I.C.A.R. 71. Physiological Evidence

Idaho Court Administrative Rule 71. Exhibits.

Storage and handling of exhibits shall be carried out using the following procedures; except as otherwise ordered by the Court:

(a) All exhibits must be individually tagged with the proper exhibit tag, properly completed and securely attached to the exhibit.

(b) Exhibits that are withdrawn remain listed on the exhibit list (and the withdrawal noted), but are not retained by the clerk. Exhibits that are denied admittance into evidence remain listed on the exhibits list (with the denial noted), and are retained by the clerk unless return to the attorney/party is specifically ordered by the court.

(c) If counsel or the court takes an exhibit from the clerk during trial, the clerk shall make a note of the number of the exhibit and who has taken it.

(d) No exhibit containing animal or bodily fluids and/or human or animal body fluid stains or parts, or dangerous, controlled or toxic substances shall be accepted by the clerk unless it is placed in a container that is securely sealed and protected against breakage so that odors cannot be emitted and court personnel are safeguarded. Containers of controlled substances must be clearly marked, identified and sealed. The party offering such evidence shall be responsible to ensure that the evidence is properly packaged prior to being brought into the courtroom.

(e) Narcotics, weapons, money, valuable or sensitive materials, while in the custody of the court, shall be secured in a locked facility during court recesses, lunch hours, and at other times when exhibits are unattended by the courtroom clerk or bailiff. Oversized exhibits, except for sensitive or dangerous items, may be stored in the courtroom overnight, if the courtroom is kept locked.

(f) When a dangerous, large or bulky exhibit that has been marked and identified or received in evidence poses a security, storage or safety problem, on recommendation of the clerk and stipulation of the parties, the court may order that all or a portion of it be returned to the party that offered it. In the case of exhibits offered by the prosecutor in a criminal case, the court may order that the exhibits be returned to the law enforcement agency involved. The order shall require that a full and complete photographic record of the exhibit or the portion returned be substituted for the exhibit. The party who offered the exhibit shall provide the photographic record. The party or agency to whom the exhibit is returned shall be responsible for maintaining and preserving the exhibit untl there is a final disposition of the action or proceeding. All exhibit tags and other identifying markings or information concerning each exhibit shall remain in place and shall not be disturbed. Each exhibit shall be maintained intact and in the same condition as during trial. In the event further proceedings of any court having jurisdiction of the matter require the presence of the exhibit, the party or agency to whom it was returned shall promptly deliver the exhibit to the appropriate court, with notice to all parties.

(g) If, at the conclusion of the trial, counsel stipulates and the court approves, large and unwieldy exhibits can be represented by a photograph. The photograph shall be marked with the same information as the exhibit.

(h) After trial, drugs, weapons, and other dangerous or sensitive materials, including child pornography, that have been offered by the state in a criminal case shall be stored by law enforcement agencies. When transferring exhibits to the custody of law enforcement agencies, the clerk shall get a receipt acknowledging transfer of custody and file the receipt in the case file, noting on the exhibit list where and when transferred.

(Adopted March 23, 1990, effective July 1, 1990; Repealed in its entirety and new rule 71 adopted October 5, 2013, effective January 1, 2014.)

Source URL: http://www.isc.idaho.gov/icar71