

LOCAL CIVIL RULE 5

~~DESIGNATION AND HANDLING OF DOCUMENTS UNDER SEAL~~ REQUESTS TO FILE DOCUMENTS UNDER SEAL AND THE HANDLING OF DOCUMENTS UNDER SEAL

(A) Unless otherwise provided by law, ~~or~~ Court rule, or prior order of the Court, no document or portion of a document may be filed under seal ~~without an order entered by the Court~~ unless the filer has complied with the procedures set forth herein.

(B) As Provided By Law: A party ~~submitting~~ filing a document or a portion of a document ~~(e.g., exhibit[s]) for filing~~ under seal pursuant to a governing statute, rule, or order shall note on the face of the document that it or a portion of it is being filed under seal pursuant to ~~that a~~ a statute, rule, or order. ~~The Clerk shall provide public notice by stating on the docket that the document contains sealed material.~~ At the time of filing, the filer shall also file a notice available to the public stating that a filing has been made under seal and identifying the statute, rule, or order authorizing the filing under seal and describing what information is being filed under seal. If the Court determines that the cited statute, rule, or order does not provide for the filing under seal, the Court may order that the document or a portion of it be filed in the public record.

~~(C) Any motion for a protective order providing prospectively for filing of documents under seal shall be accompanied by a non-confidential supporting memorandum, a notice that identifies the motion as a sealing motion, and a proposed order. A confidential memorandum for in camera review may also be submitted.~~ Motions to File Under Seal: Motions to file documents under seal are disfavored and discouraged. Agreement of the parties that a document or other material should be filed under seal or the designation of a document or other material as confidential during discovery is not, by itself, sufficient justification for allowing a document or other material to be filed under seal. Anyone seeking to file a document or other material under seal must make a good faith effort to redact or seal only as much as necessary to protect legitimate interests. Blanket sealing of entire briefs, documents, or other papers is rarely appropriate.

A document or a portion of a document not covered by section (B) may be filed under seal only if a motion to file under seal pursuant to this section is filed contemporaneously with the material for which sealing is requested. The document or portion of a document that is the subject of a motion to seal and any confidential memorandum submitted therewith will be treated as sealed pending a determination by the Court on the motion to seal. Where sealing is sought for less than an entire document or filing, an unsealed, redacted version of the document or filing shall be filed in the public record.

Failure to file a timely motion to seal may result in the document being placed in the public record.

The motion to file under seal shall be accompanied by a non-confidential supporting memorandum, a separate non-confidential notice that specifically identifies the motion as a sealing motion, and a non-confidential proposed order. The proposed order shall recite the findings required by governing case law to support the proposed sealing. The non-confidential memorandum ~~and the proposed order~~ shall include:

- (1) A non-confidential description of what ~~is to be sealed~~ material has been filed under seal;
- (2) A statement ~~as to~~ why sealing is necessary, and why another procedure will not suffice;
- (3) References to governing case law, an analysis of the appropriate standard to be applied for

that specific filing, and a description of how that standard has been satisfied; and

(4) Unless permanent sealing is sought, a statement as to the period of time the party seeks to have the matter maintained under seal and ~~as to~~ how the matter is to be handled upon unsealing.

~~The proposed order shall recite the findings required by governing case law to support the proposed sealing.~~

~~The Clerk shall provide public notice by docketing the motion in a way that discloses its nature as a motion to seal, with its hearing date (if any). Other parties and non parties may submit memoranda in support of or opposition to the motion, and may designate all or part of such memoranda as confidential. Any confidential memoranda will be treated as sealed pending the outcome of the ruling on the motion.~~

A confidential memorandum may also be submitted.

When a party moves to file material under seal because another party has designated that material as confidential, the party designating the material as confidential must file a response to the motion complying with requirements (2), (3), and (4) above along with a proposed order.

The notice shall be identified as a notice of filing a motion to seal and it shall inform the parties and non-parties that they may submit memoranda in support of or in opposition to the motion within seven (7) days, and that they may designate all or part of such memoranda as confidential. Any information designated as confidential in a supporting or opposing memorandum will be treated as sealed pending a determination by the Court on the motion to seal. The notice shall also state that any person objecting to the motion must file an objection with the Clerk within seven (7) days after the filing of the motion to seal and that if no objection is filed in a timely manner, the Court may treat the motion as uncontested.

After the seven (7) day time period for filing a response or any objection to the motion to seal and any further briefing ordered by the Court, the Court will determine whether the material should remain under seal. The Court may require the filer or the person designating material as confidential to present further argument why certain material should remain under seal. If the Court determines that the appropriate standards for filing material under seal have not been satisfied, it may order that the material be filed in the public record.

~~(D) Any document not covered by section (B) and filed with the intention of being sealed shall be accompanied by a motion to seal that complies with the requirements of section (C). The Clerk shall provide public notice by docketing the motion in a way that discloses its nature as a motion to seal, with its hearing date (if any). Other parties and non parties may submit memoranda in support of or in opposition to the motion, and may designate all or part of such memoranda as confidential. The document and any confidential memoranda will be treated as sealed pending the outcome of the ruling on the motion. Failure to file a motion to seal will result in the document being treated as a public record.~~
Whenever a party files a document under seal, the filer must deliver a paper copy of all pleadings and documents relating to the motion to seal to the presiding District Judge or Magistrate Judge for review. When the proceedings are concluded, the Court will either destroy the paper copies containing the confidential material or direct counsel to retrieve them.

(E) ~~Each~~ Any document that is delivered to the Clerk's Office or to a judge's chambers that contains information that is the subject of an existing sealing order; or is the subject of a motion ~~for such an order to seal~~, shall be ~~submitted to the Clerk's Office~~ securely sealed; with the container clearly labeled "UNDER SEAL." The case number, case caption, a reference to any statute, rule, ~~or order,~~ permitting the item to be sealed or motion relating to the filing and a non-confidential descriptive title of the document

shall also be noted on the container.

(F) A motion to have an entire case kept under seal shall be subject to the requirements and procedures of sections (~~E~~B) and (~~E~~C).

(G) Nothing in this Local Civil Rule limits the ability of the parties, by agreement, to restrict access to documents which are not filed with the Court.

(H) Trial exhibits, including documents previously filed under seal, and trial transcripts will not be filed under seal except upon a showing of necessity demonstrated to the trial judge.