

GUIDANCE REGARDING MOTIONS FILED PURSUANT TO LR GEN 102 IN CRIMINAL CASES

FILING SEALED DOCUMENTS: Parties cannot seal otherwise public documents merely by consent or by labeling them sealed. A motion to seal seeking leave of court must be filed. All motions must conform with LR Cr 47. Documents subject to a motion to seal must be stamped or clearly labeled by the party on the cover, “FILED UNDER SEAL.” Any redacted documents submitted with a filer’s motion to seal must also be stamped or clearly labeled by the party on the cover, “REDACTED COPY.” Parties are directed to review the Court’s Electronic Learning Module and Sealed Filing Instructions before electronically filing a motion to seal.

CASES WITH PROTECTIVE ORDERS: In general, a protective order does not relieve a party from complying with LR Gen 102. Filers should carefully read the protective order to make certain what requirements are set forth within the order. Documents subject to a motion to seal pursuant to a protective order must be stamped or clearly labeled by the party on the cover, “FILED UNDER SEAL PURSUANT TO PROTECTIVE ORDER.”

SERVICE OF SEALED DOCUMENTS: Motions to seal and the document(s) subject to the motion to seal will not be served electronically via the Court’s CM/ECF system. Therefore, the filing party is responsible for serving all sealed documents and attachments on opposing counsel conventionally as outlined in LR Cv. 5.1(b). Conventionally served documents must contain a certificate of service, preferably attached to the document's last page, indicating the date of service, the manner of service and the names and addresses of the persons served, or whether they are being served using an alternate method of service permitted by Fed. R. Civ. P. 5(b) and, if so, which method.

VIEWING SEALED/RESTRICTED DOCUMENTS: Motions to seal will initially only be available to authorized court personnel. No notice will be sent to any party, including the filer. Upon receipt of the motion to seal, the Court will perform a quality control review of the document to ensure compliance with LR Gen 102. Following this review, which will generally occur within 24 hours of the filing, the entry and the documents will be made available to the United States and the applicable defendant based on the information contained in the filer’s certificate of service. It is important that a filer clearly indicate in their certificate of service the names and addresses of the persons served.

Sealed filings will contain docket text indicating that the entire document and/or certain attachments are restricted. Authorized Users who click on a sealed document will be prompted to enter their ECF login and password (not PACER) to confirm their status as an authorized attorney of record. Once this authentication has been completed, the document will be displayed. Please note, secondary e-mail recipients on the attorney’s primary account are not eligible to view sealed or restricted documents. It is strongly recommended that counsel of record link their CM/ECF account to their PACER account and access dockets using their CM/ECF login credentials in order to view entries or documents that may be sealed or restricted by statute, rule or court order.

FILING REDACTED/UNREDACTED DOCUMENTS: The Court encourages the limited sealing and restriction of documents. All filings with the Court – including attachments – must comply with Fed. R. Crim. P. 49.1: Social Security or taxpayer-identification numbers, dates of birth, names of minor children, financial account numbers, and home addresses may not appear, except as allowed by applicable rule. Although attorneys are required to redact this information from pleadings, it does not mean that the pleading(s) should be filed under seal. If the redacted

information is not material to a filing, a party does not need to separately file a motion to seal and an unredacted version of the document unless otherwise ordered by the Court.

If the redacted information is material to a filing, a party must electronically file a motion to seal along with an unredacted version of the document, and a redacted version that excises the confidential information. Parties should not separately electronically file the redacted version.

LEVELS OF RESTRICTION: CM/ECF allows the Court to restrict access to docket entries and documents only as provided by statute, rule or court order. This allows ready access to filings to authorized users, and strikes the appropriate balance between protecting the privacy of certain information and the public's right of access to judicial proceedings.

Not all restricted documents are viewable by all parties to a case. If a document has a restriction placed on it, a warning message will appear identifying the level of restriction and appropriate access. Examples of warning messages are:

Warning – You do not have permission to view this document.

Warning – This document is restricted to court users and the applicable party.

Warning – This document is filed *ex parte*; it is restricted to court users and the filing party.

Warning – This document is restricted to court users, case participants, and public terminal users.

FLATTENING A PDF: Flattening a PDF document before filing it in CM/ECF prevents other users from manipulating or editing the PDF document and ensures that all document content can be viewed on any device. Further, certain versions of Adobe Acrobat and other PDF editing software may cause document image quality issues when a PDF document is electronically filed through CM/ECF. As a result, all PDF documents should be “flattened” before filing through CM/ECF.

The easiest way to flatten a PDF document is by selecting, “Print to PDF” and saving the flattened document before filing. (*The Adobe PDF printer is generally installed automatically with Adobe Acrobat. Further, numerous free PDF printer drivers are available for download from the Internet.*)