

[Proposed Amended] Rule 9070-1

EXHIBITS

(a) ***General Provisions.***

(1) ***Submission of Exhibits in Electronic or Paper Format.*** If all parties in an adversary proceeding or contested matter are represented by counsel, unless the Court orders otherwise, exhibits shall be exchanged and submitted to the Court in electronic format. Electronically stored exhibits shall not be used in adversary proceedings or contested matters in which any of the parties are *pro se*.

(2) ***Redaction of Personal Data Identifiers.*** In compliance with Local Rule 1001-3, the following personal data identifiers shall be redacted from all exhibits submitted to the Court whether in paper or electronic format: Social Security numbers, names of minor children, dates of birth, and financial account numbers other than the last four digits of the account number.

(3) ***Numbering Exhibits and Exhibit Cover Sheet.*** Exhibits, whether submitted in paper or electronic format, shall be numbered commencing with Arabic numeral 1. Each exhibit shall be preceded by an 8 1/2 x 11-inch Exhibit Cover Sheet (Appendix B to Local Rule 9070-1).

(4) ***Exhibit List.*** Each party shall prepare a separate Exhibit List in the form attached as Appendix A to Local Rule 9070-1. The Exhibit List shall list each exhibit in numerical order and include the following: case caption, identity of the party submitting the exhibits (*e.g.*, plaintiff, defendant, debtor, creditor, etc.), and columns with the following headings: “Exhibit Number,” “Document Description,” “Date Identified,” “Date Admitted,” and “With or Without Objection.” No markings should be made in the “Date Identified” and “Date Admitted” columns, which shall be used by the courtroom deputy to record the exhibits that are identified and offered into evidence and those that are received into evidence. Each party shall provide two copies of the Exhibit List to the courtroom deputy before the start of the ~~evidentiary hearing or~~ trial. After the conclusion of the ~~evidentiary hearing or~~ trial, the courtroom deputy will file a completed Exhibit List on the case or adversary proceeding docket.

(5) ***Exhibits Other than Paper Documents.*** Objects other than paper documents to be introduced into evidence shall be photographed and listed on the Exhibit List. An Exhibit Cover Sheet shall be attached to the photograph. If possible, the physical object shall be brought to Court for the trial.

(6) ***Oversized Paper Documents.*** Paper documents that are larger than 8 1/2 x 11 inches shall be photocopied to a reduced 8 1/2 x 11-inch copy and listed on the Exhibit List. Exhibit Cover Sheets shall be attached to both the original oversized exhibit and to the reduced copy of the exhibit (“substitute”), using the same exhibit number for both the original exhibit and the corresponding substitute. Unless the Court orders otherwise, at the conclusion of the trial or hearing at which the oversized exhibit is offered, the Clerk will return the original exhibit to counsel. If an appeal is taken, only the substitute will be included in the record on appeal.

(b) ***Procedure for Use of Electronically Stored Exhibits.***

(1) ***Format of Exhibits.*** Each exhibit, together with the Exhibit Cover sheet, shall be electronically stored in an individual Portable Document Format (PDF) file. Each PDF file shall have a unique identification name and number (e.g., “Debtor’s Exhibit 1”). To facilitate the filing of exhibits via CM/ECF, the individual PDF files should be contained in a single folder. If an exhibit includes personal data identifiers, the party filing the exhibit shall electronically file a redacted copy of exhibit and, if appropriate, seek to file the unredacted exhibit under seal as provided for in Local Rules 1001-2 and 5005-4.

(2) ***CM/ECF Electronic Exhibit Upload.*** Parties shall file their Exhibit List and all electronic exhibits using the CM/ECF Electronically Stored Exhibit Upload ~~by the time set forth in the Administrative Order Prescribing Procedures for Adversary Proceedings, FLMB-2014-10,~~ no later than seven days before trial as set forth in Local Rule 7001-1 for the exchange of exhibits. The filing of the Exhibit List and exhibits via CM/ECF Electronically Stored Exhibit Upload shall effectuate a party’s delivery of exhibits to opposing ~~parties~~ parties. Instructions on CM/ECF Electronically Stored Exhibit Upload are located on the Court’s website at <http://www.flmb.uscourts.gov/procedures/electronicexhibitupload.pdf>.

~~(3)~~ ***Electronic Upload of Exhibits Other Than Paper Documents and Oversized Paper Exhibits.*** PDF’s of photographs of exhibits other than paper exhibits as described in section (a)(5), and of reduced photocopies of oversized paper documents shall be uploaded using the CM/ECF Electronically Stored Exhibit Upload.

(4) ***Use of Electronically Stored Exhibits in Court.*** The Electronically Stored Exhibits filed via CM/ECF Electronic Exhibit Upload are the official exhibits for purposes of the ~~evidentiary hearing or trial.~~ However, a

(5) ***Preparation of Exhibits for Use by Witness, Counsel, and the Court.*** A party using exhibits during the examination of a witness shall, at the commencement of the examination, provide paper copies of the exhibits to be used during the examination to the Court, the witness, and ~~other parties.~~ Paperthe other parties. If a witness will testify regarding more than one exhibit or to voluminous exhibits, the exhibits for that witness shall be placed in binder or folder. If an exhibit is voluminous and the entire exhibit is not relevant to the witness’s testimony, the witness’s binder or folder may include only the relevant portion of the exhibit. To facilitate the use of exhibits by the witness, counsel for the parties, and the Court, each witness’s exhibits shall be placed in a separate binder or folder. Parties should confirm the preferred procedure for preparing exhibit binders with the assigned judge’s chambers. A party’s failure to include a previously exchanged exhibit in a witness’s individual binder or folder shall not bar the party from offering the exhibit into evidence. The paper copies of exhibits that are not removed from the courtroom following their use will be disposed of by the courtroom deputy.

(46) ***Additional Exhibits.*** In the event that additional exhibits that were not uploaded via CM/ECF Electronic Exhibit Upload are offered or introduced into evidence during the course of the ~~evidentiary hearing or trial,~~ a complete set of such additional exhibits shall be filed via

CM/ECF Electronic Exhibit Upload with the title “[Party’s Name]’s Additional Exhibits” within seven days following the conclusion of the ~~evidentiary hearing or~~ trial.

(c) ***Procedure for Use of Exhibits Submitted In Paper Format.***

~~(1) — ***Submitting Copies of Exhibits tofor the Court, Courtroom Deputy.***~~ At the commencement of ~~an evidentiary hearing or~~ a trial, each party shall deliver to the courtroom deputy two copies of the Exhibit List and a complete set of the exhibits to be introduced into evidence in paper format. Original exhibits shall not be stapled or permanently bound. ~~Additional copies of the exhibits, which may be stapled or placed in binders or folders, shall be provided for use by witnesses, to opposing counsel, and the judge. Any exhibits introduced at a~~ Parties should confirm the preferred procedure for preparing exhibit binders with the assigned judge’s chambers. Any ~~exhibits introduced at an evidentiary hearing or~~ trial that have not been pre-marked shall be tendered to and marked by the courtroom deputy as they are presented in evidence.

(2) ***Copies of Exhibits for Witnesses, Opposing Counsel, and the Court.***

Additional copies of the exhibits shall be provided for use by witnesses, to opposing counsel, and the judge. If a witness will testify regarding more than one exhibit or to voluminous exhibits, the exhibits for that witness shall be placed in a binder or folder. If an exhibit is voluminous and the entire exhibit is not relevant to the witness’s testimony, the witness’s binder or folder may include only the relevant portion of the exhibit. To facilitate the use of exhibits by the witness, counsel for the parties, and the Court, each witness’s exhibits shall be placed in a separate binder or folder. Parties should confirm the preferred procedure for preparing exhibit binders with the assigned judge’s chambers. ~~(2) — ***Large Items or Exhibits Other than Paper Documents.***~~ Objects other than paper documents to be introduced into evidence shall be photographed, accompanied by an Exhibit Cover Sheet, and listed on the Exhibit List. Paper documents larger than 8 1/2 x 11 inches shall be listed on the Exhibit List and accompanied by a reduced 8 1/2 x 11-inch copy. Counsel shall attach Exhibit Cover Sheets to both the original physical exhibit and the photograph or reduced copy of the exhibit (“substitutes”), using the same exhibit number for both the original exhibits and the corresponding substitute. ~~Unless the Court orders otherwise, at the conclusion of the trial or hearing at which the exhibits are offered, if the Clerk has custody of substitutes, the Clerk will return the corresponding original exhibits to counsel. If an appeal is taken, only the substitutes will be included in the record on appeal.~~

However, a party’s failure to include a previously exchanged exhibit in a witness’s individual binder or folder shall not bar the party from offering the exhibit into evidence.

~~(3) — ***Disposal of Paper Exhibits.***~~ The Clerk, with or without notice, may dispose of any unclaimed paper exhibits unless the Clerk is notified by a party that it intends to reclaim that party’s exhibits within 30 days after the later of the entry of an order or judgment concluding the matter or proceeding, the entry of an order determining any post-judgment motions if no appeal is pending, or if a notice of appeal has been filed, the filing of the mandate. Parties shall bear any costs associated with reclaiming exhibits.