

Guidelines for Electronic Evidence

This policy is intended to assist parties, counsel, and the courts in working with electronic evidence and is not mandatory. For purposes of this policy, "electronic evidence" is evidence created, transmitted, or stored in digital form.

I. Electronic Evidence Submitted to Courts

1. When electronic evidence is used during trial, the submitting party/counsel should provide the court with

(a) the original evidence, as amended through trial, on its submitted storage device with data preserved in its native format; and

(b) a duplicate copy of the evidence, that shall be

(i) formatted as an Adobe Acrobat PDF file (in read only format), a comma delimited data file, an XML file, a JPEG, an MPEG, or an MP3 audio file;

(ii) provided on a secure and protected media storage device; and

(iii) identified with an adhesive label that shall be affixed to each storage device legibly identifying the case caption, docket and page or case numbers, disk number (1 of 2, etc.), and the format(s) used.

2. Such storage devices shall be for the exclusive use of the courts and authorized court personnel, unless otherwise ordered.

II. Electronic Evidence on Appeal

1. The Clerk of the Court shall preserve electronic evidence in the following manners:

(a) the native form of the evidence shall be preserved as submitted with the bill of exceptions, pursuant to the existing rules of evidence;

(b) the duplicate media storage device shall be preserved as submitted with the original form of the evidence with the bill of exceptions; and

(c) the data stored on the accompanying storage device shall be transferred to the court's server and stored with any electronic oral evidence. The server shall

(i) possess an architecture structure to provide easy access to files and allow for easy determination of files eligible for purging;

(ii) have adequate backup and disaster recovery procedures in place to protect the data; and

(iii) convert documents on file as necessary to current forms of software so that any future data extracted from the server shall not be provided in an antiquated format.

2. Upon request of a party or counsel, the court may provide, at such party's or counsel's expense, a copy of any electronic evidence, as well as any electronic oral evidence. Such evidence shall be provided in the format as preserved or on a storage device that is not antiquated by current technology standards.

III. Periodic Review

The Guidelines for Electronic Evidence shall be reviewed on a biannual basis by the Administrative Office of the Courts, which shall recommend any necessary updates to the formats, storage devices, and processes in the guidelines. The Administrative Office of the Courts shall also recommend any necessary file conversion of existing files to avoid obsolescence.
