

MASTERING TRIAL EXHIBIT STRATEGY



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Sheila is a fierce advocate for training, education, mentorship, and professional development for the legal community.

Buchalter



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This presentation represents the personal opinions of the presenters.

This presentation is offered for informational and educational purposes only.

INTRODUCTION

Brief overview of trial exhibit management

Importance of consistency, organization, and collaboration

Mistakes to avoid

Questions to ask

The Importance of Trial Exhibit Management

- Exhibit management is crucial for litigation success
- Common pitfalls in exhibit handling
- Proper organization enhances courtroom efficiency

Exhibit & Evidence

Management is Non-Negotiable

Every page of every exhibit should be labeled and tracked.

Paralegals play a crucial role in ensuring documents are accurate, organized, and presented correctly during trial.

Special attention needs to be paid to demonstrative exhibits (e.g., charts, graphs, enlargements of exhibits, etc.)

Common Trial Exhibit Mistakes to Avoid

✘ 1. Disorganized Exhibit Files

- Missing labels, inconsistent naming, or no version control
- Leads to confusion in court and undermines credibility

✘ 2. Poor Demonstrative Coordination

- Inaccurate timelines, mislabeled diagrams, or misleading visuals
- May result in objections or mistrust from judge/jury

✘ 3. Overloading the Jury

- Too many documents without clear explanation
- Visual clutter weakens the key narrative

✘ 4. Ignoring Local Rules or Court Preferences

- Wrong format, improper numbering, missing copies
- Courts may reject your entire list or impose sanctions

“If your exhibits confuse you...

they’ll definitely confuse the jury.”

— *Common Trial Prep Saying*

REAL EVIDENCE (TANGIBLE ITEMS) v. DEMONSTRATIVE EVIDENCE

Real evidence in civil litigation refers to tangible, physical objects that are directly involved in the dispute. These objects are introduced in court to help establish facts by their very presence and condition. Real evidence must be relevant, properly authenticated, and not overly prejudicial to be admissible.

EXAMPLES OF REAL EVIDENCE IN CIVIL CASES:

- ▶ **A Defective Product in a Product Liability Lawsuit**
 - ▶ In a lawsuit against a manufacturer, the actual item (e.g., a malfunctioning power tool or appliance) that caused injury or damage may be introduced to show how it failed or why it was unsafe.
- ▶ **A Broken Stair Rail in a Premises Liability Case**
 - ▶ If someone was injured after falling due to a loose or broken handrail, that piece of the rail—if preserved—could be brought into court to demonstrate the dangerous condition.
- ▶ **Damaged Vehicle Parts in a Car Accident Lawsuit**
 - ▶ In a case involving a collision, physical components from the damaged vehicles (like a shattered headlight or dented bumper) may be presented to support claims of impact, point of contact, or severity of damage.
- ▶ **A Torn Piece of Clothing in a Slip-and-Fall Claim**
 - ▶ If a person's clothing was torn during a fall in a store, the clothing may be submitted to show the extent of the fall or type of hazard present.
- ▶ **An Altered Contract in a Business Dispute**
 - ▶ The original, physical version of a contract—showing erasures, handwritten changes, or unauthorized additions—can serve as real evidence in a case alleging breach of contract or fraud.

REAL EVIDENCE (TANGIBLE ITEMS) v. *DEMONSTRATIVE EVIDENCE*

Demonstrative evidence is not the original object involved in the incident, but rather a visual or illustrative aid created to help explain or clarify testimony, facts, or complex information for the judge or jury. It must accurately represent what it purports to show and be based on admissible evidence.

This type of evidence is used to make testimony more understandable, not to stand alone as proof.

▶ **EXAMPLES OF DEMONSTRATIVE EVIDENCE IN CIVIL CASES:**

▶ **Medical Illustrations or Diagrams**

- ▶ In a personal injury lawsuit, a diagram of the human body showing where the plaintiff was injured can help the jury understand the extent and location of injuries described by a medical expert.

▶ **Accident Reconstruction Models or Animations**

- ▶ In a car accident case, a computer-generated animation showing how the crash likely occurred (based on physical evidence and witness testimony) may help visualize the sequence of events.

▶ **Charts or Graphs Showing Financial Loss**

- ▶ In a breach of contract or business dispute, a bar graph or timeline showing projected profits versus actual losses can illustrate damages claimed by the plaintiff.

▶ **Blueprints or Site Diagrams**

- ▶ In a construction defect or premises liability case, floor plans or property diagrams may be used to show where the incident happened and to highlight design flaws or safety issues.

▶ **Timelines of Events**

- ▶ In a case involving a complex series of events—such as an employment discrimination lawsuit—a visual timeline can help the court track key actions, communications, and deadlines.

▶ **Before-and-After Photos**

- ▶ In a property damage or negligence case, side-by-side photos of a location or object before and after the alleged harm can demonstrate the extent of the damage.

The help is in the form of a list of exhibits, but it can save you valuable time. It will also allow you to think through other potential problems in advance.

Some of my favorites:

- (1) How do I get that 50-gallon drum to the courthouse?
- (2) Is that government document admissible?
- (3) Do I need a certified copy of that item?
- (4) A summary of documents (an index of voluminous documents) Is it admissible?
- (5) Where do I store tangible evidence before it is introduced?

**WHY WOULD YOU
NEED AN EXAMPLE
OF A 50-GALLON
DRUM FOR
IMPEACHMENT?**



COMPUTERS AND OTHER DEVICES



Physical exhibits require special considerations

- Computers
- Phones
- Hard Drives
- Tables

Security & chain of evidence

Understanding Court Requirements

- ❑ Overview of jurisdiction-specific exhibit formatting rules
- ❑ Common sources: Trial Readiness Orders, Final Pretrial Orders, Local Rules
- ❑ Case study: San Diego Superior Court ATRO checklist

OVERLOOKED SOURCES OF RULES

1

Court Orders / Notices

Standing Orders or Notices issued at the time of the filing of the complaint. Case Management Order (normally complex matters. Example: Notice of Case Management Conference.

Local Rules

Each court (Federal & State) has rules that apply. Some like Los Angeles Superior court have systems that need to be used: Motion Reservation system

2

Department / Judge's Rules

Some Judge's have rules relating to expartes, scheduling or trial.

3

Minute Orders

Some Judges order or set dates via Minute Orders. Example: San Diego Superior Court setting of Trial and related dates.

4

IN THE CIRCUIT COURT OF THE SEVENTEENTH
JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

Administrative Order 2018-62-Civ

**ADMINISTRATIVE ORDER
INSTITUTING A UNIFORM TRIAL ORDER FOR
CIRCUIT CIVIL CASES EXCLUDING RESIDENTIAL
FORECLOSURE AND COMPLEX LITIGATION CASES**

- (a) Pursuant to Article V, section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice.
- (b) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge “shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit.”

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: _____ DIVISION: _____ JUDGE: _____

Plaintiff(s) / Petitioner(s),

v.

Defendant(s) / Respondent (s).

**UNIFORM TRIAL ORDER
SEVENTEENTH JUDICIAL CIRCUIT
ORDER FOR MANDATORY
CALENDAR CALL**

UNIFORM TRIAL ORDER

TRIAL PERIOD COMMENCING: _____ This is a (____) week calendar.

CALENDAR CALL: _____
____ DAYS ____ WEEKS ____ JURY ____ NON-JURY

**FAILURE TO ATTEND CALENDAR CALL MAY RESULT IN EITHER
THIS CASE BEING DISMISSED OR A DEFAULT BEING ENTERED.**

- I. **ORDER OF TRIALS:**
The order of trials set during this Trial Period will be determined at Calendar Call. Parties are subject to being called to commence trial during any portion of the above noted Trial Period.
- II. **TRIAL DATE:**
The Court has determined this case is ready for trial pursuant to Florida Rule of Civil Procedure 1.440. This case is set for trial before the undersigned Judge in Courtroom _____, Broward County Courthouse, 201 S.E. 6th Street, Fort Lauderdale, Florida, 33301, as stated above.
- III. **CIVIL TRIAL POOL:**
Parties are advised that this case may be placed into the Seventeenth Judicial Circuit Court's "Civil Trial Pool" and is subject to being called for trial before any judge. If placed in the Civil Trial Pool, **parties must be prepared to proceed to trial if called.** Only the Division Judge or the Administrative Judge of the Seventeenth Judicial Circuit Court's Civil Division may grant a continuance of any case placed in the Civil Trial Pool.

VIII. JOINT PRETRIAL STIPULATION:

A. NO LATER THAN TEN (10) DAYS PRIOR TO CALENDAR CALL:

1. The Joint Pretrial Stipulation contemplates a single document that must be filed and served, **with a courtesy copy served on the undersigned judge**, no later than ten (10) days before Calendar Call.
2. The Joint Pretrial Stipulation requires that all agreed matters be fully identified and any disputed matters be specifically delineated with respect to each party.
3. At the time of the above noticed Calendar Call, all parties must be prepared to discuss all items set forth in Florida Rule of Civil Procedure 1.200(b).

B. The Joint Pretrial Stipulation must contain the following in separately numbered paragraphs:

1. Statement of the Facts: A concise, impartial statement of the facts of the case.
2. Stipulated Facts: A list of those facts that can be stipulated and require no proof at trial.
3. Statement of Disputed Law & Fact: A concise, impartial statement of those issues of law and fact that are to be tried.
4. Exhibit Lists: Each party must separately list all exhibits they intend to introduce into evidence. Each item must be listed by number and description on a separate schedule attached to the Joint Pretrial Stipulation. Each exhibit must be specifically described. **Generic descriptions of exhibits are subject to being stricken.** If any party objects to the introduction of any such exhibit, such objection **must be stated in the Joint Pretrial Stipulation**, setting forth the grounds with specificity. All exhibits must have been made available to all parties for examination. Parties must initial each other's exhibit lists and exhibits. **At trial, only those exhibits properly listed and initialed may be offered into evidence.**
5. Demonstrative Exhibits: all demonstrative exhibits (e.g., charts, graphs, enlargements of exhibits, etc.) intended to be used at a jury trial must be displayed to all parties at least ten (10) days before trial.

Coordination with Opposing Counsel

Importance of early exhibit exchange

Best practices:

- Share exhibit lists 30+ days before trial
- Use standardized formats (e.g., spreadsheets/templates)
- Participate in pre-trial meetings to resolve objections

Example: San Diego Superior Court Joint Trial Readiness Report

BEGIN PREPARATION BEFORE THE DEPOSITIONS

- Stipulate to a deposition protocol
- Include an example of a master exhibit list
- Include rules re describing the exhibits
 - Sequential order (i.e. every deposition does NOT start back with #1)
 - 4-digits (0001) | Exhibit 0045 or Exhibit 9999
 - No sub-parts
 - No duplicate documents
- Uniform formatting of descriptions
 - Bate or branding number and/or file name
 - Date of Document
 - Emails to including common fields and to describe as email or email string (more than one email)
- Special Care to the Descriptions of Native Documents
- Check the format for of the court's format for trial exhibit list for guidance

Exhibit No.	Date of Exhibit	Description / Title	Bates Range	Deponent Name	Depo Date
Exh. 0001	7/2/2021	Email: Subject Line "Performance Review"	PL_00123 – PL_00125	Jane Doe	02/10/24
Exh. 0002	2/4/2021	Organizational Chart – Q2 2022	DEF_00567	Jane Doe	02/10/24
Exh. 0003	6/4/2021	Memo from HR Regarding Complaint	PL_00245 – PL_00247	John Smith	02/14/24
Exh. 0004	6/30/2021	Surveillance Footage Screenshot	DEF_00988	John Smith	02/14/24
Exh. 0005	Undated	Timeline of Events (Demonstrative Only)	N/A	Jane Doe	02/20/24
Exh. 0006	1/3/2022	Employment Agreement Signed 01/03/2022	JOINT_0001 – JOINT_0005	Jane Doe	02/20/24

Sometimes the court determines the format of the exhibit list.

Below is an example taken from the San Diego Superior Court forms:

<u>EXHIBIT INDEX</u>					
Exhibit No.	Submitted by	Description	Ground(s) for Objection	Date Identified	Date Admitted (leave this blank)

Alternatively, below is an example for a Federal Court Exhibit list:

Trial Exhibit No.	Beginning Bates No.	End Bates No.	Document Date	Description	Deposition Exhibit No.	Sealed/ Basis	Redactions/ Basis	Objections	Counter-Objections	Ruling on Objections
DX-0001	DEF00001	DEF00002	9/10/2020	Email from Employee John Doe to Employee Jane Doe	John Doe Deposition, Ex. 5	Yes/ Confidential	None			
DX-0002	GOV0001	GOV0051	10/25/2018	Government Report on Company	Bill Smith Deposition, Ex. 4	No	None			

Exhibit Branding & Numbering

Clear labeling prevents courtroom disruptions

Numbering best practices:

- Sequential (e.g., TX 0540-001)
- Footer branding

Court rules are the first consideration

ACROBAT FOOTER

Add Header and Footer

Saved Settings: [Custom-not saved] [Delete](#) [Save Settings...](#)

Font
Name: Size: [U](#) [■](#)

[Appearance Options...](#)

Margin (Inches)
Top: Bottom:
Left: Right:

Left Header Text
Center Header Text
Right Header Text

Left Footer Text
Center Footer Text
Right Footer Text

[Insert Page Number](#) [Insert Date](#) [Page Number and Date Format...](#)

Preview
Preview Page of 12 [Page Range Options...](#)

Shrink document to avoid overwriting the document's text and graphics
 Keep position and size of header/footer text constant when printing on different page size

[OK](#) [Cancel](#)

[OK](#) [Apply to Multiple Files](#) [Cancel](#)

ACROBAT FOOTER

Add Header and Footer

Saved Settings: [Custom-not saved] Delete Save Settings...

Font

Name: Arial Black Bold Size: 12 U ■

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Margin (Inches)

Top:	0.3	Bottom:	0.3
Left:	0.3	Right:	0.3

Left Header Text

Center Header Text

Right Header Text

Left Footer Text

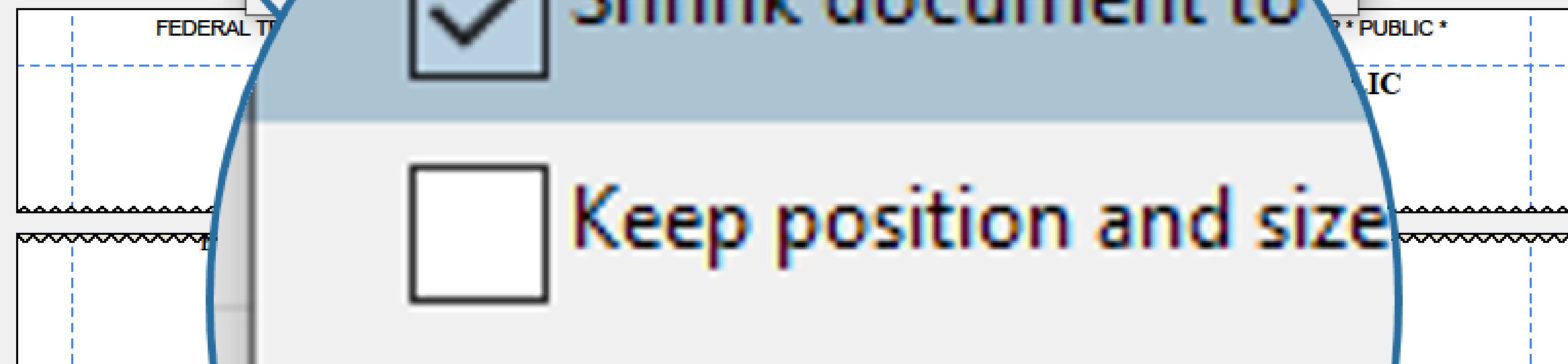
Appearance Options

Shrink document to fit sizes

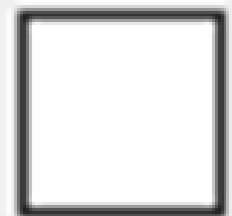
Keep position and size

Preview

Preview Page 1



Shrink document to fit sizes



Keep position and size

ACROBAT FOOTER

Add Header and Footer

Saved Settings: [Custom-not saved]

Font
Name: Size:

[Appearance Options...](#)

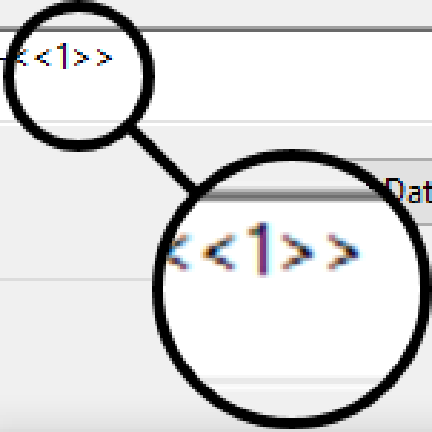
Margin (Inches)
Top: Bottom:
Left: Right:

Left Header Text
Center Header Text
Right Header Text

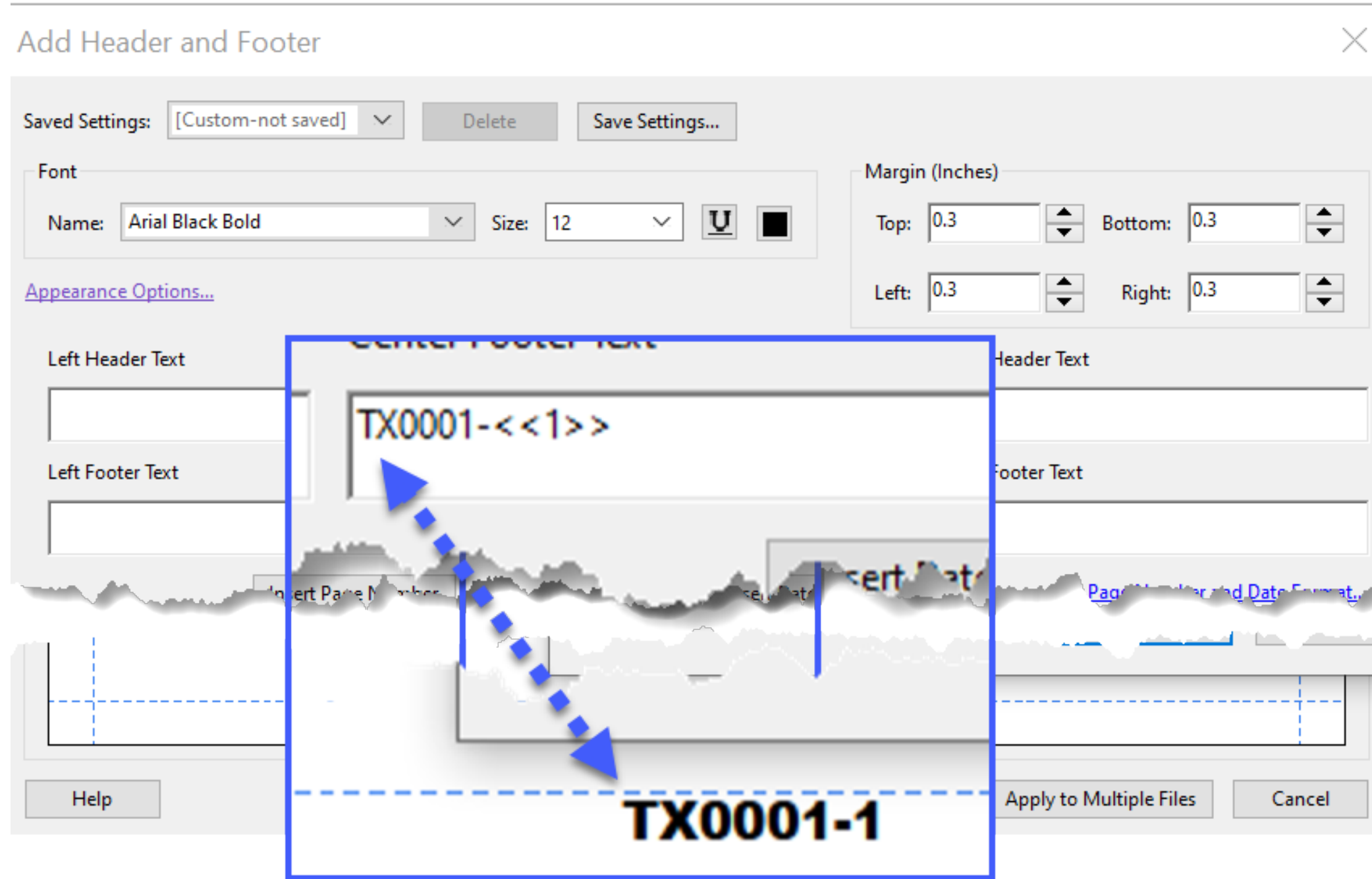
Left Footer Text
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ACROBAT FOOTER



PUBLIC

2. "Deposing Party Counsel" means the legal counsel of the Party or Parties noticing the deposition pursuant to this Protocol.
3. "Deposition Participant" means any person attending a Remote Deposition either in-person or remotely.
4. "Participating Counsel" means Witness's Counsel, Deposing Party Counsel, and any other counsel for a Party or non-Party, including in-house counsel, who are participating in a deposition. Respondents' in-house counsel will not participate in non-Party Witness depositions, unless that Witness is a former employee of either of the Respondents. If questioning of a former employee covers Confidential material of a non-party, Respondents' in-house counsel will not participate in that portion of the deposition.
5. "Platform" means the video-conferencing or file sharing computer application that the Parties have agreed to utilize to enable a Remote Deposition in accord with this Protocol.
6. "Primary Counsel" means counsel designated by the Parties and the Witness at the beginning of the Remote Deposition as provided in Paragraph VI.4.
7. "Remote Deposition" means a deposition conducted pursuant to Federal Rules of Civil Procedure 30 or 45 using a Platform as agreed to under this Protocol that allows for the Deposition Participants to participate in a deposition without attending the deposition in person.
8. "Witness" means the person, including non-Parties, whose Remote Deposition has been noticed in this litigation, or any person designated to appear to give testimony on behalf of a Party or non-Party pursuant to Federal Rule of Civil Procedure 30(b)(6).

II. GENERAL GUIDELINES AND SCOPE

1. This Stipulated Order Governing Remote Deposition Practices and Protocols (the "Remote Deposition Protocol" or "Protocol") will govern, subject to Court approval, the taking of Remote Depositions in the above-captioned matter as a supplement to the Federal Rules of Civil Procedure, the Case Management and Scheduling Order ("CMSO"), and the Protective Order.
2. This Protocol does not modify the governing rules for the taking of depositions imposed by the Federal Rules of Civil Procedure, the Federal Rules of Evidence, or the CMSO except to the extent those rules are specifically modified herein.
3. A copy of this Protocol shall be provided to each Witness or the Witness's Counsel. The requirements of Federal Rule of Civil Procedure 45(c)(1)(A) shall be waived for Remote Depositions of non-Parties conducted pursuant to Federal Rule of Civil Procedure 45.

2

TX0245-2

2

TX0245-2

Digital Exhibit Presentation Tools

Technology's role in modern trial exhibit management

Tools like TrialDirector and OnCue support:

- Synchronizing exhibits with testimony
- Creating callouts and highlighting evidence

Challenges & solutions:

- Test tools in advance to avoid glitches
- Prepare offline backups for ct room limitations

Best Practices for Exhibit Mgmt

Apply a structured coding system for categorization

Use a numerical scale to prioritize exhibits:

- 4: Highly relevant
- 3: Important
- 2: Secondary relevance
- 1: Low priority

Priorities using a numerical scale:

4 - Highly relevant (critical trial evidence)

3 - Important (strong supporting exhibit)

2 - Relevant but secondary

1 - Low priority or background material

** I like the standard that all documents with coding re *issues, witnesses or other tags* - must be marked for priority

Or use a category type scale to prioritize exhibits:

- Hot - *Bad*
- Hot - *Good*
- Hot - *Neutral*
- *Important*
- *Relevant*

Categories by their impact:

Hot - Good (Strong evidence favoring your case)

Hot - Bad (Potentially damaging evidence that needs counterarguments)


Hot - Neutral (Context-dependent exhibits)


Important (Key but not case-determinative)

Relevant (General background documents)


OR SOME DATABASES HAVE THEIR OWN CODING METHODS:




Edit: Analysis 

Rating 

Favorability Good Mixed Bad

Analysis 

Rating 

Favorability Bad

OPTIONS

Federal Rule of Evidence 1006

Summaries to Prove Content

"The proponent may use a summary, chart, or calculation to prove the content of voluminous writings, recordings, or photographs that cannot be conveniently examined in court.

The proponent must make the originals or duplicates available for examination or copying, or both, by other parties at a reasonable time and place.

And the court may order the proponent to produce them in court."

What is a Summary of Voluminous Documents?

A summary of voluminous documents is a condensed presentation (like a chart, table, spreadsheet, or written summary) of a large number of documents that are too lengthy or numerous to examine individually during a trial.

These summaries help:

1. Save time in court
2. Present complex financial, business, or technical records in a digestible form
3. Highlight patterns, calculations, or totals from hundreds or thousands of pages

Often used in cases involving: Bank records; Business transactions; Financial statements; Emails or logs over long periods

RESOURCES & REFERENCES:

*Handouts To be provided
separately via email*

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