

Local Rule 79-1 - Custody of Files and Exhibits

(a) Custody During Pendency of Action. Any item offered into evidence in a case—other than contraband exhibits—will be placed in the clerk’s custody. Unless the court orders otherwise, these items may not be claimed from the clerk until the case is disposed of as to all issues, including appeals.

(b) Claiming Items After Disposition of Action. The party that offered the items into evidence must claim them from the clerk:

(1) if the case is not appealed, within 90 days after the case is disposed of as to all issues;

(2) if the case is appealed, within 28 days after the mandate of the reviewing court is filed in the clerk’s office and the case is disposed of as to all issues, unless otherwise ordered.

(c) Procedure for Claiming Items. No motion or order is necessary to claim the items. The party withdrawing them must give the clerk a detailed receipt when the items are withdrawn. The clerk must file the receipt in the cause.

(d) Failure to Claim Items. If the parties fail to claim the items within the deadline in subdivision (b), the United States Marshals Service may sell the items in a public or private sale or dispose of them in any manner directed by the court. If sold, the proceeds, less the expense of sale, will be paid into the court’s registry.

(e) Contraband Exhibits. Contraband exhibits (such as controlled substances, money, and weapons) may not be placed in the clerk’s custody. They must be released to the investigative agency when the case is concluded. The investigative agency must give the clerk a detailed receipt when the contraband exhibits are released.

(f) Withdrawal of Original Records and Documents. No one may withdraw an original pleading, document, record, model or exhibit from the clerk’s custody except as provided by this rule or by court order.