

# Top 9 Ways to Wrangle Electronic Exhibits

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**E**lectronic exhibits have been a part of the legal process for a long time – probably longer than many of us realize. The PDF file format became an open standard all the way back in 1993, and the Electronic Court Filing technical specifications were agreed upon more than 20 years ago.

Despite this long history, the adoption of electronic exhibits from depositions to trials has increased exponentially in the past few years. Today, according to a survey by Veritext, 89% of attorneys expect “one party to be remote occasionally or more often” going forward, requiring the use of electronic exhibits.

From deciding when to use PDFs to properly introducing native files, here are nine tips for getting a handle on your electronic exhibits.

## 1. SECURELY SENDING DIGITAL EXHIBITS

The first challenge with electronic exhibits is simply getting them from one place to another in a secure manner. With hacking, phishing, and social engineering attacks on the rise, ensuring your confidential data remains confidential is more critical than ever.

It might surprise you that email is not, and never was, sufficient for sending digital documents – an email is more like a postcard than a sealed envelope. It is far more effective to use a secure cloud storage application, like ShareFile ([www.sharefile.com](http://www.sharefile.com)), which sends a secure link to download the file rather than the file itself. You can email the link, and the recipient can open it securely in a browser, preventing any unauthorized access in transmission.

## 2. SECURELY RECEIVING DIGITAL EXHIBITS

The flip side of this issue is receiving files – your client or expert may not have the tools to send secure links. However, the same tool you use to send the digital files can be employed to request digital files. Most cloud storage applications, like ShareFile, can create a link that can be sent to users to prompt them to upload any documents they would like to send via a secure connection.

As a bonus, unlike email, there are no size limitations when you use the cloud. These services also allow you to create shared folders, enabling your clients and experts to routinely exchange files with you. Setting up a means for sending and receiving digital exhibits at the start of your case will ensure you are in compliance with ABA Confidentiality Standards.

## 3. DOES IT NEED TO BE NATIVE?

When determining which documents to use for an upcoming proceeding, another factor to consider is whether they will be

presented as PDFs or in their native format. For example, an Excel file can be converted to PDF or introduced as the native Excel file itself, which enables users to open it and view it in its original form. With many native files – for example, CAD, MRI, or video – information is lost when it is converted to a PDF, if conversion is even possible. This may help your strategy by removing extraneous metadata, or it may impede it by hiding formulas and other data that witnesses may need to see. No matter the tool you use to introduce electronic exhibits, the ability to share any type of native file is important.

## 4. CONVERTING NATIVE TO PDF

If, in fact, PDF is the format you would like to use, there are several tools that can convert native files. Many of them work like virtual printers, meaning anything you can print can be turned into a PDF. When you install the application – for instance, CutePDF ([www.cutepdf.com](http://www.cutepdf.com)), a free PDF maker – it will create a virtual printer. To generate a PDF, simply hit print and pick that printer. Instead of getting a paper document, you will be prompted to save a PDF. This is the simplest, highest-fidelity way to convert a file to a PDF, and it makes the document fully text searchable. If you only have a paper version and not the original file, you will have to scan the document, and you may need to OCR it separately if your scanner does not produce searchable PDFs.

## 5. WORKING WITH VIDEO/AUDIO FILES

Video files are increasingly common in legal proceedings with the rise in smartphone videos, security footage, Ring doorbell footage, and more. You will need software to view video files, such as VLC ([videolan.org/vlc](http://videolan.org/vlc)), a free, open-source application that can play any video. This is a great way to review the footage before bringing it to the proceeding.

At the proceeding, the attorney will need to use electronic exhibit software to distribute the video. If that software facilitates any file type, the video file can be loaded in as an exhibit and each participant will get their own copy to be played back at their own pace. This circumvents the problem of having to exchange large video files. By utilizing the cloud, users can preview the video instantaneously without downloading it. Audio files can also be treated the same way.

## 6. DO YOU HAVE THE SOFTWARE TO VIEW THE FILE?

The list of applications that can be used for viewing various types of electronic exhibits is nearly endless, and your choice will depend on the types of files your case needs. You may receive files such as CAD, MRI, 3D models, or websites. Before proceeding, it is



critical that you and all participants have the correct applications to view all files. If you are unsure which application you need to open a given file, a great site to investigate is FileInfo ([www.fileinfo.com](http://www.fileinfo.com)). Simply enter the file extension, and the site will tell you which application is needed to view it.

## 7. ENSURING THE REPORTER GETS THE DIGITAL FILE

Utilizing electronic exhibit sharing applications such as Exhibit Share ([www.veritext.com/services/veritext-exhibit-share-intro](http://www.veritext.com/services/veritext-exhibit-share-intro)) means that attorneys will be handling the documents, rather than the reporter. When attorneys introduce a document, they select it from the list and click the “Introduce Exhibit” button. This will stamp and distribute the document. Ideally, the electronic exhibit sharing application is coordinated through your reporting provider. If not, it will be critical to give the reporter access to the exhibits, generally by setting up an account for them, so they can produce them with the official transcript.

## 8. STAMPING/MARKING DIGITAL EXHIBITS

The best electronic exhibit tools are the ones that mirror the paper process as closely as possible. A critical aspect of introducing exhibits is marking them for the record. For PDF files, this is easy, because most electronic exhibit tools utilize PDF as their default format. These can be opened, stamped, and then distributed to all other parties, just as you would in person. Some applications will even convert an image file to PDF so it can be stamped and distributed.

However, if you use native files, you will need an electronic exhibit tool that can facilitate the exchange of the native file, but the attorney will need to clearly explain the document for the record – for example, “I am now marking the video entitled ‘June 2022 Security Footage.MP4’ as the next exhibit (Exhibit 13).” The more explicit and detailed the attorney is, the better the reporter will be able to capture that information for an accurate record.

## 9. PDF ANNOTATION (AND SEARCH) TOOLS

For more advanced users, there may be a need to annotate exhibits. This can be done before the proceeding or live during the proceeding. For annotating prior, you can use a tool like Adobe Acrobat or PDF Expert. These tools have highlighting, drawing, and shape tools that can mark up PDFs.

If your attorney wants to annotate a document during the proceeding to indicate an area of importance or have a witness point out a particular part of the document, you will again want to mirror the paper process as much as possible. Utilizing an exhibit-sharing application with built-in annotations is the easiest option. Users can simply start a live annotation session enabling anyone, including the witness, to make marks on the document. The questioning attorney can control each user’s permission to make annotations. Once the annotations are complete, the document can be finalized and added to the record or marked as an exhibit.

Since the first introduction of electronic exhibits, and particularly in the last few years, many things have changed, often for the better. Today, more sophisticated tools exist that are specifically designed for the legal field – tools that match the in-person process as closely as possible, allowing your normal deposition preparation skills to translate easily to the digital world. These new technologies have the potential to make our lives significantly easier.



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