the presiding judge's chambers. The paper copy should be sent directly to the judge's chambers and not to the clerk's office. Judges may opt out of this rule by entering an order.

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Comment: The revision to section (b) now requires all counsel in criminal cases to electronically file sealed documents, unless otherwise specified by the rules. When the entire case is sealed, counsel must send their documents to the specified e-mail addresses for docketing by the clerk's office.

³ Existing general orders that fall into this category are General Order 93-3 ("General Order on Sealed Indictments") and General Order 93-4 ("General Order on Sealed Criminal Matters").

3. LOCAL RULE CR-55 Records

~~(a) **Removal of Papers, Records, etc.**—The clerk shall not allow original copies of any papers, records, etc. in a criminal case to be removed from the clerk's office except by an employee of the court.~~

(e a) **Submission and Disposition of Hearing/Trial Exhibits.**

(1) The parties shall not submit exhibits to the clerk's office prior to a hearing/trial without an order of the court.

(2) ~~Trial~~ Exhibits shall be properly marked, but not placed in binders. Multiple-paged documentary exhibits should be properly fastened. ~~If parties wish,~~ Additional copies of trial exhibits may be submitted in binders for the court's use.

(3) The parties shall provide letter-sized copies ~~of pictures~~ of any physical or oversized exhibit to the court prior to the conclusion of hearing/trial. The court may order the parties to provide CD-ROM disk(s) containing PDF copies of all exhibits that were admitted by the court. Oversized exhibits will be returned at the conclusion of the trial or hearing. If parties desire the oversized exhibits to be sent to the appellate court, it will be their responsibility to send them.

(4) In cases appealed to the Fifth Circuit in which there was a hearing/trial, counsel must file all admitted exhibits within 14 days of the filing of the notice of appeal. See also Local Rule CV-79(a)(4).

(b) **Disposition of Exhibits by Clerk.** After providing notice to the parties, the clerk is authorized to destroy any sealed or unsealed exhibits eighteen months from either the date of the final judgment in the district court, if no appeal is filed, or the date that the direct criminal appeal process concludes. This will ensure that no § 2255 motion will be filed before

destroying exhibits pursuant to this rule.

Sealed exhibits submitted in miscellaneous cases to obtain pen registers, wiretaps, etc. will be maintained in the court's vault for three years. At the end of this time, the sealed exhibits will be destroyed.

Comment: Former section (a) of this rule has been deleted, as paper documents are no longer filed with the court.

The word "hearing" was added because exhibits are admitted in both hearings and trials. Section (a)(4) was added to ensure that all admitted hearing/trial exhibits in Fifth Circuit appeals are filed in CM/ECF, as requested by the Fifth Circuit. Similar language was added to the pertinent local civil rule, LR CV-79(a)(4).

Signed this 18th day of June, 2014.

FOR THE COURT:

A handwritten signature in black ink, appearing to read "Leonard Davis", written over a horizontal line.

LEONARD DAVIS
Chief Judge