

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, MISSOURI
DIVISION FIVE

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_____,)
V.) Case: _____
_____,)
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_____,)

PRE-TRIAL EXHIBIT EXCHANGE ORDER

The Court hereby enters the following exhibit exchange order. These procedures are intended to promote the efficient and orderly finding of facts and to ensure that each party who comes before the Court has a right to a fair trial.

This pre-trial exhibit exchange is simply to coordinate, organize, and streamline exhibits and their admission. **It is NOT a substitute for the discovery process.** It is very likely that most of the exchanged material will have been previously disclosed during discovery.

The Court orders the following:

A. No later than **five (5) business days** prior to trial, all parties shall:

1. File with the Court (via E-Filing) an “Exhibit List”, which shall list all the party’s exhibits.
2. Provide to the Court and the opposing parties an electronic “folder” of pre-marked exhibits.

B. No later than **the start of trial**, all parties shall:

1. File or otherwise raise any foundation or hearsay objections to any exchanged exhibit. Failure to do so may result in **waiver** of the objection.
2. Provide one (1) complete paper binder of that party’s exhibits to the Court for witness review. No other paper binders need to be provided to other parties or the Court.
 - IF THERE IS A GUARDIAN AD LITEM: Provide a second complete paper binder of that party’s exhibits for the GAL (unless the GAL waives).

Please see the attached “Guidelines” sheet for additional information and clarification.

IT IS SO ORDERED.

Victor J. Melenbrink, Circuit Judge, Division 5

Attorney for Plaintiff/Petitioner

Attorney for Defendant/Respondent

DIVISION 5

PRE-TRIAL EXHIBIT EXCHANGE ORDER

GUIDELINES AND CLARIFICATIONS

Exhibit List Guidelines

1. The “Exhibit List” shall include a list of all the pre-marked exhibits included in the exchanged files, as well as any exhibits which are not exchangeable (such as physical items not able to be scanned).
2. The list should follow the format of the Microsoft Word template which can be downloaded (<https://tinyurl.com/ExhibitList>) and edited (please download it as a Word document, rather than just printing).
3. All exhibits must be listed and pre-marked, including both evidence that will be formally admitted into evidence as well as any other exhibits or pleadings that will be presented in any manner during trial, such as “demonstrative” evidence.
 - a. Impeachment or rebuttal evidence need not be listed, pre-marked, or exchanged.
4. Only exhibits which are submitted on the filed “Exhibit List” may be admitted except for the following circumstances:
 - a. Stipulation of the parties.
 - b. Court rule or other authority requiring updated documentation shortly before trial (i.e., updated financial statements shortly before a domestic dissolution trial).
 - c. Impeachment or rebuttal evidence.
 - d. A showing of “manifest injustice.” However, the parties should not rely on the manifest injustice standard since this standard is quite high.

Electronic Exhibit Exchange Guidelines

1. The exhibits shall be in individual PDF files, with a naming convention substantially similar to “Plaintiff Exhibit 1.pdf” or “Respondent Exhibit GG.pdf”
 - a. Photographs and video files may remain in their original format, but should still follow the general naming convention above for organization.
2. **Do NOT email the exhibits themselves.** Use **one** of the following methods to provide the electronic “folder” of exhibits to the Court:
 - a. Cloud storage download link (Dropbox, Box.com, or Google Drive) to the following account: vic.melenbrink@courts.mo.gov
 - b. Deliver to the Division 5 clerk on a CD or flash drive.
3. Copies to other parties are to be provided in electronic form (as set out above) at the same time they are provided to the Court.

Paper Binder Exhibit Guidelines

1. Within the witness binder, the pre-marked exhibits must be separately tabbed and assembled in sequential order.
2. The exhibits in the binder shall be identical to those submitted electronically as set out above.
3. No obligation exists to provide a printed binder to the Court or to the opposing parties so long as an electronic copy was provided. Parties may print and prepare their own copies of opposing party binders if needed.

Exhibit Marking

1. All exhibits must be pre-marked with an exhibit sticker or other legible enumeration.
2. Plaintiff/Petitioner's exhibits must be pre-marked using numbers beginning with 1 (e.g., 1, 2, etc.).
3. Defendant/Respondent's exhibits must be pre-marked using letters beginning with A (e.g., A, B, C...AA, BB, CC, etc.).
 - a. If Defendant/Respondent has more than 50 exhibits, coordinate with the other party to use numbers beginning at a certain point (e.g., 500, 501, etc) rather than "AAA".
4. If there are multiple plaintiffs or defendants, the parties shall coordinate before exhibit exchange which groups of numbers or letters will be used by which parties.

Page Numbering

1. If the individual exhibit includes more than three (3) pages and is not easily identified as to each page, then the exhibit must be page numbered.
 - o Many PDF-editing programs (Adobe Acrobat, Foxit Phantom PDF, PDF X-Change, etc) have a "Bates numbering" option to easily add page numbers to any PDF file.

Pre-Filed Objection Guidelines

1. Any foundation or hearsay objections not pre-filed with the Court are waived.
2. The purpose of this portion of the order is to eliminate the need for time-consuming and frequently unnecessary foundational witnesses (such as records custodians for documents where the authenticity of the records is not in doubt).
3. While objections to exhibits will be deemed waived unless the objector complies with this section, only those exhibits which are specifically admitted during the trial will be considered by the Court and become part of the record.

The Court recognizes that the order includes directives that may be somewhat unfamiliar in the 23rd Circuit. However, they are not overly burdensome, and are similar in many respects to ordinary requirements of other courts, both state and federal. Any procedural questions or requests for clarification may be sent to vic.melenbrink@courts.mo.gov (with a copy to opposing counsel).

Victor J. Melenbrink
Circuit Judge, Division 5