

## Exhibit in Civil and Criminal Cases

**Definition and Legal Meaning of Exhibit** - Exhibit is a Document or object that is introduced in a trial as evidence or the Copy of a paper that is attached to a pleading, declaration, affidavit or other document that is incorporated into the main document. An exhibit is a document, object, or other item of evidence presented in court during a trial or hearing.

Exhibits can take many forms, including photographs, charts, videos, and physical objects. The purpose of an exhibit is to provide additional information or support for a claim or argument made by one of the parties.

The importance of exhibits in legal cases dates back centuries, when physical evidence such as weapons and other objects were presented in court to prove a defendant's guilt. Today, the use of exhibits is an important part of the modern legal system.

Various documents are produced before the court during trial. Following are the ways to deal with the documents produced in court: .Placed on the record, .Returned,Impounded,.Endorsement on documents and .Marking of documents and other consequences

Restricting to the topic, we shall focus on- The documents placed on the record:

1. **Admitted in evidence & mark as Exhibits:** Documents which are proved or admitted by the party against whom they are produced in evidence.
2. **Kept for pending proof:** Documents which are not proved or admitted by the party against whom they are produced in evidence be kept on the record pending proof and shall be rejected at the close of the evidence, if not proved or admitted.

### Procedure of Exhibit in Civil Cases - Provisions in General Rules (Civil):

- **Rule 53 : Duty of Court upon production of documents.**-The Court shall inspect and consider all documents as soon as practicable after they have been produced and dealt with them as follows:(a)Documents which are proved (or admitted by the party against whom they are produced in evidence) shall be admitted in evidence and marked as exhibits in the manner **prescribed in Rule 57** and the fact shall be noted in the record.
- **Rule 57- Marking of documents.**-(1) Documents produced by a plaintiff and duly admitted in evidence shall be marked with a number and documents produced by a defendant shall be marked with a number and the letter A or, where there are more than one set of defendants, by the letter A for the first set of defendants, by the letter B for the second. and so on. Where a document is produced by order of the Court and is not produced by any party, the serial number shall be prefaced by words "Court Exhibit" or an abbreviation of the same.  
(2) Where a document is produced by a witness at the instance of a party, the number of the witness shall be endorsed thereon, e. g. **Ex. (1) P. W. I.** if it is produced by the plaintiff's first witness, and **Ex. A-/D.W.** if it is produced by the defendant's first witness.  
(3) The party at whose instance a document is produced by a witness shall deposit the cost of the preparation of a certified copy of that document before it is placed on the record. The office shall then prepare a certified copy and keep it with the original document. If the witness wants to take back his document it shall be returned to him unless there are special reasons for keeping the original on the record.  
(4) Every exhibit-mark shall be initialled and dated by the Judge.
- **Rule 58. Marking of documents.**-Where a number of documents of the same nature are

admitted, as for example, a series of receipts for rent, the whole series should bear one figure or capital letter or letters, a small figure or letter in brackets being added to distinguish each paper of the series

#### **Other Relevant Rules-**

- **Rule 54 : Admission of genuineness not to be confused with Admission of truth of contents:**

Admission of the genuineness of a document is not to be confused with the admission of the truth of its contents or with the admission that such a document is relevant or sufficient to prove any alleged fact.

- **Rule 55. Proper expression about admissions of documents-** Admission of a document by a party shall be indicated by the **endorsement, "Admitted by the plaintiff" or "Admitted by the defendant.** Admission of a document in evidence by the Court shall be indicated by the **endorsement "Admitted in evidence"**. If any question is raised as to the correctness of a copy and the correctness of it is admitted, the endorsement shall be **"correctness of copy admitted"**.

Note- The use of the expression "Admitted as a copy" in endorsement on documents is prohibited.

#### **Procedure of Exhibit in Criminal Cases - Provisions in General Rules( Criminal)**

- **Rule 23. General Index:** Upon the institution of a case a general index in the prescribed form (Part IX, No. 9) shall be opened. In it shall be entered a note of every paper or document as it is brought upon the record, and also a note of every material exhibit which is produced in evidence. When a paper is removed from the record, a note of the fact shall at once be made in the general index against the entry of the paper. If the paper is an exhibit a note shall also be made in the index of exhibits.

**Index of Exhibits.**-Upon the institution of a case an index of prosecution exhibits, an index of defence exhibits, and an index of material exhibits in the **prescribed Form No. 33 Part VIII, no 69** shall also be prepared. Every document or weapon or other thing which is admitted in evidence as an exhibit shall be entered with its exhibit number in the appropriate index of exhibits. When a document or article admitted as an exhibit is subsequently rejected or returned, or otherwise ceases to be an exhibit a note of the fact shall at once be made in the appropriate index of exhibits also and the general index against the entry of that document or article.

- **Rule 27 -Making exhibits-** (a) Every document, weapon or other article admitted in evidence before a court shall be clearly marked with the number it bears in the general index of the case and the number and other particulars of the case and of the police station.  
(b) The court shall mark the document admitted in evidence on behalf of the prosecution with the letter followed by a serial number indicating the order in which they are admitted, thus- Ex. 1, Ex. 2, Ex. 3, etc.  
and the documents admitted on behalf of the defence with the letter followed by a numeral, thus- Ex. 1, Ex. 2, Ex. 3, etc.  
(c) In the same manner every material exhibit admitted in evidence shall be marked with numerals in serial order thus- Ex. 1, Ex. 2, Ex. 3, etc.  
(d) All exhibit marks on document, and material exhibits shall be initialled by the presiding officer.  
(e) No document or material exhibit which has been admitted in evidence and exhibited shall

not be returned or destroyed until the period for appeal has expired or until the appeal has been disposed of, if an appeal be preferred against the conviction and sentence.

#### Other rules regarding Exhibits-

- **Rule 30: Return of exhibits.**-A notice shall be fixed up in a conspicuous part of every court giving warning that if an exhibit which has been filed in a case is left in a court, it will be kept there at the owner's risk. Before making an order for the return of an exhibit, the court shall consider whether it is expedient to return it; whether, if returned a copy should be required in its place; and, if so, whether the copy should be prepared at the expense of the person to whom the exhibit is returned, or at the expense of the Government.
- **Rule 33. Use of document exhibited in another record.**-When a document in any record, civil or criminal, is made an exhibit in another record, civil or criminal, and is removed in that record, a certified copy of the document shall be retained in the record from which the document is removed, and a note of the removal made on the general index and the order-sheet. The certified copy shall be prepared by the court reader or ahlmad, and shall be signed by the presiding officer of the court. After the decision of the appeal or after expiry of the period of appeal, if no appeal has been brought, the document shall be returned to the record of which it originally formed part, its place being taken by the certified copy.

#### Landmark Judgements on Exhibits-

**1.Sudhir Engg Co. V. Nitco Roadways Ltd. 1995RLR 286**, Hon'ble Delhi High Court has elucidated this practice of marking of exhibits as follows-

Any document filed by other party passes through three stages before it is held proved or disproved These are-

1. First stage, when the documents are filed by either party in the Court these documents though on file do not become part of the judicial record
2. Second stage, when the documents are tendered or produced in evidence by a party and the court admits the documents in evidence. A document admitted in evidence becomes a part of the judicial record of the case and constitutes evidence ;
3. Third stage, the documents which are held "proved not proved or disproved when the court is called upon to apply its judicial mind by reference to Section 3 of the Evidence Act. Usually, this stage arrives at the final hearing of the suit or proceeding.

**2. Gulabpati vs Smt. Pushpa Rani Pandey And 2 Ors, on 25 November, 2019 (All HC)**, the Hon'ble Allahabad High Court set-aside the judgment and remand back the case for de-novo trial. The Hon'ble Court after discussing all the relevant provisions held that no exhibits marked, no endorsement made admitting them in evidence, Judgment passed by Court below is upon basis of such documents which did not form part of documentary evidence adduced by parties. In fact, there was no such document which was legally admitted in evidence. Procedure adopted by court below is in total ignorance of Order 13, Order 8 C.P.C. as well as Rules 40 to 69 of Chapter 3 Part C of General Rules (Civil) (Para 22).