

KNIGHT
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University at Buffalo
Civil Rights and
Transparency Clinic
School of Law

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via electronic mail

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Committee on Rules of Practice and Procedure
Administrative Office of the United States Courts
One Columbus Circle, NE
Washington, DC 20544

Dear Secretary of the Rules Committee,

We submit this letter in support of a new Federal Rule of Civil Procedure establishing uniform baseline procedures for sealing court records. This proposal would codify basic procedural rules for sealing, while allowing for local variation in implementation and continued development of the substantive law regarding public access to court records.

We are aware that the Advisory Committee on Civil Rules has requested additional information on the topic after studying and discussing a proposal for a new sealing rule submitted by Professor Eugene Volokh and others (20-CV-T). We submit this letter to urge the Advisory Committee to continue pursuing those efforts, and to offer an alternative text for a proposed rule that may allay concerns the Advisory Committee has raised. We also write to provide the Advisory Committee with additional information and research that underscores the urgent need for such a rule and the feasibility of adopting one without unduly impinging upon the prerogatives of individual district courts.

As Professor Volokh noted in his recent submission, district court sealing rules are highly variable. Our own research, described further below, shows that these divergent rules have resulted in inconsistent and improper sealing of court records, often in violation of the public's constitutional and common law rights of access. Our research is consistent with the findings of a major recent investigative project undertaken by journalists and data scientists at Reuters in cooperation with

Westlaw. That investigation, which led to the publication of several major news stories, examined the dockets of a large number of federal multidistrict litigation mass tort cases and found widespread disregard of the basic procedural requirements for sealing records.[1] A subcommittee of the House of Representatives held a hearing on this very topic—in response, in part, to the Reuters investigation—at which a representative of the federal judiciary acknowledged that improper sealing practices do occur.[2] The federal judiciary has previously recognized the problem of inconsistent sealing practices, including in a 2009 report from the Federal Judicial Center regarding cases that are entirely sealed.[3]

Despite these concerns, the rules regarding sealing have been left up to individual district courts to establish (or not) through local rules, administrative manuals, CM/ECF filing rules, individual rules of practice, or similar mechanisms. In 2010, the Federal Judicial Center issued non-binding guidance regarding sealing, following up on its 2009 study of sealed cases.[4] That guidance was meant to establish a set of best practices for district judges to follow, and it included a procedural "checklist" that laid out clear and non-controversial procedures that should be observed with respect to requests to seal.

Unfortunately, these hortatory efforts have not succeeded in regularizing sealing practices. The procedures for sealing remain an inconsistent patchwork from one district to the next. More troubling, this procedural laxity means that records sometimes end up under seal without notice to the public or without even any apparent judicial consideration of whether sealing is warranted under applicable laws, most notably the First Amendment and common law rights of access to court records. The absence of clear procedural rules means that litigants (and sometimes courts) easily and all too frequently neglect to address the propriety of sealing.

Respectfully, the time has come for the Committee to address this lingering and constitutionally intolerable state of affairs. We believe the Committee can do so through a narrow amendment to the Federal Rules

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[1] *See Hidden Injustice: How U.S. Courts Cover Up Deadly Secrets*, REUTERS (2019), www.reuters.com/investigates/section/usa-courts-secrecy/.

[2] *See The Federal Judiciary in the 21st Century: Ensuring the Public's Right of Access to the Courts: Hearing Before the Subcomm. on Courts, Intellectual Property, and the Internet of the H. Comm. on the Judiciary*, 116th Cong. (2019) (testimony of U.S. District Judge Richard W. Story, Northern District of Georgia).

[3] FEDERAL JUDICIAL CENTER, SEALED CASES IN FEDERAL COURTS (Oct. 23, 2009), www.uscourts.gov/sites/default/files/sealed-cases.pdf.

[4] SEALING COURT RECORDS AND PROCEEDINGS: A POCKET GUIDE, FEDERAL JUDICIAL CENTER (2010), www.fjc.gov/sites/default/files/2012/Sealing_Guide.pdf.

of Civil Procedure that would address only sealing *procedures*, leaving it to the courts to determine the applicable *substantive* standards. Moreover, the amendment could set out baseline procedures while leaving room for individual districts to articulate more detailed procedures that are tailored to their local needs. Indeed, the amendment we propose below is essentially a codification of the framework that the federal judiciary itself adopted in Federal Judicial Center guidance, and which has been percolating in the judiciary and Congress for decades.[5]

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The remainder of this letter proceeds in three parts. First, we summarize some especially relevant research on current sealing practices, including our own original research. Second, we offer the text of our proposed amendment to the rules, along with an explanation of each provision (similar to the Committee Notes typically issued in tandem with amendments to the Rules).[6] Finally, we explain the special need for procedural clarity in the context of sealing—a context in which the substantive rules guaranteeing public access to judicial records are liable to be overlooked by litigants and judges unless there are clear rules channeling litigation on these questions.

I. The lack of uniform sealing procedures has resulted in the improper sealing of records to which the public has a constitutional and common-law right of access.

There is a significant and growing body of evidence that the absence of clear procedural rules has led to improper sealing of documents and has frequently left the public in the dark about what has been filed under seal or why. We summarize here our own research and the more recent findings of Reuters' investigation.

We began our study of federal sealing practices in 2017, when we learned that the U.S. District Court for the Northern District of New

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[5] *See, e.g.*, The Federal Judiciary in the 21st Century: Ensuring the Public's Right of Access to the Courts: Hearing Before the Subcomm. on Courts, Intellectual Property, and the Internet of the H. Comm. on the Judiciary, 116th Cong. (2019); Benjamin Lesser et al., How Judges Added to the Grim Toll of Opioids, REUTERS (June 25, 2019), www.reuters.com/investigates/special-report/usa-courts-secrecy-judges/.

[6] Before submitting these comments and proposal, we reviewed Professor Volokh's proposal and the Advisory Committee's notes. We acknowledge the Committee's concerns, which we attempt to address in this submission. In our view, the concerns raised by the Advisory Committee are not inherent to all record-sealing proposals and can be addressed through the drafting process. The text we propose is meant to offer the Advisory Committee an alternative starting point.

York maintained a local rule governing sealing that had several grave problems.[7] For instance, the local rule as it then stood required that all motions to seal be filed under seal and that any resulting sealing orders likewise be sealed. It was silent as to public notice and docketing of motions to seal. And it appeared to permit judges to approve requests to seal without making any findings about why sealing was warranted. All of these deficiencies contravened best practices and governing appellate precedent.

To understand how this local rule affected actual practice in the Northern District of New York, we manually reviewed the dockets and filings in a sample of cases in which records had been sealed.[8] We began by reviewing months of recent PACER filings to identify cases in which records had been sealed. We then conducted a detailed examination of 29 cases in which we could see that documents had in fact been sealed. Our review unearthed numerous deficiencies in sealing practices—and significant departures even from the local rule that was then in effect. For instance, we discovered instances in which the court permitted parties to seal documents simply on consent, without any judicial determination that any party had satisfied the substantive requirements for sealing. Our review found that, in most cases where sealing was approved, there were no findings available on the public record explaining the grounds for sealing. We also discovered that sealed documents remained sealed indefinitely, despite a provision in the local rules requiring records to be unsealed 60 days after the conclusion of a case unless a party moved to perpetuate the seal.

We submitted a proposal to the Northern District of New York urging it to amend its local rules. The proposal was supported by our research findings and an analysis of the applicable precedents governing sealing practices. The court agreed to revisit its local rule and adopted an amendment that addressed nearly all of our concerns.[9]

We have also surveyed the sealing rules in nearly every federal district, which revealed that the rules vary substantially from one district to the next and that the rules in many of the districts are not

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[7] PROPOSED AMENDMENT TO LOCAL RULES 83.13 REGARDING SEALING IN CIVIL CASES, UNIVERSITY AT BUFFALO SCHOOL OF LAW CIVIL LIBERTIES & TRANSPARENCY CLINIC, KNIGHT FIRST AMENDMENT INSTITUTE, AND NEW YORK CIVIL LIBERTIES UNION, (May 19, 2017) (attached as Exhibit 1).

[8] *Id.*

[9] Our comments on the draft rule that the Northern District of New York published for comment are attached here as Exhibit 2. The rule that the court ultimately adopted is now codified at Local Rule 5.3. The court did not adopt the text we had proposed, but instead incorporated most of our suggestions in amending its existing rule.

procedurally designed to ensure compliance with the substantive requirements for sealing.

For instance, our research reveals that some districts have no local rule governing sealing procedures at all. For example, the Northern District of Alabama, Middle District of Alabama, Middle District of Georgia, and Western District of Missouri appear to have no local rule or administrative order establishing sealing procedures. Other district courts likewise have nothing (or very little) in their local rules regarding sealing and relegate mention of sealing to their CM/ECF filing instructions, providing instructions about the mechanics of e-filing under seal with little or no guidance on the appropriate form or content of motions to seal.[10]

The absence of uniform sealing rules has also led some courts to routinely permit sealing without considering the legal standards for limiting public access. Most prominently, some courts fail to respect the distinction between unfiled discovery (where non-disclosure orders can be imposed simply upon a showing of "good cause"[11]) and court filings (to which the public has a presumptive right of access and which generally can be kept secret only if a more stringent First Amendment or common law standard is satisfied[12]). For instance, the Western District of Wisconsin appears to allow parties to seal documents without motion or court approval based merely on their designation as "confidential" by a party in discovery pursuant to a protective order.[13] That rule and similar practices elsewhere create a procedural mechanism by which documents end up sealed without any consideration by the litigants or the court of the applicable First

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[10] The four districts mentioned in this paragraph are examples of this approach. *See, e.g.*, Civil Administrative Procedures Manual, Northern District of Alabama, www.alnd.uscourts.gov/sites/alnd/files/AL-N%20Civil%20Administrative%20Procedures%20Manual.Revision.05-18-2021.pdf; CM/ECF Civil and Criminal Administrative Procedures Manual and Users Guide, Western District of Missouri, www.mow.uscourts.gov/sites/mow/files/AdministrativeGuideandUserManual.pdf.

[11] *See Seattle Times v. Rhinehart*, 467 U.S. 20, 37 (1984).

[12] *See, e.g.*, *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597-99 (1978) (discussing common law right of access); *Lugosch v. Pyramid Co. of Onondaga Cnty.*, 435 F.3d 110 (2d Cir. 2006) (discussing the distinction between First Amendment and common-law rights of access).

[13] Administrative Order 337, In re: General Order for Filing Documents Under Seal (W.D. Wis. May 25, 2017), www.wiwd.uscourts.gov/sites/default/files/Admin_Order_337.pdf. The Eastern District of Wisconsin may have a similar practice, although its local rules appear to require that a motion be filed to justify sealing of at least some types of "confidential" discovery material. *See* Local Rules of the Eastern District of Wisconsin, General L.R. 79(d)(1), (6)-(7) & App., www.wied.uscourts.gov/sites/wied/files/documents/Local%20Rules%202010-0201_Amended%202021-0501.pdf.

Amendment or common law standards, which create a presumption of public access to filed documents. The result is systematic over-sealing of records and under-enforcement of public-access rights.

Sometimes the procedures for sealing differ radically even between the federal district courts within a single state. For example, the Middle District of Georgia has no rule at all; the only mention of sealing we found was in a paragraph in its administrative procedures explaining how to e-file a motion to seal.[14] The Northern District of Georgia also has no formal local rule, but its website includes a page describing "Procedures for Electronic Filing Under Seal in Civil Cases."[15] That page includes some minimal procedural guidance that goes beyond the mechanics of e-filing, notably a requirement to file a brief and proposed order in support of a motion to seal, but without any guidance as to the contents thereof.[16] In contrast, however, the Southern District of Georgia has detailed procedures regarding sealing that are codified in its local rules.[17] Its rule sets forth clear requirements for sealing, including the need to file a motion, to precisely specify the materials to be sealed, to rebut the presumption of openness that attaches to court filings, and to specify how long the seal should last.[18] Litigants in Georgia must thus comply with entirely different procedures—and perhaps face entirely different outcomes—depending on whether their case happens to be in Atlanta, Macon, or Savannah.

This lack of clear rules almost certainly leads to improper sealing practices—as we found in our review of the dockets of the Northern District of New York. It also disserves litigants and judges, who are often left without clear procedural guidance for filing or resolving motions to seal.

These concerns have been confirmed by the investigative work conducted by Reuters in support of its journalistic series, *Hidden Injustice*. Journalists and data experts, working with Westlaw's database of federal dockets, combed millions of federal cases for sealed filings.[19]

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[14] CM/ECF Administrative Procedures, Middle District of Georgia, www.gamd.uscourts.gov/sites/gamd/files/AdministrativeProceduresElectronicFiling.pdf.

[15] Procedures for Electronic Filing Under Seal in Civil Cases, Northern District of Georgia, www.gand.uscourts.gov/cv-sealed-procedures.

[16] *Id.*

[17] Local Rules for Civil Cases, L.R. 79.7, Southern District of Georgia, www.gasd.uscourts.gov/court-info/local-rules-and-orders/local-rules.

[18] *Id.*

[19] *Hidden Injustice, How We Did the Data Analysis,* REUTERS (June 25, 2019), www.reuters.com/investigates/special-report/usa-courts-secrecy-how/; *see also* Benjamin Lesser et al., *How Judges Added to the Grim Toll of Opioids*,

Their analysis ultimately focused on mass-tort products liability actions where information filed in court under seal is more likely to have a direct bearing on the health and safety of the public. They examined "thousands of court filings from 115 of the largest mass product-liability actions from the past 20 years," all of them on the federal courts' MDL docket. They found that 48 percent of these cases contained sealed public health and safety information and that, in a stunning 85 percent of those cases, "judges offered no reasoning [for sealing] in the court record."[20] They also found that in 31 of these 115 cases, critical motions—including summary judgment, *Daubert*, and class certification motions—were filed *entirely* under seal, rather than with redactions of only those presumably more targeted portions where secrecy could be justified.[21]

Reuters expanded on these empirical findings with in-depth reporting on the causes and consequences of this secrecy. One article in the series, for example, highlighted the litigation dynamics that often lead both plaintiffs and defendants alike to be indifferent to improper sealing. As they explain, "[d]ozens of plaintiff lawyers told Reuters they feel compelled to go along with entrenched court secrecy" because their clients "literally can't afford to wait for disputes over what can and can't be made public as bills mount."[22] Another article highlighted the efforts of the defense bar to establish rules and practices biased toward sealing.[23] In that same article, Reuters explained how protective orders that restrict dissemination of unfiled discovery frequently permit documents to be sealed when filed in court with little justification by litigants or scrutiny by judges, despite the more rigorous standard that applies to court records. More broadly, Reuters focused on the potential human cost of secrecy: the lead article in its series reported that evidence of the addictiveness of prescription opioids had been buried in sealed court filings for years, potentially stalling effective measures to mitigate the opioid epidemic.[24]

REUTERS (June 25, 2019), www.reuters.com/investigates/special-report/usa-courts-secrecy-judges/.

[20] *Id.*

[21] *Id.*

[22] Jaimi Dowdell & Benjamin Lesser, *These Lawyers Battle Corporate America—and Keep Its Secrets*, REUTERS (Nov. 7, 2019), www.reuters.com/investigates/special-report/usa-courts-secrecy-lawyers/.

[23] Michelle Conlin, Dan Levine & Lisa Girion, *Why Big Business Can Count on Courts to Keep Its Deadly Secrets*, REUTERS (Dec. 19, 2019), www.reuters.com/investigates/special-report/usa-courts-secrecy-lobbyist/.

[24] Benjamin Lesser et al., *How Judges Added to the Grim Toll of Opioids*, REUTERS (June 25, 2019), www.reuters.com/investigates/special-report/usa-courts-secrecy-judges/.

All of this investigative work—in addition to the FJC's 2009 study of sealed cases[25]—points in the same direction: there is a significant problem with sealing practices in the federal courts, and those problems stem from a lack of clear rules about how litigants should request sealing and about how judges should resolve such requests. Moreover, there is every reason to believe that the problems we discovered—and that Reuters found—exist in many other, as-yet-unstudied, parts of the federal courts' vast docket.[26]

II. A new rule governing sealing of court records is necessary.

The only effective solution to the problems we have documented is a uniform baseline rule that applies in district courts across the country. In the absence of such a rule, there will continue to be wide variation in the sealing procedures and practices among districts and individual judges, leading to inconsistent application of the law and sealing that does not comply with the First Amendment and common-law standards for the secrecy of court records.

The rule we propose is meant to codify seven basic procedural requirements that the Federal Judicial Center endorsed in an official 2010 publication, *Sealing Court Records and Proceedings: A Pocket Guide*.[27] That guide included a "procedural checklist" that described what "courts generally require . . . when a record is sealed or a procedure is closed."[28] The checklist was compiled by Robert Timothy Regan,

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[25] Tim Reagan & George Cort, Federal Judicial Center, *Sealed Cases in Federal Courts* (2009), www.fjc.gov/sites/default/files/2012/SealCaFC.pdf

[26] Unearthing and documenting the problems with sealing practices is extremely labor-intensive because it requires manual review of the dockets of individual cases to attempt to discern how documents came to be sealed and whether proper procedures were followed. We have not had the capacity to expand our research beyond the 29 cases we identified in the Northern District of New York. Even a team of well-resourced investigative reporters at Reuters limited their examination to 115 cases on the MDL docket. The fact that there may not be a large number of recent studies documenting the problems with sealing practices should not be misunderstood by the committee as indicative of a lack of evidence, but rather as reflecting the difficulty of studying the problem. Moreover, we (and other members of the public) are necessarily limited in studying sealing to what can be gleaned from public dockets; sealing that is not noted publicly in some way is effectively impossible to study.

[27] Robert Timothy Reagan, Federal Judicial Center, *Sealing Court Records and Proceedings: A Pocket Guide* (2010), www.fjc.gov/sites/default/files/2012/Sealing_Guide.pdf.

[28] *Id.* at 19.

the same expert who had previously been the lead author of at least two in-depth studies of sealing issues for the Federal Judicial Center.[29]

The FJC procedural checklist cites extensive case law in support of seven basic procedural requirements. Those seven requirements are quoted below, with shorthand titles for ease of reference:

1. **Court Order:** "Absent authorization by statute or rule, permission to seal must be given by a judicial officer."

2. **Public Docketing:** "Motions to seal should be publicly docketed."

3. **Opportunity to Respond:** "Members of the news media and the public must be afforded an opportunity to be heard on motions to seal."

4. **Public Order:** "There should be a public record of the court order to seal."

5. **Narrow-tailoring:** "Sealing should be no more extensive than necessary."

6. **Record for Appellate Review:** "The record of what is sealed and why should be complete for appellate review."

7. **Duration of Seal:** "Records should be unsealed when the need for sealing expired."[30]

Our own research confirms that these are requirements are broadly agreed upon by the federal courts of appeals. Accordingly, we propose the following Rule 5.3 to govern sealing. In drafting the rule, we were careful to hew closely to the wording and drafting conventions followed elsewhere in the Federal Rules of Civil Procedure. We also tried to use language that would be consistent with Rule 5.2, which is more narrowly focused on privacy protections for certain personally identifying information. The text of the proposed rule is below, followed by brief

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[29] *See* Tim Reagan & George Cort, Federal Judicial Center, *Sealed Cases in Federal Courts* (2009), www.fjc.gov/sites/default/files/2012/SealCaFC.pdf; Robert Timothy Reagan, et al., Federal Judicial Center, *Sealed Settlement Agreements in Federal District Court* (2004), www.uscourts.gov/sites/default/files/sealset3_1.pdf.

[30] SEALING COURT RECORDS AND PROCEEDINGS: A POCKET GUIDE, THE FEDERAL JUDICIAL CENTER (2010), www.fjc.gov/content/sealing-court-records-and-proceedings-pocket-guide-0.

explanatory remarks on each provision, similar in nature to the Committee Notes that typically accompany amendments to the Federal Rules.

Proposed Federal Rule of Civil Procedure 5.3:

a. *In General.* Except as otherwise provided in Rule 5.2, no filing or portion thereof shall be placed under seal unless ordered by the court. The court may, on its own, order sealing in compliance with this rule.

b. *Requesting Seal.* A party may move to place a filing or portion thereof under seal. The motion must:

   i. Be in writing, or if made during a hearing or trial, on the record;
   ii. Specify the filing or portion thereof to be sealed;
   iii. State with particularity the basis for sealing with reference to applicable law; and
   iv. State the circumstances, if any, under which the basis for sealing the filing or portion thereof would no longer apply. Alternatively, state the circumstances or point in time, if any, under which the movant proposes that sealing would no longer be necessary.

c. *Public Notice of Motions.* Any motion to place a filing under seal must be recorded on the civil docket and made available to the public to the fullest extent possible, without revealing the particular material sought to be sealed or information submitted in support of the motion that is designated as non-public by the movant.

d. *Approval of Seal.* The court may grant a motion to place a filing or a portion thereof under seal if the movant shows that sealing is justified under the applicable legal standards. If consistent with the applicable legal standards, the court shall consider partial sealing as an alternative to placing a filing under seal in its entirety. The court should, to the fullest extent possible, state the reasons for granting or denying the motion in its decision on the record or in an opinion, memorandum of decision, or similar written disposition filed by the court. Any order to place a filing under seal must be recorded in the civil docket.

e. *Docketing of Sealed Documents.* Any filing or portion thereof that is placed under seal shall be noted on the civil docket in such a manner that the public can identify the court order, and any corresponding motion, pursuant to which the filing or portion thereof was placed under seal.

f. *Unsealing.* The court may order a sealing order to be lifted. A sealing order must be lifted when grounds for sealing no longer apply.

Notes on Proposed Rule 5.3

Paragraph 5.3(a) clarifies that parties may not file documents under seal unless there is a court order granting permission to do so. Typically, a party will obtain such a court order by filing a motion to seal, but this provision does not preclude a district court from issuing a general order permitting the filing under seal of certain specific types of documents that are categorically subject to sealing. For instance, one district court currently has a local rule governing litigation initiated by pseudonymous plaintiffs that requires such plaintiffs to file a statement disclosing their identity to the court at the outset of litigation. That court's sealing rule permits those disclosures to be filed under seal as a matter of course, pending a subsequent motion for permission to continue to proceed pseudonymously. *See* Eastern District of Wisconsin, General Local Rule 79(d)(5) & Civil Local Rule 10(c).

Subparagraph 5.3(b)(i) requires a motion be made in writing or on the record to ensure that interested members of the public can review public portions of such filings, to permit interested members of the public to challenge any proposed sealing, and to create a record amenable to appellate review.

Subparagraph 5.3(b)(ii) requires that the motion specify the filings (or portions thereof) to be sealed so that there is clarity for the court about what, specifically, the party wishes to seal. The proposed rule refers to the sealing of "portions" of documents to indicate that documents need not (and should not) be sealed in full where only certain words, sentences, paragraphs, or other portions thereof contain information properly subject to a sealing order. The proposed rule leaves it up to individual district courts and judges to determine how litigants should specify the portions to be sealed. Some judges, for example, require litigants to submit the unredacted filing *in camera* with the portions proposed to be sealed highlighted for the judge's reference. Any such practices can be elaborated by individual courts or judges consistent with the proposed rule.

Subparagraph 5.3(b)(iii) focuses the attention of litigants on the "applicable law" governing sealing in a particular instance, which may include the First Amendment, the common law, particular statutes, or other sources of law. The rule is worded in this way so as not to entrench any substantive rules regarding sealing via the rule amendment pro-

cess. *See* 28 U.S.C. § 2072(b). The rule leaves it to the courts and Congress to elaborate the substance of the law governing the public's right of access and how such rights may vary by context.

Subparagraph 5.3(b)(iv) requires litigants to consider whether and when the necessity for sealing will abate, and to propose to the court, if possible, a set of circumstances in which, or a time after which, sealing will no longer be necessary. This provision is necessary to enable the court to limit the duration of a sealing order, if appropriate. This provision is meant to minimize the risk that a sealing order will remain in place after it is no longer justified. This provision also leaves it open to individual courts to impose more specific requirements regarding unsealing, such as the Northern District of New York's rule requiring materials to be unsealed 60 days after a case ends absent a motion to continue the seal.

Paragraph 5.3(c) ensures that members of the public and news media have notice that a motion to seal has been filed so that they can be heard on the motion to seal if they so choose. In most jurisdictions, members of the press or public are routinely permitted to intervene under Rule 24 to assert their right of access in opposition to sealing. The proposed rule, however, does not specify the precise procedural mechanism that should be used by non-parties seeking to oppose sealing. It leaves it open to individual courts to fashion alternative procedures, and it also allows individual judges to entertain less-formal submissions from interested members of the press or public—a practice that is quite common among journalists who lack the resources to retain counsel or to formally intervene.

Paragraph 5.3(d) clarifies the procedure by which a district judge may grant a motion to seal. The provision states sealing should be no more extensive than necessary and that the court should make a record of what is sealed and why. The provision instructs that such judicial determinations should be made available to the public to the greatest extent possible. These procedures serve to ensure proper consideration by the courts of the public's rights and interests in open judicial proceedings. These procedures are also meant to permit interested members of the public to understand the reasons for sealing, so that they can meaningfully determine whether to oppose sealing and on what grounds. The procedures are also necessary to create a record for appellate review. This provision leaves ample latitude for individual judges and courts to fashion local practices for deciding motions to seal. Some courts, for example, may require litigants to submit proposed orders that meet the requirements of this paragraph. Others may permit judges to issue text orders on the electronic docket rather than separate memorandum opinions.

Paragraph 5.3(e), which requires sealed filings to be noted on the public docket, is meant to guarantee notice to the public whenever

sealed documents are filed. The provision also ensures notice to the public, based on the docket, of which motion and court order led to the sealing of a particular record, so that the public can understand the basis for the sealing and determine whether to challenge the sealing. This provision leaves significant latitude to individual district courts to determine how to administer their individual electronic docketing systems. For example, some courts currently allow parties to file documents under seal themselves via CM/ECF; some require such materials to be submitted to the clerk or chambers on paper or via email.

Paragraph 5.3(f) confirms that courts have the power to lift sealing orders. As noted previously, motions to unseal filed by non-parties are routinely considered under Rule 24, but the proposed rule leaves it open to individual courts to fashion more specific procedures by which members of the press or public may request that a sealing order be lifted. This provision also codifies the basic requirement that records should be unsealed when the need for sealing has expired, but leaves it open to individual district courts how to implement that principle. For instance, individual courts might require litigants to file unsealed versions of sealed records at a certain point. District courts could also provide for their clerk's office to manage routine unsealing.

III. Concluding remarks

We respectfully urge the Advisory Committee to press ahead with its study of this important issue and to recommend the adoption of a rule along the lines we have proposed. The status quo is fractured and disorderly, leading to improper application of the laws governing sealing, and sometimes leaving litigants and judges rudderless, without any meaningful procedural guidance. A uniform procedural baseline for sealing is necessary to ensure that records to which the public has a right of access are not sealed improperly or indefinitely. Carefully implemented, such a rule would provide a foundation upon which local practices can be built.

Clear procedures for sealing are especially important because the parties in litigation are frequently indifferent (if not formally adverse) to the public's right of access to court records. Parties often find it convenient to agree (or not to oppose) sealing, because their interest is typically in resolving the case rather than facilitating public scrutiny thereof. As a result, there is often no party in court opposing the secrecy favored by the litigants. Judges thus frequently seal records without adversarial testing, and without any party to represent the public interest in open judicial proceedings.

The proposed rule would address these problems by codifying uncontroversial, baseline procedures that should be followed before the sealing of records. It would, we believe, reduce the frequency with which records are improperly sealed. It would also promote public confidence

in the judiciary by ensuring that, where court filings are shielded from the public, there has at least been proper consideration of the need for such secrecy.

Please let us know if we can be of assistance to the Advisory Committee as it continues to consider these issues. Many thanks for your consideration.

Sincerely,

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Exhibit 1

University at Buffalo
Clinical Legal Education
School of Law

NYCLU
NEW YORK CIVIL LIBERTIES UNION

KNIGHT FIRST AMENDMENT INSTITUTE
at Columbia University

May 19, 2017

John M. Domurad
Chief Deputy
James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207

RE: Proposed Amendment to Local Rule 83.13 regarding sealing in civil cases

Dear Mr. Domurad,

We write on behalf of the Civil Liberties and Transparency Clinic at the University at Buffalo School of Law, the New York Civil Liberties Union, and the Knight First Amendment Institute at Columbia University to propose an amendment to Northern District of New York Local Rule 83.13 (the "Rule"), which governs the sealing of documents in civil cases.[1] The Rule, as currently written and implemented, appears to violate Second Circuit case law governing the public's First Amendment right of access to judicial documents.

In this letter, we set out the applicable law and analyze the Rule and the Court's implementation of it.[2] We also propose amendments to bring the Rule into compliance with

[1] Local Rule 83.13 currently provides:

> (a) Cases may be sealed in their entirety, or only as to certain parties or documents, when they are initiated, or at various stages of the proceedings. The Court may on its own motion enter an order directing that a document, party or entire case be sealed. A party seeking to have a document, party or entire case sealed shall submit an application, under seal, setting forth the reason(s) why the document, party or entire case should be sealed, together with a proposed order for the assigned judge's approval. The proposed order shall include language in the "ORDERED" paragraph stating the referenced document(s) to be sealed and should include the phrase "including this sealing order." Upon the assigned judge's approval of the sealing order, the Clerk shall seal the document(s) and the sealing order. A complaint presented for filing with a motion to seal and a proposed order shall be treated as a sealed case, pending approval of the proposed order. Once the Court seals a document or case, it shall remain under seal until a subsequent order, upon the Court's own motion (under subsection (b) of this Rule or otherwise) or in response to the motion of a party, is entered directing that the document or case be unsealed.
>
> (b) Pleadings and other papers filed under seal in civil actions shall remain under seal for sixty (60) days following final disposition of the action, i.e., final disposition of the action includes any time allowed by the federal rules to file an appeal in a civil matter, and, if an appeal is filed, sixty (60) days from the date of the filing of the mandate if the action was not remanded for further proceedings. After that time, the Court [Table of Contents] 71 [X: ADR & General Provisions] will unseal all sealed documents and place them in the case record unless, upon motion of a party, the district judge or magistrate judge orders that the pleading or other document remain under seal or be returned to the filing party. If the case is fully electronic, documents that have been unsealed may be uploaded to CM/ECF where they would be available for public viewing.

[2] We assessed the Court's implementation of the rule by examining a sample of the court's cases. *See* Exhibit A (summarizing our findings). We selected the sample by searching for civil dockets that contain the word "seal" (or variations thereof), from among cases that were filed during the month of January in 2010, 2014, and 2017. In addition, we searched dockets that contained the words "sealed complaint" resulting in a range of cases from 2004 through 2012. We manually reviewed the resulting dockets to identify civil cases in which documents had in fact been sealed. This produced a sample set of 29 cases.

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governing law and to provide clear guidance to the bench and bar regarding the standards and procedures that govern the sealing of judicial documents in civil cases.[3] Our proposed amendments are informed by our review of the sealing rules of all 94 federal district courts. *See* Exhibit B (providing the text of all such rules).

* * *

This Court's discretion to seal records is limited by both the First Amendment and the common law rights of access to judicial documents. *See Lugosch v. Pyramid Co. of Onondaga County*, 435 F.3d 110, 119-20 (2d Cir. 2006). Both sources of law guarantee the public a qualified right of access to documents filed in court. As the Second Circuit has held, a "[f]inding that a document is a 'judicial document' triggers a presumption of public access, and requires a court to make specific, rigorous findings before sealing the document or otherwise denying public access." *Newsday LLC v. County of Nassau*, 730 F.3d 156, 167 n.15 (2d Cir. 2013).

To determine whether the First Amendment right of access applies to particular judicial documents, the Second Circuit employs two tests. "The first approach considers experience and logic': that is, 'whether the documents have historically been open to the press and general public and whether public access plays a significant positive role in the functioning of the particular process in question.'" *Bernstein v. Bernstein Litowitz Berger & Grossmann LLP*, 814 F.3d 132, 141 (2d Cir. 2016) (quoting *Lugosch*, 435 F.3d at 120). "'The second approach considers the extent to which the judicial documents are derived from or are a necessary corollary of the capacity to attend the relevant proceedings.'" *Id.*

Under these tests, the Second Circuit has held that essentially all substantive filings are subject to the First Amendment right of access including, for example, docket sheets, *Hartford Courant Co. v. Pellegrino*, 380 F.3d 83 (2d Cir. 2004), complaints, *Bernstein*, 814 F.3d at 139, pre-trial motion papers in criminal cases, *In re N.Y. Times Co.*, 828 F.2d 110, 116 (2d Cir. 1987), documents submitted in support of summary judgment, *Lugosch*, 435 F.3d at 124, compliance reports filed pursuant to a settlement agreement, *United States v. Erie County*, 763 F.3d 235, 237 (2d. Cir. 2014), and Criminal Justice Act forms, *United States v. Suarez*, 880 F.2d 626 (2d Cir. 1989). The common law right of access to judicial documents is arguably more expansive, covering any "filed item that is 'relevant to the performance of the judicial function and useful in the judicial process.'" *Bernstein*, 814 F.3d at 139 (quoting *Lugosch*, 435 F.3d at 119).

Because sealing denies access guaranteed by the First Amendment and common law, courts may seal judicial documents only upon satisfying strict substantive and procedural requirements. Below, we identify the substantive and procedural requirements established by the Second Circuit and explain how the Rule and practice in this Court appear to fall short.

[3] We propose amendments only to the Court's rules regarding sealing in *civil* cases. We note, however, that the Court's sealing rule in criminal matters, Local Rule 13.1, is identical to the Rule in civil matters, 83.13(a). We have the same concerns regarding the procedural and substantive requirements that govern sealing in criminal cases because the First Amendment standards that apply in that context are identical to those that apply in civil cases. *See Lugosch v. Pyramid Co. of Onondaga County*, 435 F.3d 110, 120 n.4 (2d Cir. 2005). Accordingly, if the Court adopts the amendments we propose here, the Court may wish to consider similar amendments to its criminal rules.

I. Substantive Requirements to Seal Judicial Documents

The First Amendment sets a very high bar for courts to deny public access to judicial documents. A court may seal a judicial document only if it determines that sealing is "essential to preserve higher values and is narrowly tailored to serve that interest." *Lugosch*, 435 F.3d at 119 (internal quotation omitted). The Second Circuit instructs that "'[b]road and general findings' and 'conclusory assertion[s]' are insufficient to justify deprivation of public access" under this test. *Bernstein*, 845 F.3d 145-46 (quoting *Erie County*, 763 F.3d at 243). The common law right of access also imposes a significant limit on the power to seal judicial documents. Common law requires a court to determine the "weight to be given the presumption of access" by examining "the role of the material at issue in the exercise of Article III judicial power and the resultant value of such information to those monitoring the federal courts" and then to "balance competing considerations against it." *Lugosch*, 435 F.3d at 119-20 (quoting *United States v. Amodeo*, 71 F.3d 1044, 1049-50 (2d Cir. 1995)).

In addition, the case law establishes that any sealing of judicial documents must be narrowly tailored both in scope and duration. *See United States v. Aref*, 533 F.3d 72, 83 (2d Cir. 2008); *United States v. Strevell*, No. 05-cr-477, 2009 WL 577910, at *6-7 (N.D.N.Y. Mar. 4, 2009). Courts may seal only those portions of a judicial document necessary to serve the interests that justify the seal, and they must require that a redacted version be made public. *Aref*, 533 F.3d at 83 ("[W]e reinforce the requirement that district courts avoid sealing judicial documents in their entirety unless necessary."). Courts must also specify a time limit on sealing orders whenever possible. *Strevell*, 2009 WL 577910, at *6-7.

This Court's sealing rules should reflect these substantive requirements. We are concerned, however, that the Rule may violate—or at least not require compliance with—these governing standards. The Rule currently contains no mention at all of the substantive requirements that govern sealing. The Rule does not specify: (1) that judicial documents may be sealed only where essential to serve higher values; (2) that only those portions of judicial documents that must be sealed to serve those interests may be sealed; or (3) that sealing must be narrowly tailored in duration. Instead, the Rule merely states that the Court has the authority to seal records and prescribes certain procedures for moving the Court to do so. Unlike the rules in many other federal district courts, the Rule fails to notify parties seeking to seal records that they bear a significant burden to justify sealing. *See* Exhibit B.[4]

In addition, our review of a sample of the Court's cases revealed instances of sealing without apparent satisfaction of these strict substantive requirements. For example, we discovered instances in which the Court sealed judicial documents simply on consent of the parties, without any determination that any party had satisfied the strict substantive requirements for sealing. We also discovered very few instances in which the Court sealed only parts of a document or in which the Court imposed a limit on the duration of a sealing order. The amendments that we propose would include the applicable standards in the Rule, thereby making the substantive requirements clear to parties and the Court.

[4] The following U.S. district courts, among others, specify that the party seeking to seal records bears the burden to justify sealing under governing standards: District of Connecticut, Central District of California, Southern District of Indiana, Middle District of Florida, District of Montana, Southern District of Utah, and the District of South Carolina.

It is worth noting that Section (b) of Local Rule 83.13 does currently specify a general limit on the duration of sealing orders. It requires that sealed documents be unsealed 60 days following the conclusion of the case unless a party moves to maintain the seal. This provision serves as a valuable backstop where the Court has not otherwise narrowly tailored a sealing order by imposing a time limit. *See Strevell*, 2009 WL 577910, at *6-7. Unfortunately, our review of a sample of this Court's cases indicates that this provision is simply not followed. We did not identify a single case in which judicial documents were unsealed automatically 60 days after final disposition, as the Rule requires. To the contrary, we found that documents have remained sealed in cases that have long since concluded. Indeed, we even found two cases in which documents appear to remain under seal (or, at least, unavailable on PACER) despite a court order issued long after the conclusion of the case specifically directing that documents be unsealed.[5] We have proposed amendments to strengthen this provision of the Rule by clarifying how the 60-day limit should be enforced by the Court and the Clerk's office.

II. Procedural Requirements to Seal Judicial Documents

The First Amendment also imposes procedural requirements that must be satisfied prior to the sealing of judicial documents. The Rule and practices in this Court appear to violate these procedural requirements in three ways.

1. Public Filing of Sealing Applications and Orders

The Second Circuit requires that a party's motion to seal judicial documents, and any resulting sealing order, be filed publicly unless the Court finds it appropriate to order otherwise. *See United States v. Haller*, 837 F.2d 84, 87 (2d Cir. 1988) ("Leave of court may be sought to file the text of the motion to seal . . . under seal pending a disposition of the motion by the district court . . . . [T]he district court may of course continue the sealing of the motion papers in aid of an order sealing . . . and may, *where appropriate*, put the contents of its decision under seal." (emphasis added)); *In re Herald*, 734 F.2d 93, 102 (2d Cir. 1984) ("The motion [to seal] itself may be filed under seal, *when appropriate*, by leave of court, but the publicly maintained docket entries should reflect . . . the disposition of the motion." (emphasis added)).

The Rule violates that requirement. Local Rule 83.13(a) states, in relevant part:

> A party seeking to have a document, party[,] or entire case sealed shall submit an application, under seal, setting forth the reason(s) why the document, party[,] or entire case should be sealed, together with a proposed order for the assigned judge's approval. The proposed order shall include the phrase "including this sealing order." Upon the assigned judge's approval of the sealing order, the Clerk shall seal the document(s) and the sealing order.

On its face, the Rule mandates sealing of both the application to seal and the sealing order as a matter of course, whenever a sealing order is approved. This contravenes Second Circuit case law, which requires a case-by-case determination of whether it is proper to seal such material. Further, our review of the sealing rules of all 94 federal district courts reveals that this Court is the only one that requires sealing orders to be sealed as a matter of course. *See* Exhibit B.

[5] *See Travelers Indem. Co. of Am. v. King*, No. 5:05-cv-00681; *Sealed Plaintiff v. Sealed Defendant #1*, No. 5:08-cv-00474.

Our research suggests that sealing orders in this Court are often sealed automatically under Rule 83.13(a), despite governing Second Circuit precedent requiring otherwise. *See* Exhibit A. By contrast, we found no consistent sealing practice with respect to applications to seal, despite the Rule's requirement that all such applications be filed under seal. In the cases we reviewed, it appears that the decision not to seal applications generally reflected the moving party's choice not to file under seal in the first place, rather than any judicial consideration of whether sealing was appropriate.

In order to reconcile the Court's practice with binding law, the amendments we propose require sealing orders and applications to be made public, unless the Court makes a specific determination that it is necessary to seal any portion thereof.

2. Public On-the-Record Findings in Support of Sealing Orders

The Second Circuit also requires that any determination to seal be justified by "specific, on-the-record findings that sealing is necessary to preserve higher values and [that] the sealing order is narrowly tailored to achieve that aim." *Haller*, 837 F.2d at 87. The Court generally must make these findings public, although "such findings may be made under seal *when necessary*." *Id.* (quoting *In re Herald*, 734 F.2d at 100) (emphasis added).

We are concerned the Rule violates these requirements in two ways. First, the Rule seems to permit sealing absent on-the-record findings that sealing is necessary and narrowly tailored. The Rule directs parties to submit proposed sealing orders to the Court "for the assigned judge's approval," and then directs the Court simply to approve or reject the proposed order. The Rule does not require parties seeking sealing to include proposed findings; nor does it require judges to make independent findings prior to sealing judicial documents. To the extent judges sign proposed orders absent "specific, on-the-record" findings, the Court is sealing documents in contravention of binding law.

Second, to the extent judges make findings in support of a sealing order, the Rule does not require them to be made public, as governing law demands. In fact, because the Rule always requires sealing applications and orders to be sealed, any findings will be kept secret as a matter of course if they are included in the sealing order.

Our review of the Court's dockets confirmed that, in most cases where sealing is granted, there are no findings available on the public record. The amendments we propose explicitly require the Court to make specific, on-the-record findings and to make those findings public to the greatest extent possible, thereby providing clear guidance to the Court that is consistent with the governing law.

3. Public Notice of Sealing

The Second Circuit has held that the First Amendment requires adequate notice to the public that a document or case has been filed under seal. *See United States v. Alcantara*, 396 F.3d 189, 192 (2d Cir. 2005). In particular, the Second Circuit instructs that, whenever a sealing motion is filed, the docket should generally "reflect that the motion was filed . . . the time and place of any hearing on the motion . . . and the fact of courtroom closure." *Application of the Herald Co.*, 734 F.2d 93, 102 (2d Cir. 1984). Moreover, "[e]ntries on the docket should be made promptly, normally on the day the pertinent event occurs." *Id.* Likewise, if an entire case is sealed, there should be public notice that the case exists. *The Hartford Courant Co. v. Pellegrino*,

380 F.3d 83 (2d Cir. 2004); *see also Haller*, 837 F.2d at 87 ("[E]xcept in extraordinary circumstances the public [must] have a means of learning that a closure or sealing order has been proposed or issued."). Notice is necessary in order to give interested members of the public the opportunity to assert their rights of access under the First Amendment and common law.

The Rule does not address the issue of notice, and it is difficult to determine whether dockets in the district are providing the required notice in practice. While we were able to identify many dockets that mention a "seal" or "sealing," there is no simple way to determine whether sealing orders have been issued in other cases without clear public notice.[6] In order to ensure compliance with governing case law, the amendments we propose include a provision codifying the obligation to provide notice.

4. Consistent Procedures for Sealing Applications

Our review of a sample of cases from the Court's docket suggests that other aspects of the procedures for sealing documents in this district are inconsistent. In some cases, for example, parties applied for sealing by filing a formal motion. In other cases, parties applied by filing an informal letter or simply submitting a stipulation on consent of the parties. These inconsistencies suggest that the Rule should be amended to better instruct parties, attorneys, and judges about the required form and content of sealing applications. The amendments we propose clarify what a party is required to submit as part of an application to seal.

III. Proposed Amendments to Local Rule 83.13

In order to correct these problems, we propose the revisions to Local Rule 83.13 set forth below. Because the changes are substantial, we propose a new rule to replace subsection 83.13(a) in its entirety as well as certain amendments to the existing text of subsection 83.13(b). In drafting this proposal, we have endeavored to craft the simplest and clearest articulation of the requirements for sealing. Our proposal is also based in large part on the District of Connecticut's local rule on sealing, which reflects governing Second Circuit case law and has already been approved by the Judicial Council of the Circuit.

If the Court prefers to preserve as much of the current Rule as possible, we would be happy to provide the Court with an alternative proposal that offers piecemeal edits to the current Rule. Such amendments could certainly bring the Rule into compliance with governing law, although the resulting text is likely to be more cumbersome and less clear than the revision proposed here.

<u>In place of Local Rule 83.13(a), substitute the following:</u>

(a) In all civil cases, sealing of cases or judicial documents shall be governed by the following rules:

1. No judicial document shall be filed under seal, except upon order of the Court.

[6] We did find that in some cases a docket entry describing a document that was filed under seal did not itself indicate that the docket was sealed. Instead, the fact that the document was sealed was apparent only when we clicked through to attempt to obtain the electronic document and received a notice indicating that that the document was not available. This suggests that the Court may lack a consistent practice for labelling docket entries that refer to sealed judicial documents.

2. Any order sealing a judicial document or an entire case shall include specific, on-the-record findings demonstrating that sealing is supported by clear and compelling reasons and is narrowly tailored to serve those reasons.[7] No document shall be sealed by mere stipulation of the parties.[8]

3. In determining whether a sealing order is narrowly tailored, the Court shall consider whether the reasons for sealing could be served through the sealing of only a portion of the case or document or through a seal of limited duration. Whenever the Court orders only a portion of a document sealed, a version of the document shall be filed on the public docket with only the sealed portion(s) redacted.

4. A judge may seal a Court order, including an order to seal documents and the related findings, only when sealing a Court order meets the standard for sealing a judicial document provided in paragraphs 2 and 3 of this subsection.[9]

5. A party seeking to have a judicial document or entire case sealed shall submit an application to the Court establishing that sealing meets the standard for sealing a judicial document provided in paragraphs 2 and 3 of this subsection.[10]

6. The moving party shall submit a proposed order with the application to seal, which shall identify the particular documents or portions thereof sought to be sealed or otherwise specify in detail the scope of the seal, including whether the party seeks to seal any portion of the application to seal or proposed sealing order. The moving party may include, in its proposed order or in a separate document, proposed findings demonstrating that sealing meets the standard for sealing a judicial document provided in paragraphs 2 and 3 of this subsection.[11]

7. No portion of an application to seal and supporting documents, including the proposed order, shall be filed under seal unless the party seeks to seal those documents, or portions thereof, and establishes that such sealing meets the standard for sealing a judicial document provided in paragraphs 2 and 3 of this subsection. If the party seeks to seal the application and supporting documents, or any portion thereof, the documents may be filed under seal in the first instance and may remain under seal until the Court adjudicates the application. Thereafter, the documents shall be unsealed, unless the Court orders that the documents, or portions thereof, shall be sealed because the

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[7] This provision is taken directly from the District of Connecticut Local Rule 5(e)(3). Note that this text is substantially similar to the language of the Northern and Southern District of Mississippi Local Rule 79.

[8] This provision is taken directly from the District of Connecticut Local Rule 5(e)(3). Note that this text is substantially similar to provisions of Central District of California Local Rule 141(a), and Northern and Southern District of Mississippi Local Rule 79.

[9] This provision is similar to District of Connecticut Local Rule 5(e)(3).

[10] This provision is similar to District of Connecticut Local Rule 5(e)(3).

[11] This provision is a formulation of the Second Circuit rule from *Haller*, 837 F.2d at 87 and District of Connecticut Local Rule 5(e)(3).

sealing meets the standard for sealing a judicial document provided in paragraphs 2 and 3 of this subsection.

8. All sealing orders and applications to seal shall be entered on the Court's docket. The documents sought to be sealed shall be entered on the docket using the same title of the pleading or description of the documents used in the motion to seal. Pursuant to a Court order supported by a particularized showing of good cause, a filing or document may be entered on the docket simply as "Sealed Document" or "Sealed Motion." The existence of any case sealed in its entirety shall be reflected on public dockets by use of the notation: "Sealed Case."[12]

Amend subsection (b) of Local Rule 83.13, as follows (additions in red and underlined, deletions ~~struck out~~):

(b) Pleadings and other papers sealed by the Court in civil actions shall remain under seal for the duration of sealing ordered by the Court or, where not specified, for sixty (60) days following final disposition of the action, i.e., final disposition of the action includes any time allowed by the federal rules to file an appeal in a civil matter, and, if an appeal is filed, sixty (60) days from the date of the filing of the mandate, if the action was not remanded for further proceedings. After that time, the Court ~~will~~ shall unseal all sealed documents and place them on the record unless, upon motion of a party, the district judge orders that the pleading or other document remain under seal ~~or be returned to the filing party~~.[13]

1. The Clerk shall, in every case where a document has been sealed and where the duration of the seal is not otherwise specified by Court order, notify the parties 30 days after final disposition of the action that, in the absence of further motion, all sealed documents will be unsealed pursuant to this rule.

2. If no motion is filed, the Clerk shall promptly unseal such records upon the expiration of the sixty (60) day period following final disposition of the action.[14]

3. If the case is fully electronic, documents that have been unsealed shall be uploaded to CM/ECF where they would be available for public viewing.

We suggest that, to facilitate the unsealing requirements of subsection (b) of the revised rule, the Court direct the Clerk to explore and settle upon a manner in which to track all sealed

[12] All but the first sentence of this paragraph is taken directly from the District of Connecticut Local Rule 5(e)(2) and 5(e)(5).

[13] Copies of judicial documents should be kept by the Court, rather than being returned to the parties. Returning documents to parties without retaining a copy frustrates the public's First Amendment and common law rights of access to judicial documents by putting such documents beyond the reach of the court and, therefore, beyond the reach of a motion to unseal. A document filed in court that is subject to the public's right of access remains subject to that right even after the case ends. *See, e.g.*, *FDIC v. Ernst & Ernst*, 677 F.2d 230, 231-32 (2d Cir. 1982) (third party intervened to challenge stipulated confidentiality order two years after settlement). Returning documents to parties without retaning a copy amounts, in effect, to a denial of the public's right of access without any judicial determination that the right does not apply or has been overcome.

[14] A similar provision appears in the Eastern District of Pennsylvania's Local Rule 51.5(c).

cases and filings in the district and to make that list electronically available to the public. For instance, the Clerk may wish to consider establishing a special docket that compiles all sealing orders entered in civil cases and notes their expiration dates, analogous to the special docket that the Court has established to compile sealing orders over arrest warrants and court orders authorizing investigative activities. *See In re Sealing Order(s) for Public Filing*, No. 5:17-sp-02017; *In re Sealing Order(s) for Public Filing*, No. 5:16-sp-02016; *In re Sealing Order(s) for Public Filing*, No. 5:15-sp-02015.

We believe these proposed changes would bring the Court's sealing rule into compliance with governing law. These rules would also provide members of the bar with greater clarity regarding the procedures and standards governing sealing motions. We would be happy to discuss the substance of this proposal, provide further information, or answer any questions as you consider these proposed amendments. Thank you for your time and attention to this matter.

Respectfully submitted,

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Exhibit A

Review of Sample of Cases in which Documents Were Sealed: Summary of Findings

Exhibit A: Sample of Cases with Sealed Documents

Case Name	Docket No.	Filed	Terminated	Application Type	Sealed Application	Application Granted	Sealed Sealing Order	Unsealed 60 Days After Final Disposition	Public, On-The-Record Findings
Chapman v. New York State Division for Youth, et al.	1:04-cv-01505-DNK-RFT	12/30/2004	2/17/2010	Request in complaint	No	Yes	No	No; certain specified records were unsealed by order of court during pendency of case.	No; subsequent order indicates that case was sealed under the False Claims Act.
Travelers Indemnity Company of America v. King et al	5:05-cv-00681-FJS-GJD	6/2/2005	10/12/2006	None	N/A	Yes	Yes	No; court directed records unsealed 8/22/2011 for transfer to storage but they remain unavailable on PACER.	No; docket notation indicates only that one plaintiff was a minor child.
R.O., et al v. Ithaca City School District, et al	5:05-cv-00695-NAM-ATB	6/3/2005	10/23/2014	Motion	Yes	Yes	Yes	No; sealed complaint and sealing motion were stricken from the record by court order after party filed redacted complaint.	No; subsequent order indicates that case was sealed because minor child was named in complaint.
The County of Lewis v. Abbott Laboratories, Inc. et al	7:05-cv-00839-DNH-GNL	7/6/2005	11/29/2005	Motion	No	Yes	Yes	No	No
The County of Columbia v. Abbott Laboratories, Inc. et al	1:05-cv-00867-GLS-RFT	7/13/2005	11/29/2005	Motion	No	Yes	No	No	No
Essex County v Abbott Laboratories, Inc. et al	1:05-cv-00878-TJMDRH	7/14/2005	11/29/2005	Motion	No	Yes	No	No	No
The County of Cortland v. Abbott Laboratories, Inc. et al	5:05-cv-00881-NAM-GJD	7/14/2005	11/29/2005	Motion	No	Yes	Yes	No	No
The County of Ulster v. Abbott Laboratories, Inc. et al	1:06-cv-00123-NAM-RFT	1/31/2006	7/14/2006	Motion	No	Yes	Yes	No	No
Alleyne et al v. New York State Education Department et al	1:06-cv-00994-GLS	8/16/2006	open	Letter Motion	No	Yes	Yes	No	Partial; court endorsed letter motion which stated reasons for sealing.
Raffe et al v. American National Red Cross et al	5:08-cv-00211-NPM-GHL	2/22/2008	1/18/2012	Stipulation of parties	No	Yes	No	No	No; court permitted parties to file under seal any materials they chose to designate as confidential under protective order.
Sealed Plaintiff v. Sealed Defendant	5:08-cv-00474-NPM-GHL	5/2/2008	6/12/2008	None; case sealed by court *sua sponte*	N/A	Yes	Yes	No; court directed records unsealed 7/28/2011 for transfer to storage but remain unavailable	No
Sealed Plaintiff #1, ex rel, v. Sealed Defendant #1, et al	5:09-cv-00765-DNH-GHL	6/6/2009	5/14/2010	Not indicated on docket	Yes	Yes	Yes	No; certain specified documents were unsealed by order of court during pendency of case. Court directed remainder of records unsealed 9/15/2011 for transfer to storage but they are unavailable on PACER and are not listed on the docket.	No; subsequent proceedings indicate that case was sealed under the False Claims Act.
The Research Foundation of State University of New York v. Nektar Therapeutics, Inc.	1:09-cv-01292-GLS-CFH	11/18/2009	12/30/2013	Application	Yes	Yes	Yes	No	No
Bryant et al v. New York State Education Department et al	8:10-cv-00036-GLS-RFT	1/8/2010	8/26/2010	Letter Motion	No	Yes	No	No	Partial; court endorsed letter motion which stated reasons for sealing.
Zebrowski v. Perdue	9:10-cv-00028-NAM	1/8/2010	2/22/2012	None; document sealed by court *sua sponte*	N/A	Yes	No	No	Partial; docket entry indicates sealed document is Presentence Report from prior criminal case.
Mann v. Bellnier	9:10-cv-00090-GTS	1/26/2010	2/28/2013	None; documents sealed by court *sua sponte*	N/A	Yes	No	No	Yes; documents contain identifying information of victim of sex crime.
Roland v. Wenz	9:10-cv-00089-MAD-DEP	1/26/2010	11/30/2010	Stipulation of parties	No	No	N/A	N/A	N/A
Tawadrous v. Agave Bio Systems Inc. et al	5:10-cv-00102-NAM-TWD	1/28/2010	8/16/2013	Motion	Yes	Yes	Yes	No; certain specified records were unsealed by order of court during pendency of case.	No; subsequent proceedings indicate that case was sealed under the False Claims Act.
Ramadhan v. Onondaga County et al	5:10-cv-00103-MAD	1/28/2010	7/24/2012	Not indicated on docket	N/A	Yes	No.	N/A; unsealed before disposition.	Yes; medical records containing personal information.

Case Name	Docket No.	Filed	Terminated	Application Type	Sealed Application	Application Granted	Sealed Sealing Order	Unsealed 60 Days After Final Disposition	Public, On-The-Record Findings
United States ex rel. Ava Dock, et al. v. Research Foundation of the State Univserity of New York	1:10-cv-00385-GLS-RFT	4/1/2010	2/2/2015	Applicataion	Yes	Yes	Yes	No; certain specified records were unsealed by order of court during pendency of case.	No; subsequent proceedings indicate that case was sealed under the False Claims Act.
United States of America v. Computer Sciences Corporation	1:10-cv-00887-TJM-CFH	7/21/2010	6/17/2015	Motion	Yes	Yes	Yes	No; certain specified records were unsealed by order of court during pendency of case.	No; subsequent proceedings indicate that case was sealed under the False Claims Act.
Lorillard Tobacco Company v. North Fast Food, Inc.	3:11-cv-01489-GLS-DEP	12/20/2011	11/21/2012	Motion	Yes	Yes	Yes	No; certain specified records were unsealed by order of court during pendency of case.	No
Phillips v. The State of New York	5:14-cv-00035-LEK-TWD	1/10/2014	4/3/2014	None; document sealed by court *sua sponte*	N/A	Yes	No.	No	Yes; document contained personal identifying and/or medical information.
In Re: Hardieplank Fiber Cement Siding Litigation	5:14-mc-00001-GTS-DEP	1/14/2014	open	Application	No	Application never decided	N/A	N/A	N/A
XChange Telecom Corp. v. Sprint Spectrum L.P. et al	1:14-cv-00054-GLS-CFH	1/17/2014	open	Motion	No	Yes	No	No	No; permitted parties to file under seal any materials they chose to designate as confidential under protective order.
Povoski v. Lacy et al	9:14-cv-00097-BKS-CFH	1/29/2014	open	None; document sealed by court *sua sponte*	N/A	Yes	No	No	Partial; docket entry indicates address of defendant should be sealed.
Colantonio v. The County of Rensselaer et al	1:14-cv-00107-TJM-RFT	1/30/2014	4/24/2015	Order to show cause	No	Yes	No	No	No
L.E.V.D. v. E.H.P.	5:14-cv-01474-GTS-ATB	12/5/2014	1/30/2015	Motion	No	Yes	No	No	No; subsequent order indicates that case was sealed because minor child was named in complaint.
Passineau v. McLane Company, Inc. et al	5:16-cv-01431-TJM-DEP	12/2/2016	open	Letter	No	No	N/A	N/A	N/A

Exhibit B

Text of Sealing Rules in Federal District Courts

DISTRICT COURT	CIVIL SEALING RULE (IF APPLICABLE)
Eastern District of New York	No sealing rule (shared rules with SDNY)
Southern District of New York **http://www.nysd.uscourts.gov/rules/rules.pdf**	No sealing rule (shared rules with EDNY) ECF Rules: **Section 6. Sealed Documents** **6.1** Documents may not be placed under seal without leave of the Court. Documents ordered to be placed under seal may not be filed electronically. **6.2** A motion to file documents under seal should be filed electronically unless prohibited by law, in redacted form if necessary; however, a motion to file under seal that includes a statement of why the filing should not be made electronically may be made in paper copy. The order of the Court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. For complete instructions see the sealed records filing instructions on the Cases page at http://nysd.uscourts.gov/index.php. **6.3** A paper copy of the sealing order must be attached to the outside of the envelope containing the documents under seal and be delivered to the Clerk's Office. (*See section 18 - Non-Electronic Documents*).
Western District of New York **http://www.nywd.uscourts.gov/sites/default/files/Local%20Rules%20of%20Civil%20Procedure%20(Effective%201-2017).pdf**	Rule 5.3: Sealing of Complaints and Documents in Civil Cases – 1. (a) Except where restrictions are imposed by statute or rule, there is a presumption that Court documents are accessible to the public and that a substantial showing is necessary to restrict access. 2. (b) Upon a proper showing by a party, or sua sponte, the Court may enter an order directing that a case be sealed in its entirety, or as to certain parties or documents. The Court may do so when the case is initiated, or at any stage of the proceeding. 3. (c) A party seeking to have a document, party, or case sealed shall comply with the procedures set forth in the CM/ECF Administrative Procedures Guide, available on the Court's website, http://www.nywd.uscourts.gov. 4. (d) A complaint presented for filing with a motion to seal and proposed order shall be treated as a sealed case pending approval of the proposed order, and the filing party shall comply with the sealing procedures set forth in the CM/ECF Administrative Procedures Guide, available on the Court's website, http://www.nywd.uscourts.gov. 5. (e) A sealed document shall remain sealed after final disposition of the case, unless the Court orders otherwise. A party seeking the unsealing of a document must do so by motion on notice. In the event an entire case is sealed, the Court will lift the seal when the reason for sealing has ended.
Connecticut	Rule 5(e): 1.(a) The power to close a courtroom or to exclude the public from proceedings to which a First Amendment right to access attaches shall be used sparingly and only for

http://ctd.uscourts.gov/sites/default/files/Revised%20Local%20Rules%2001-18-2017.pdf	clear and compelling reasons. Before excluding the public from such proceedings, the Court must make particularized findings on the record demonstrating the need for the exclusion, and any court closure order shall be narrowly tailored to serve the purpose of the closure. Those findings may be made in camera and under seal, provided that the requirements of paragraph 3, below, have been met with respect to the findings themselves. (b) Except when justified by extraordinary circumstances, no order closing a courtroom or excluding the public from proceedings to which a First Amendment right to access attaches shall be entered except upon advance notice to the public. Any motion seeking such relief, whether made by a party or by the Court sua sponte, must be docketed immediately in the public docket files of the Court. When docketed under seal pursuant to an order of the Court, the docket entry for any motion seeking court closure shall reflect the fact that the motion was made, the fact that any supporting or opposing papers were filed under seal, the time and place of any hearing on the motion, the occurrence of such hearing, the disposition of the motion, and the fact and extent of courtroom closure. Any such motion shall be made as far in advance of the pertinent proceeding as possible in order to permit the public to intervene for the purpose of challenging the court closure. 2. Except as permitted or required by federal law, no civil case shall be sealed in its entirety. The existence of any case sealed in its entirety shall be reflected on public dockets by use of the notation: “Sealed Case.” 3. Every document used by parties moving for or opposing an adjudication by the Court, other than trial or hearing exhibits, shall be filed with the Court. No judicial document shall be filed under seal, except upon entry of an order of the Court either acting sua sponte or specifically granting a request to seal that document. Any such order sealing a judicial document shall include particularized findings demonstrating that sealing is supported by clear and compelling reasons and is narrowly tailored to serve those reasons. A statute mandating or permitting the non-disclosure of a class of documents (e.g., personnel files, health care records, or records of administrative proceedings) provides sufficient authority to support an order sealing such documents. A judge may seal a Court order, including an order to seal documents and the related findings, when sealing a Court order meets the standard for sealing a judicial document. No document shall be sealed merely by stipulation of the parties. A confidentiality order or protective order entered by the Court to govern discovery shall not qualify as an order to seal documents for purposes of this rule. Any document filed under seal in the absence of a Court order to seal it is subject to unsealing without prior notice to the parties. 4. Counsel seeking an order to file a document under seal may choose among the following procedures: (a) Counsel may e-file (1) a motion to seal, which may be e-filed as a public motion or a sealed motion, (2) a redacted version of each document sought to be sealed, which shall

	be e- filed as a public document, (3) unredacted copies of each document sought to be sealed, which shall be e-filed as sealed motions or sealed documents, and (4) any memorandum or other documents supporting the assertion that grounds exist for sealing the documents sought to be sealed, which may be e-filed as public or sealed documents. Upon submission by the party of a motion to seal, the contents of any sealed motion or sealed document shall be treated as sealed unless the motion to seal is denied or until otherwise directed by the Court. (b) Counsel may e-file a motion to seal, which may be e-filed as a public motion or a sealed motion, along with a memorandum and supporting documents, without the documents sought to be sealed. If the Court grants the motion to seal in whole or in part, counsel shall e-file as public documents redacted copies of any documents required by the Court's sealing order, and shall e-file as sealed documents, unredacted copies of any motions or documents ordered sealed but not previously e-filed. (c) Counsel may seek permission of the presiding Judge to submit the documents sought to be sealed for in camera consideration. If the Judge agrees to review documents in camera, counsel shall submit to Chambers and shall serve on all counsel of record copies of the documents sought to be sealed and shall e-file a motion to seal, a memorandum and supporting documents. If counsel want the motion to seal, memorandum or supporting documents to be considered as documents to be sealed, counsel shall e-file those submissions as sealed motions and/or sealed documents and their contents shall be treated as sealed unless the motion to seal is denied or until otherwise directed by the Court. If the Court grants the motion to seal in whole or in part, counsel shall e-file any redacted copies of the documents required by the Court's sealing order and shall e-file the unredacted documents as sealed documents. 5. A motion to seal shall be e-filed as either a "Motion to Seal" or a "Sealed Motion to Seal" along with a description of the items sought to be sealed (e.g., "Motion to Seal Defendant's Personnel File"). The documents sought to be sealed shall be entered on the docket using the same title of the pleading or description of the documents used in the motion to seal. Pursuant to a Court order supported by a particularized showing of good cause, a filing or document may be entered on the docket simply as "Sealed Document" or "Sealed Motion." Any documents ordered sealed by the Court shall be sealed by the Clerk on the docket, and the Clerk shall docket any sealing order issued by the Court. The Court may condition any sealing order on the filing of documents less fully redacted than those submitted by the party seeking sealing. If the Court denies the motion to seal in whole or in part, any unredacted document, motion, memorandum or supporting document not ordered sealed will be unsealed by the Clerk. 6. Any party may oppose a motion to seal or may move to unseal a case or document subject to a sealing order. Any non-party who either seeks to oppose a motion to seal or seeks to unseal a case or document subject to a sealing order, may move for leave to intervene in a civil action for the limited purpose of pursuing that relief. Motions for leave

	to intervene for purposes of opposing sealing, objections to motions to seal, and motions to unseal shall be decided expeditiously by the Court. 7. Any case or document ordered sealed by the Court shall remain sealed pending further order of this Court, or any Court sitting in review. After a sealed document has been uploaded to the electronic docket, the original and any copies in the possession of the Clerk's Office or a judicial officer may be returned to the filing party. Upon final determination of the action, as defined in Rule 83.6(c) of the Local Rules of Civil Procedure, counsel shall have ninety (90) days to file a motion pursuant to Rule 83.6(a) for the withdrawal and return of the sealed documents. Any sealed document thereafter remaining may be destroyed by the Clerk pursuant to Rule 83.6(e) or retired by the Clerk with other parts of the file to the Federal Records Center, where they may be unsealed without notice to counsel or the parties. The return, destruction or retirement of hard copies of sealed documents shall not serve to unseal electronic copies of documents sealed by Court order.
District of Vermont **http://www.vtd.uscourts.gov/sites/vtd/files/LocalRules.pdf**	Rule 5.2: Sealed Documents (a) Order Required. Cases or court documents cannot be sealed without a court order. Otherwise, all official files in the court's possession are public documents. (b) Procedure. In order to seal a document, a party must: (1) file a separate motion for each document; (2) place the document in a sealed envelope; (3) affix a copy of the document's cover page (with confidential information redacted) to the outside of the envelope; and (4) conspicuously mark the envelope with "SEALED DOCUMENT" or the equivalent.
Alabama Middle District **https://www.almd.uscourts.gov/forms/almd-local-rules**	Rule 5.2 deals with redaction of personal identifiers, but no sealing rule
Northern District of Alabama **http://www.alnd.uscourts.gov/local-rules**	No sealing rules.

Southern District of Alabama **http://www.alsd.uscourts.gov/sites/alsd/files/local-rules.pdf**	**Rule 5.2:** The following procedures govern documents under seal in criminal and civil cases in this District. **(a) General.** A "sealed document" is a document access to which, other than by the Court or its authorized personnel, is prohibited or restricted. Portions of a document cannot be filed or placed under seal - only the entire document may be sealed. No sealed document may be unsealed or disclosed except upon order of the Court or in compliance with this Rule. **(b) Procedures for Filing a Sealed Document.** **(1) Format.** Any sealed document must be filed and conspicuously labeled "SEALED." **(2) Motion to Seal.** To obtain a sealing order, a party must file an unsealed written motion containing: **(A)** A generic, non-confidential identification of the document to be sealed; **(B)** The basis upon which the party seeks the order, including the reasons why alternatives to sealing are inadequate; and **(C)** The duration for which sealing is requested. The moving party also must attach to the motion a proposed unsealed order granting the motion and setting forth the basis for the Court's action. The moving party also must file, *in camera and under seal*, the document proposed to be sealed. The CM/ECF "Sealed Document(s)" event may be used for this filing. The document will be kept under seal by the Clerk, pending a decision by the Court on the motion. If the motion to seal is denied, the Clerk will delete the document from the Electronic Case Filing System and return any conventionally filed document to the party, unless the Court orders otherwise. **(3) Public Notice of Motion to Seal or Sealing Order.** A motion to seal, and any order to seal, must be docketed according to the Administrative Procedures of the Court. **(4) Objection to Sealing.** Any person or entity, whether a party or not, may object to a motion to seal a document or may file a motion to unseal a document previously sealed. **(5) Agreement by Parties.** These provisions do not limit the ability of the parties, by agreement, to restrict access to documents that are not filed with the Court. Any agreement calling for the sealing of any document to be filed with the Court is subject to the provisions of this Rule.

	(6) Extension of Sealing. No order to seal will be extended except upon a subsequent order of the Court obtained in accordance with this Rule. **(7) Sealed Case.** No case may be sealed in its entirety except by order of the Court obtained in accordance with this Rule and applicable law. **(c) Exceptions.** **(1)** No motion or order is required to file the following under seal: **(A)** An unredacted version of a document containing personal data identifiers, filed in compliance with these Rules, the Federal Rules of Procedure, or the E-Government Act; **(B)** An ex parte motion or application where sealing is permitted or required by law; **(C)** Presentence investigation reports, pretrial services reports, psychiatric or psychological evaluations in criminal cases, including documents incorporating the content of the foregoing documents; **(D)** Affidavits submitted in support of a motion for *in forma pauperis* status; **(E)** Motions, orders, notices, and other matters occurring before the grand jury, subject to the provisions of Fed. R. Crim. P. 6; **(F)** Applications and orders for the disclosure of tax information (26 U.S.C. § 6103); **(G)** Motions and orders involving the Classified Information Procedures Act (18 U.S.C. app 3 §§ 1-16) or Foreign Intelligence Surveillance Act (50 U.S.C. § 1801); **(H)** Pleadings and documents involving the Juvenile Delinquency Act; **(I)** Requests and orders for authorization of investigative, expert, or other services pursuant to the Criminal Justice Act; or **(J)** Other documents required by law to be filed under seal. **(2)** No *publicly filed* motion or order under this Rule is required for sealing the following: **(A)** Motion by the United States for a downward departure or reduction of sentence in a criminal case, with leave of Court upon a showing of particular need in an individual case to prevent serious harm; or **(B)** Search, seizure, and arrest warrants and affidavits. **(3)** A publicly filed motion and order citing only the statutory authority for sealing is required for the following: **(A)** Applications and orders for pen/trap devices (18 U.S.C. § 2703); and **(B)** Applications and orders for wire, oral, or electronic communication interception (18 U.S.C. § 2516). **(d) Unsealing.** Unless the Court orders otherwise, the Clerk will unseal the following sealed documents when indicated: **(1) Search Warrant.** After the search is executed and the warrant is returned to the Clerk. **(2) Arrest Warrant, and In a Violation Case, Any Violation Report.** After the arrest is made. **(3) Indictment.** Upon the arrest or appearance of a single Defendant. In multi-Defendant cases, and unless the Court orders otherwise, upon the earliest of any of the following:

	(A) Ten (10) days following the arrest of any Defendant; **(B)** Thirty (30) days after return of the indictment; or **(C)** When all Defendants have been arrested or summoned. In criminal cases, each Defendant must be provided with a copy of the charges against that Defendant (with other portions redacted, if necessary), even if the indictment or complaint is otherwise sealed. In multi-Defendant cases in which the indictment is to remain sealed, the government is responsible for submitting to the Magistrate Judge for approval, reasonably in advance of the initial appearance, an appropriately redacted indictment for disclosure to the Defendant and to the public. **(4) Criminal Complaint.** Thirty (30) days after issuance or when all Defendants named are in custody or have been summoned, whichever is the earliest. **(5) Other Sealed Documents.** The documents will be unsealed 120 days from the date of entry of the sealing order, unless the Court by order provides otherwise.
District of Alaska **http://www.akd.uscourts.gov/sites/akd/files/local_rules/civil_1.pdf**	**Rule 5.4: Filing Documents Under Seal, Ex Parte, or In Camera** (a) Filings Under Seal. Except as otherwise specifically provided by statute, court rule, case law, or published policy and procedures, no pleading, motion, or other paper may be filed under seal without first obtaining leave of the court. (1) Any motion to file a document under seal, except in connection with a motion for a protective order under Federal Rule of Civil Procedure 26(c), must: [A] Set forth the factual basis for sealing the document and citation to supporting authority; [B] Identify the pleading or motion of which the document is or intended to be a part; and [C] Certify that it is not feasible or practicable to file a redacted version of the document. (2) A motion to file a document under seal may be filed under seal without prior court order. (3) Where the filing consists of multiple documents, e.g., exhibits to a motion for summary judgment, only those documents that contain material subject to non-disclosure to the public may be filed under seal; all other parts of the filing must be filed as part of the public record. (4) An order authorizing filing a document under seal in a protective order or in connection with a non-dispositive motion will not be considered or construed as authorization to file the document under seal in connection with a dispositive motion, hearing, or trial, unless: [A] specifically so stated in the order; and [B] the order sets forth the compelling reasons justifying sealing the document.

	(5) In any case in which filing under seal is authorized, the court may direct the party to file a redacted copy of the document for the public record. (6) The court may, upon the motion of any party or upon its own volition after notice to the parties, order any document filed under seal to be unsealed. (7) [A] A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item of redacted information listed. [B] The list must be filed under seal and may be amended of right. [C] Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information. (8) Nothing in this subsection should be construed as prohibiting the party filing a redacted copy as part of the public record, or any opposing party, from filing an unredacted version under seal.
District of Arizona **http://www.azd.uscourts.gov/sites/default/files/local-rules/Local%20Rules%20Master%20File%202016.pdf**	Rule 5.6: Sealing of Court Records in Unsealed Civil Actions— **(a) Order Required.** No document may be filed under seal in an unsealed civil action except pursuant to an order by the Court as set forth in subpart (b) of this Rule. For the purposes of this Rule, the term "document" means any exhibit, record, filing or other item to be filed under seal with the Court. **(b) Procedure for Obtaining an Order to File a Document Under Seal.** The Court may order the sealing of any document pursuant to a motion, stipulation, or the Court's own motion. The Court generally will not enter an order that gives advance authorization to file documents under seal that are designated for such treatment by parties under a protective order or confidentiality agreement. Any motion or stipulation to file a document under seal must set forth a clear statement of the facts and legal authority justifying the filing of the document under seal and must append (as a separate attachment) a proposed order granting the motion. The document or documents that are the subject of any such motion or stipulation must not be appended to the motion or stipulation, and must be lodged with the Court separately consistent with subpart (c) of this Rule. **(c) Lodging of Documents to Be Filed Under Seal.** (1) Lodging in Electronic Form. Generally, a document to be filed under seal must be lodged with the Court in electronic form. The Electronic Case Filing Administrative Policies and Procedures Manual ("the Administrative Manual") sets forth the

	circumstances in which such documents must be lodged electronically and the instructions for doing so. (2) Exceptions; Lodging in Paper Form. A document to be submitted under seal by a party or counsel who is exempt from the requirement to file papers electronically must be lodged in paper form with a cover sheet prominently displaying the notation "DOCUMENT SUBMITTED UNDER SEAL" and clearly identifying: (A) the document and the underlying motion to which it pertains; (B) the number of pages submitted for lodging; under seal; and (C) the motion or stipulation seeking to have the document filed (D) the case number and title of the action in which the document is to be filed. **(d) Filing a Document Designated Confidential by Another Party.** Unless otherwise ordered by the Court, if a party wishes to file a document that has been designated as confidential by another party pursuant to a protective order or confidentiality agreement, or if a party wishes to refer in a memorandum or other filing to information so designated by another party, the submitting party must confer with the designating party about the need to file the document (or proposed filing) under seal and whether the parties can agree on a stipulation seeking to have the document (or proposed filing) filed under seal. If the parties are unable to agree on these issues, the submitting party must lodge the document (or proposed filing) under seal and file and serve a notice of lodging summarizing the parties' dispute and setting forth the submitting party's position, accompanied by a certification that the parties have conferred in good faith and were unable to agree about whether the document (or proposed filing) should be filed under seal. Within fourteen (14) days after service of the notice, the designating party must file and serve either a notice withdrawing the confidentiality designation or a motion to seal and a supporting memorandum that sets forth the facts and legal authority justifying the filing of the document (or proposed filing) under seal. If the designating party seeks to have the document (or proposed filing) filed under seal, the motion must append (as a separate attachment) a proposed order granting the motion to seal. No response to the motion may be filed. If the designating party does not file a motion or notice as required by this subsection, the Court may enter an order making the document (or proposed filing) part of the public record. **(e) Denial of Request to File a Document Under Seal.** If a request to file under seal is denied in part or in full, the lodged document will not be filed. If the request is denied in full, the submitting party may, within five (5) days of the entry of the order denying the request, resubmit the document for filing in the public record. If the request is denied in

	part and granted in part, the party may resubmit the document in a manner that conforms to the Court's order and this Rule. **(f) Effect of Sealing.** If the Court orders the sealing of any document, the Clerk shall file the order to seal and secure the sealed document from public access. Rule 5.7: Filing of Court Records in Sealed Civil Actions – Every document to be filed in a sealed action must be submitted to the Court in paper form with a cover sheet prominently displaying the notation "DOCUMENT SUBMITTED UNDER SEAL" and clearly identifying the document, the number of pages submitted, and the case number and title of the action in which the document is to be filed.
Eastern and Western Districts of Arkansas **http://www.arwd.uscourts.gov/sites/arwd/files/ARWD%20local%20rules.pdf**	No sealing rule.
Central District of California **https://www.cacd.uscourts.gov/sites/default/files/documents/2016%20December%20LRs%20Chap%201_0.pdf**	Rule 79-5: Confidential Court Records- Under Seal – ***L.R. 79-5.1 Definition.*** A case or document that is "under seal" or "sealed" is one that is closed to inspection by the public. A person seeking to have a case or document sealed must follow the procedures set forth below. Parties should be familiar with the difference between *in camera* review (*see* L.R. 79-6) and under seal filings. ***L.R. 79-5.2 Procedures***. Unless otherwise indicated in this L.R. 79- 5.2, no case or document may be filed under seal without first obtaining approval by the Court. All documents to be filed under seal and all Applications for Leave to File Under Seal must be filed electronically using the Court's CM/ECF System, unless otherwise indicated in this rule or exempted from electronic filing pursuant to L.R. 5-4.2. Before electronically filing any under-seal documents or any Applications for Leave to File Under Seal, filers must familiarize themselves with the Court's Guide to Electronically Filing Under-Seal Documents in Civil Cases, available on the Court's website at www.cacd.uscourts.gov. Failure to comply with the instructions in this Guide may result in the disclosure of confidential information. Where this rule directs that documents must be presented for filing in paper format, the original and the judge's copy of all such documents must be submitted for filing in separate sealed envelopes, with a copy of the title page attached to the front of each

envelope, and must be accompanied by a PDF version of the documents on a CD, unless otherwise ordered by the judge.

L.R. 79-5.2.1 Under-Seal Civil Cases.

(a) Case-Initiating Documents.

(i) If Filing Under Seal Is Already Expressly Authorized. If a statute, rule, regulation, or prior court order expressly provides that a case is to be filed under seal, the complaint (or other initiating document) and all concurrently filed documents must be presented to the Clerk for filing in paper format, in accordance with the applicable Federal Rules of Civil Procedure and the Local Rules of this Court. The caption must clearly indicate the authority for filing the case under seal by including, immediately under the title of the document: "FILED UNDER SEAL PURSUANT TO _____." If filing under seal is authorized by a court order, a copy of the order must be provided with the case-initiating document.

(ii) All Other Circumstances. In the absence of prior express authorization to file a case under seal, the filer must present to the Clerk for filing in paper format: (1) the case-initiating document(s); (2) an Application for Leave to File Case Under Seal; (3) a declaration establishing good cause or demonstrating compelling reasons why the strong presumption of public access in civil cases should be overcome; and (4) a proposed order. While the Application is pending, the Clerk must seal the case and all associated documents. If the Application is denied, the Clerk must, unless otherwise ordered by the Court, immediately unseal the case and all documents filed therein, and may do so without first notifying the filing party.

(b) Subsequent Documents. All documents filed in sealed cases must be presented to the Clerk for filing in paper format. All such documents will be accepted as filed under seal, without the need for a separate Application for Leave to File Under Seal.

L.R. 79-5.2.2 Under-Seal Documents in Non-Sealed Civil Cases. In a non-sealed civil case, no document may be filed under seal without prior approval by the Court. A person seeking to file documents under seal must follow the procedures set forth below in subsection (a), unless someone else has designated these documents as confidential pursuant to a protective order, in which event those involved must follow the procedures set forth in subsection (b). Once the Court has granted leave to file under seal, documents to be filed under seal must be filed in accordance with subsection (c).

(a) Documents Not Designated by Another as Confidential Pursuant to a Protective Order. A person seeking leave of Court to file some or all of a document under seal (the "Filing Party") must file an Application for Leave to File Under Seal ("Application"). When possible, the Filing Party should file the Application in time to receive a determination before filing the motion or other paper that the proposed sealed document is

	intended to support. The Application will be open to public inspection. It must, however, describe the nature of the information that the Filing Party asserts should be closed to public inspection, and must be accompanied by: (i) A declaration (1) establishing good cause or demonstrating compelling reasons why the strong presumption of public access in civil cases should be overcome, with citations to the applicable legal standard, and (2) informing the Court whether anyone opposes the Application. That the information may have been designated confidential pursuant to a protective order is not sufficient justification for filing under seal; a person seeking to file such documents under seal must comply with L.R. 79-5.2.2(b). (ii) A proposed order, narrowly tailored to seal only the sealable material, and listing in table form each document or portion thereof to be filed under seal. (iii) A redacted version of any document(s) of which only a portion is proposed to be filed under seal, conspicuously labeled "REDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL." (iv) An unredacted version of the document(s) proposed to be filed under seal, conspicuously labeled "UNREDACTED VERSION OF DOCUMENT PROPOSED TO BE FILED UNDER SEAL," with any proposed redactions highlighted. The declaration and the unredacted version of any document proposed for sealing will be closed to public inspection, but the redacted versions of those documents, the proposed order, and the docket entry text will be publicly viewable. The Filing Party must provide a mandatory chambers copy of the Application and all associated documents as required by L.R. 5-4.5. The declaration and unredacted versions of documents for which sealing is sought must be provided in sealed envelopes, with a copy of the title page attached to the front of each envelope. The proposed order must be emailed to chambers as required by L.R. 5-4.4.2. **If the Application is granted, the Filing Party must thereafter file the sealed document pursuant to L.R. 79-5.2.2(c). The Clerk will not convert the PROPOSED sealed document submitted with the Application into a new filing.** If the Application is denied in its entirety, the document(s) proposed to be filed under seal will not be considered by the Court in connection with any pending motion, unless the Filing Party files an unredacted version of the document(s) within 3 days after the Application is denied. If the Application is denied in part, the document(s) proposed to be filed under seal will not be considered by the Court in connection with any pending motion unless the Filing

Party files a revised redacted version of the document(s) that comports with the Court's order within 3 days after the Application is denied.

(b) Documents Designated by Another as Confidential Pursuant to a Protective Order. At least 3 days before seeking to file under seal a document containing information previously designated as confidential by another pursuant to a protective order, the Filing Party must confer with the person that designated the material confidential (the "Designating Party") in an attempt to eliminate or minimize the need for filing under seal by means of redaction. If the document cannot be suitably redacted by agreement, the Filing Party may file an Application pursuant to subsection (a), but the supporting declaration must identify the material previously designated as confidential, as well as the Designating Party, and must describe in detail the efforts made to resolve the issue. The declaration must be served on the Designating Party on the same day it is filed, and proof of this service must be filed with the declaration. Subsequently:

(i) Within 4 days of the filing of the Application, the Designating Party must file a declaration establishing that all or part of the designated material is sealable, by showing good cause or demonstrating compelling reasons why the strong presumption of public access in civil cases should be overcome, with citations to the applicable legal standard. If the Designating Party maintains that only part of the designated material is sealable, the Designating Party must file with its declaration a copy of the relevant material with proposed redactions highlighted. The declaration and, if applicable, the document highlighting proposed redactions will be closed to public inspection. Failure to file a declaration or other required document may be deemed sufficient grounds for denying the Application.

(ii) If the Application is denied, the Filing Party may file the document in the public case file (i.e., unsealed) no earlier than 4 days, and no later than 10 days, after the Application is denied, unless the Court orders otherwise.

(c) After Leave of Court Has Been Granted. Once the Court has granted leave to file a document under seal, the Filing Party must thereafter file the document with whatever motion or other document the under-seal filing is intended to support. The Clerk will not convert the PROPOSED sealed document submitted with the Application into a new filing. The caption of the under- seal document must clearly indicate the authority for filing the document under seal by including, immediately under the title of the document: "FILED UNDER SEAL PURSUANT TO ORDER OF THE COURT DATED _____"; if filed electronically, the under-seal document must also be linked, during the filing process, to the order authorizing its filing. Any document filed pursuant to this L.R. 79-5.2.2(c) that misstates the basis for filing under seal may be subject to public disclosure, and may subject the filer to sanctions.

L.R. 79-5.3 Service of Documents Filed Under Seal. Filing a document under seal does not exempt the filer from the service requirements imposed by federal statutes, rules, or

	regulations, or by the Local Rules of this Court. Because documents filed under seal (even those filed electronically) are visible on CM/ECF or PACER only to Court personnel and the person who filed the document, a person electronically filing a document under seal may not rely on the Court's CM/ECF System to effect service as provided in L.R. 5-3.2.1. Service of such documents must be made in accordance with F.R.Civ.P. 5. At the time of filing, the documents must be accompanied either by a Proof of Service in the form required by L.R. 5-3.1.2 or by a declaration explaining why service is not required.
Eastern District of California **http://www.caed.uscourts.gov/caednew/assets/File/EDCA%20Local%20Rules%20Effective%201-1-15.pdf**	Rule 140(e): Neither the Clerk nor the Court will review filed documents for compliance with privacy or other protective law, nor will the Court as a matter of course seal on its own motion documents containing personal data identifiers, or redact documents, whether filed electronically or on paper. No procedure set forth herein will excuse a violation of privacy or other law by counsel or party. Rule 141: Sealing of Documents (a) Sealing Documents: General Principles. Documents may be sealed only by written order of the Court, upon the showing required by applicable law. To ensure that documents are properly sealed, specific requests to seal must be made even if an existing protective order, statute, or rule requires or permits the sealing of the document. Notice that a request to seal has been made will typically be filed in the publicly available case file. Unless the Court orders otherwise, court orders sealing documents will also be filed in the publicly available case file and will not reveal the sealed information. Access to all documents filed under seal will be restricted to the Court and authorized court personnel. (b) Requests to Seal. If a party seeks to seal documents, the party shall submit, in the manner prescribed below, a "Notice of Request to Seal Documents," a "Request to Seal Documents," a proposed order, and all documents covered by the request. Except in pre-indictment criminal investigations in which sealing is sought, the "Notice of Request to Seal Documents" shall be filed electronically, or for non- electronic filers, shall be submitted on paper to the Clerk for filing by hand delivery, by same-day or overnight delivery service provided by a courier, or by U.S. Mail, and shall be served on all parties. The Notice shall describe generally the documents sought to be sealed, the basis for sealing, the manner in which the "Request to Seal Documents," proposed order, and the documents themselves were submitted to the Court, and whether the Request, proposed order, and documents were served on all other parties. Except in criminal pre-indictment matters, the "Request to Seal Documents," the proposed order, and all documents covered by the Request shall be either (1) e-mailed to the appropriate Judge or Magistrate Judge's proposed orders e- mail box listed on the Court's website, with the e-mail subject line including the case number and the statement: "Request to Seal Documents"; or (2) submitted on paper to the Clerk by hand delivery, by

	same-day or overnight courier, or by U.S. Mail; the envelope containing the Request, proposed order an documents shall state in a prominent manner "Request to Seal Documents." If the Request, proposed order, and documents are delivered to the Clerk, the party seeking sealing shall submit a self- addressed, stamped envelope for return of the documents. In either case, the Request, proposed order, and submitted documents shall not be filed at this time. Except in matters in which it is clearly appropriate not to serve the "Request to Seal Documents," proposed order, and/or documents upon the parties, which would include criminal pre-indictment matters, all Requests, proposed orders, and submitted documents shall be served on all parties on or before the day they are submitted to the Court. See L.R. 135. The "Request to Seal Documents" shall set forth the statutory or other authority for sealing, the requested duration, the identity, by name or category, of persons to be permitted access to the documents, and all other relevant information. If the Request, proposed order, and/or documents covered by the Request were submitted without service upon one or more other parties, the Request also shall set forth the basis for excluding any party from service. The documents for which sealing is requested shall be paginated consecutively so that they may be identified without reference to their content, and the total number of submitted pages shall be stated in the request. In pre-indictment criminal investigations, unless otherwise ordered, instead of filing a "Notice of Request to Seal Documents," government counsel shall submit to the Court, with the "Request to Seal Documents," proposed order, and documents proposed for sealing, a second proposed order sanitized of any identifying information, indicating in the caption that attached documents have been approved for filing under seal, with the understanding that the sanitized order will be filed in the publicly available case file. (c) Oppositions to Sealing Requests. Except in criminal pre-indictment matters, and unless otherwise ordered by the Court, a party may submit an opposition to the "Request to Seal Documents" within three days of the date of service of the "Notice of Request to Seal Documents." The opposition shall be either: (1) e-mailed to the appropriate Judge or Magistrate Judge's proposed orders e-mail box listed on the Court's website, with the e-mail subject line including the case number and statement: "Opposition to Request to Seal Documents"; or (2) submitted on paper to the Clerk by hand delivery, by same-day or overnight courier, in an envelope stating in a prominent manner "Opposition to Request to Seal Documents." The Opposition shall be served on the party or parties requesting sealing and on any other party served with the "Request to Seal Documents." The Opposition shall not be filed at this time. (d) Orders on Sealing Requests. Unless the Court orders otherwise, following review of a "Request to Seal Documents," the documents sought to be sealed, and any opposition to the Request, the Court will file in the publicly available case file an order granting or

	denying the Request. The order shall identify the documents for which sealing has been granted or denied by page number without revealing their contents. The Court may file a more detailed ruling under seal. The publicly filed order or the docket shall include a notation that a sealed order has been filed. (e) Disposition of Documents. Upon issuance of an order on a sealing request and unless the Court has ordered otherwise, the Clerk will file under seal the request, proposed order, and any opposition. Disposition of the documents covered by the request to seal depends on whether the request is denied or granted. (1) Denial. If a Request is denied in full or in part, the Clerk will return to the submitting party the documents for which sealing has been denied. (2) Grant. If a Request is granted in full or in part, the disposition of documents to be sealed depends upon whether the requesting party is authorized to file electronically. (i) Electronic Filer. If the requesting party is authorized to file electronically, then counsel for the requesting party shall either e-mail to the Clerk, at the e-mail address for sealed documents listed on the Court's website, an electronic copy of the documents covered by the sealing order, in .pdf format as an attachment, or submit to the Clerk by hand-delivery, U.S. mail, or same-day or overnight courier, a CD containing a copy of the documents in .pdf format. If submitted by e-mail, the subject line of the e-mail shall include the case number and the body of the e-mail shall identify the order authorizing the sealing of the attached documents. If submitted by hand, U.S. mail, or courier, the envelope containing the CD shall state in a prominent manner: "Sealed Documents" and shall identify the order authorizing sealing. The Clerk will file the documents under seal and will then return to the submitting party any documents submitted by hand, U.S. mail, or courier and any CD. (ii) Non-Electronic Filer. If the requesting party is not authorized to file electronically, the Court will transmit to the Clerk the documents to be sealed along with the order authorizing sealing. The Clerk will scan the documents to be sealed and file them under seal. The Clerk will then return the documents to the submitting party. (f) Unsealing Documents. Upon the motion of any person, or upon the Court's own motion, the Court may, upon a finding of good cause or consistent with applicable law, order documents unsealed. See Fed. R. Civ. P. 5.2, Fed. R. Crim. P. 49.1. Rule 141.1: Orders Protecting Confidential Information (a) Presumption of Public Access; Limits to Protection.

	(1) All information provided to the Court in a specific action is presumptively public, but may be sealed in conformance with L.R. 141. Confidential information exchanged through discovery, contained in documents to be filed in an action, or presented at a hearing or trial otherwise may be protected by seeking a protective order as described herein. (2) A protective order is entered without prejudice to any rulings made in a different lawsuit or dispute, and the determination in an action in this Court does not bind other courts. (b) Mechanics of Obtaining a Protective Order. (1) Non-Trial Civil and Criminal Protective Orders. Either the person possessing or the party seeking information to be protected may move the Court for a protective order pursuant to L.R. 230, 251, or 430.1 or may submit a proposed stipulated protective order signed by all parties and the person possessing the information in accordance with L.R. 143. See L.R. 302(c)(2). A protective order issued prior to trial does not affect the admission of evidence at trial unless the order specifically so states. (2) Protective Order for Civil Trial. A party seeking a protective order relating to the admission of evidence at trial shall submit a stipulation or request with the party's pretrial statement. A non-party seeking a protective order for trial shall submit a motion at or before the time for filing pretrial statements or promptly following discovery of the need for the order. See L.R. 230, 281, 282. (3) Protective Order for Criminal Trial. Before the trial confirmation hearing in a felony or Class A misdemeanor case, either the person possessing or the party seeking information to be protected may move the Court for a protective order pursuant to L.R. 430.1 or may submit a proposed stipulated protective order signed by all parties and the person possessing the information in accordance with L.R. 143. In any other criminal action, a motion or proposed stipulated protective order shall be filed at least fourteen (14) days prior to trial. See L.R. 450. (c) Requirements of a Proposed Protective Order. All stipulations and motions seeking the entry of a protective order shall be accompanied by a proposed form of order. Every proposed protective order shall contain the following provisions: (1) A description of the types of information eligible for protection under the order, with the description provided in general terms sufficient to reveal the nature of the information (e.g., customer list, formula for soda, diary of a troubled child); (2) A showing of particularized need for protection as to each category of information proposed to be covered by the order; and

	(3) A showing as to why the need for protection should be addressed by a court order, as opposed to a private agreement between or among the parties. (d) Hearing on Civil or Criminal Protective Orders. The Court may order that the person for whose benefit a protective order is sought shall attend a hearing, in camera or in open court, to discuss the necessity for the protective order. (e) Filing Documents Subject to Protective Order. Documents that are the subject of a protective order may be filed under seal only if a sealing order is first obtained in compliance with L.R. 141. (f) Closed Actions. Once the Clerk has closed an action, unless otherwise ordered, the Court will not retain jurisdiction over enforcement of the terms of any protective order filed in that action.
Northern District of California **http://www.cand.uscourts.gov/localrules/civil**	Rule 79-5: Filing Documents Under Seal in Civil Cases – . **(a) This Rule Applies to Electronic and Manually-Filed Sealed Documents.** The procedures and requirements set forth in Civil L.R. 79-5 apply to both the e-filing of sealed documents submitted by registered e-filers in e-filing cases; and the manual filing of sealed documents submitted by non-e-filers and/or in non-e-filing cases. For the purposes of Civil L.R. 79-5, "file" means: (1) to electronically file ("e-file") a document that is submitted by a registered e-filer in a case that is subject to e-filing; or (2) to manually file a document when it is submitted by a party that is not permitted to e-file and/or in a case that is not subject to e-filing. See Civil L.R. 5-1(b) for an explanation of cases and parties subject to e-filing. . **(b) Specific Court Order Required.** Except as provided in Civil L.R. 79-5(c), no document may be filed under seal (i.e., closed to inspection by the public) except pursuant to a court order that authorizes the sealing of the particular document, or portions thereof. A sealing order may issue only upon a request that establishes that the document, or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law (hereinafter referred to as "sealable"). The request must be narrowly tailored to seek sealing only of sealable material, and must conform with Civil L.R. 79-5(d). **Commentary** As a public forum, the Court has a policy of providing to the public full access to documents filed with the Court. In some cases, however, law or regulation requires a document to be filed under seal (e.g., a False Claims Act complaint). Those cases are exempt from the procedures described in this rule. In other, non-exempt, cases, the Court recognizes that itmust consider confidential information. This rule governs requests in civil cases to file under seal documents or things, whether pleadings, memoranda, declarations, documentary evidence or other evidence. Proposed protective orders, in which parties establish a procedure for designating and exchanging confidential

information, must incorporate the procedures set forth in this rule if, in the course of proceedings in the case, a party proposes to submit sealable information to the Judge. This rule is designed to ensure that the assigned Judge receives in chambers a confidential copy of the unredacted and complete document, annotated to identify which portions are sealable, that a separate unredacted and sealed copy is maintained for appellate review, and that a redacted copy is filed and available for public review that has the minimum redactions necessary to protect sealable information.

(c) Documents that May Be Filed Under Seal Before Obtaining a Specific Court Order. Only the unredacted version of a document sought to be sealed, may be filed under seal before a sealing order is obtained, as permitted by Civil L.R. 79-5(d)(1)(D) .

(d) Request to File Document, or Portions Thereof, Under Seal. A party seeking to file a document, or portions thereof, under seal ("the Submitting Party") must:

(1) File an Administrative Motion to File Under Seal, in conformance with Civil L.R. 7-11. The administrative motion must be accompanied by the following attachments:

(A) A **declaration** establishing that the document sought to be filed under seal, or portions thereof, are sealable. Reference to a stipulation or protective order that allows a party to designate certain documents as confidential is not sufficient to establish that a document, or portions thereof, are sealable. The procedures detailed in Civil L.R. 79-5(e) apply to requests to seal in which the sole basis for sealing is that the document(s) at issue were previously designated as confidential or subject to a protective order.

. **(B)** A **proposed order** that is narrowly tailored to seal only the sealable material, and which lists in table format each document or portion thereof that is sought to be sealed.

. **(C)** A **redacted version** of the document that is sought to be filed under seal. The redacted version shall prominently display the notation "REDACTED VERSION OF DOCUMENT(S) SOUGHT TO BE SEALED." A redacted version need not be filed if the submitting party is seeking to file the entire document under seal.

. **(D)** An **unredacted version** of the document sought to be filed under seal. The unredacted version must indicate, by highlighting or other clear method, the portions of the document that have been omitted from the redacted version, and prominently display the notation “UNREDACTED VERSION OF DOCUMENT(S) SOUGHT TO BE SEALED.” The unredacted version may be filed under seal pursuant to Civil L.R. 79-5(c) before the sealing order is obtained. Instructions for e-filing documents under seal can be found on the ECF website.

(2) Provide a courtesy copy of the administrative motion, declaration, proposed order, and both the redacted and unredacted versions of all documents sought to be sealed, in

accordance with Civil L.R. 5-1(e)(7).

The courtesy copy of unredacted declarations and exhibits should be presented in the same form as if no sealing order was being sought. In other words, if a party is seeking to file under seal one or more exhibits to a declaration, or portions thereof, the courtesy copy should include the declaration with all of the exhibits attached, including the exhibits, or portions thereof, sought to be filed under seal, with the portions to be sealed highlighted or clearly noted as subject to a sealing motion.

The courtesy copy should be an exact copy of what was filed, and for e-filed documents the ECF header should appear at the top of each page. The courtesy copy must be contained in a sealed envelope or other suitable container with a cover sheet affixed to the envelope or container, setting forth the information required by Civil L.R. 3-4(a) and prominently displaying the notation “COURTESY [or CHAMBERS] COPY - DOCUMENTS SUBMITTED UNDER SEAL.”

The courtesy copies of sealed documents will be disposed of in accordance with the assigned judge's discretion. Ordinarily these copies will be recycled, not shredded, unless special arrangements are made.

(e) Documents Designated as Confidential or Subject to a Protective Order. If the Submitting Party is seeking to file under seal a document designated as confidential by the opposing party or a non-party pursuant to a protective order, or a document containing information so designated by an opposing party or a non-party, the Submitting Party's declaration in support of the Administrative Motion to File Under Seal must identify the document or portions thereof which contain the designated confidential material and identify the party that has designated the material as confidential ("the Designating Party"). The declaration must be served on the Designating Party on the same day it is filed and a proof of such service must also be filed.

. **(1)** Within 4 days of the filing of the Administrative Motion to File Under Seal, the Designating Party must file a declaration as required by subsection 79-5(d)(1)(A) establishing that all of the designated material is sealable.

. **(2)** If the Designating Party does not file a responsive declaration as required by subsection 79-5(e)(1) and the Administrative Motion to File Under Seal is denied, the Submitting Party may file the document in the public record no earlier than 4 days, and no later than 10 days, after the motion is denied. A Judge may delay the public docketing of the document upon a showing of good cause.

(f) Effect of Court’s Ruling on Administrative Motion to File Under Seal. Upon the Court's ruling on the Administrative Motion to File Under Seal, further action by the Submitting Party may be required.

. **(1)** If the Administrative Motion to File Under Seal is granted in its entirety, then the

	document filed under seal will remain under seal and the public will have access only to the redacted version, if any, accompanying the motion. . **(2)** If the Administrative Motion to File Under Seal is denied in its entirety, the document sought to be sealed will not be considered by the Court unless the Submitting Party files an unredacted version of the document within 7 days after the motion is denied. . **(3)** If the Administrative Motion to File Under Seal is denied or granted in part, the document sought to be sealed will not be considered by the Court unless the Submitting Party files a revised redacted version of the document which comports with the Court's order within 7 days after the motion is denied. **(g) Effect of Seal**. Unless otherwise ordered by the Court, any document filed under seal shall be kept from public inspection, including inspection by attorneys and parties to the action, during the pendency of the case. Any document filed under seal in a civil case shall, upon request, be open to public inspection without further action by the Court 10 years from the date the case is closed. However, a Submitting Party or a Designating Party may, upon showing good cause at the conclusion of a case, seek an order to extend the sealing to a specific date beyond the 10 years provided by this rule. Nothing in this rule is intended to affect the normal records disposition policy of the United States Courts.
Southern District of California **https://www.casd.uscourts.gov/Rules/Lists/Rules/Attachments/92/Local%20Rules%202016%20v1.pdf**	Rule 79.2: Books and Records of the Clerk b. Sealed Documents. Documents filed under seal in civil actions will be returned to the party submitting them upon entry of the final judgment or termination of the appeal, if any, unless otherwise ordered by the court. c. Sealing Orders. Documents that are to be filed under seal must be accompanied by an order sealing them. If the order is also to be filed under seal, it must so state. -- Only other relevant text: A document may not be filed under seal unless authorized by an order entered by the judge before whom the hearing or proceeding related to the proposed sealed document will take place.
Colorado **http://www.cod.uscourts.gov/CourtOperations/RulesProcedu**	No sealing rule

res/LocalRules/CivilLocalRules.aspx	
District of Columbia http://www.dcd.uscourts.gov/sites/dcd/files/LocalRulesFeb2017.pdf	Rule 5.1(h): Sealed or Confidential Documents – (1) Absent statutory authority, no case or document may be sealed without an order from the Court. A document filed with the intention of it being sealed in an otherwise public case must be filed by electronic means in a manner authorized by the Clerk and shall be accompanied by a motion to seal. The document 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 placed on the public record. (2) When it is necessary to file a sealed document in paper form, the document must be submitted to the Clerk's Office with an electronic copy in a format deemed by the Clerk's Office to be compatible with CM/ECF filing. The document shall be submitted to the Clerk securely sealed in an envelope/box. The envelope/box containing such a document shall contain a conspicuous notation that states "DOCUMENT UNDER SEAL" or "DOCUMENTS SUBJECT TO PROTECTIVE ORDER," or the equivalent. The face of the envelope/box shall also contain the title of the Court, the case caption, the case number, and a descriptive title of the document, unless such information is to be or has been included among the information ordered sealed. The face of the envelope/box shall also contain the date of any order or the reference to any statute permitting the item to be sealed. (3) Filing a sealed document in a totally sealed case, or filing a sealed document in paper format in an otherwise public case where electronic filing cannot be effected, must be made in the Clerk's Office during the business hours of 9:00 a.m. and 4:00 p.m. daily except Saturdays, Sundays and legal holidays. Filing a sealed document at the security desk is prohibited because the Security Officers are not authorized to accept this material.
District of Delaware http://www.ded.uscourts.gov/sites/default/files/District%20of%20Delaware%20LOCAL%20RULES%202016_0.pdf	Rule 5.1.3: Filing Documents Under Seal – Documents placed under seal must be filed in accordance with CM/ECF Procedures, unless otherwise ordered by the Court.
Middle District of Florida http://www.flmd.uscourts.gov/forms/US	Rule 1.09: Filing Under Seal – (a) Unless filing under seal is authorized by statute, rule, or order, a party seeking to file under seal any paper or other matter in any civil case shall file and serve a motion, the title of which includes the words "Motion to Seal" and which includes (i) an identification and

DC-MDFL-LocalRules12-2009.pdf	description of each item proposed for sealing; (ii) the reason that filing each item is necessary; (iii) the reason that sealing each item is necessary; (iv) the reason that a means other than sealing is unavailable or unsatisfactory to preserve the interest advanced by the movant in support of the seal; (v) a statement of the proposed duration of the seal; and (vi) a memorandum of legal authority supporting the seal. The movant shall not file or otherwise tender to the Clerk any item proposed for sealing unless the Court has granted the motion required by this section. No settlement agreement shall be sealed absent extraordinary circumstances, such as the preservation of national security, protection of trade secrets or other valuable proprietary information, protection of especially vulnerable persons including minors or persons with disabilities, or protection of non- parties without either the opportunity or ability to protect themselves. Every order sealing any item pursuant this section shall state the particular reason the seal is required. (b) If filing under seal is authorized by statute, rule, or order (including an order requiring or permitting a seal and obtained pursuant to (a) of this rule), a party seeking to file under seal any paper or other matter in any civil case shall file and serve a motion, the title of which includes the words "Motion to Seal Pursuant to [Statute, Rule, or Order]" and which includes (i) a citation to the statute, rule, or order authorizing the seal; (ii) an identification and description of each item submitted for sealing; (iii) a statement of the proposed duration of the seal; and (iv) a statement establishing that the items submitted for sealing are within the identified statute, rule, or order the movant cites as authorizing the seal. The movant shall submit to the Clerk along with a motion under this section each item proposed for sealing. Every order sealing any item pursuant to this section shall state the particular reason the seal is required and shall identify the statute, rule, or order authorizing the seal. (c) Unless otherwise ordered by the Court for good cause shown, no order sealing any item pursuant to this section shall extend beyond one year, although a seal is renewable by a motion that complies with (b) of this rule, identifies the expiration of the seal, and is filed before the expiration of the seal. (d) The Clerk shall return to the movant any matter for which sealing is denied.
Northern District of Florida http://www.flnd.uscourts.gov/sites/default/files/local_rules/local_rules.pdf	Rule 5.5: Sealing Case Files and Documents; Redacting Documents – (A) **General Rule**. Each case file and each document filed in it is public unless one of these provides otherwise: a statute, court rule, administrative order, or order in the case. The Court may, by an order in the case, modify any sealing or redaction requirement set out in an administrative order or this rule. (B) **Documents That May Be Sealed Without an Order**. When a statute, court rule, or administrative order requires the sealing of a category of documents, a party may submit a

	document in that category for filing under seal, without moving for leave to file the document under seal. The Clerk must maintain the document under seal unless the Court orders otherwise. (C) **Documents That May Be Sealed Only With an Order**. A party who wishes to file any other document under seal must, if feasible, move in advance for leave to file the document under seal. The party may submit the document for filing under seal only if the Court authorizes it. If a party submits a document for filing under seal before the Court authorizes it—either because obtaining advance authorization was not feasible or in violation of this rule—the Clerk must promptly refer the sealing issue to the Court and must maintain the document under seal until otherwise ordered. (D) **Filing Redacted Versions of Sealed Documents**. When feasible, a party who files a document under seal must file a redacted version that will become part of the public file. Filing a redacted version is feasible unless (1) a person could infer from the redacted version the substance or import of the information that called for sealing the original or (2) the redacted version would include so little information that publicly filing it would serve no purpose. (E) **Redacting Documents That Are Improperly Filed with Personal Identifiers**. If a party violates Federal Rule of Civil Procedure 5.2 or Federal Rule of Criminal Procedure 49.1 by failing to redact a personal identifier, the party must promptly file a properly redacted substitute. When the substitute is filed, the Clerk must seal the unredacted original.
Southern District of Florida **http://www.flsd.uscourts.gov/wp-content/uploads/2016/12/December-2016-Local-Rules.pdf**	Rule 5.4: Filings Under Seal Disposal of Sealed Materials **(a) General Policy.** Unless otherwise provided by law, Court rule, or Court order, proceedings in the United States District Court are public and Court filings are matters of public record. Where not so provided, a party seeking to file matters under seal and/or ex parte shall follow the procedures prescribed by this Local Rule and Sections 5A, 5K, 9A-D, and 10B, as applicable, of the CM/ECF Administrative Procedures. In criminal matters, the procedures prescribed by this Local Rule and by the CM/ECF Administrative Procedures concerning the filing of ex parte documents shall only apply to cases in which a person already has been charged by criminal complaint, criminal information, or indictment. **(b) Procedure for Filing Under Seal in Civil Cases.** A party seeking to make a filing under seal in a civil case shall: (1) In a case that is not otherwise sealed in its entirety as permitted or required by federal law, file electronically via CM/ECF a motion to seal that sets forth the factual and legal basis for departing from the policy that Court filings be public and that describes the proposed sealed filing with as much particularity as possible without revealing the confidential information. The motion shall specify the proposed duration of the requested

	sealing. The motion to seal (but not the proposed sealed filing) and the docket text shall be publicly available on the docket. The proposed sealed filing must be filed electronically as a sealed document in CM/ECF using events specifically earmarked for sealed civil filings as described in detail in Section 9 of the CM/ECF Administrative Procedures. The filer must complete any required service of the sealed document(s) conventionally, indicating the corresponding document number of the sealed document(s). A party appearing pro se must file a motion to seal and proposed sealed documents conventionally. Proposed sealed documents shall be submitted in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside. The filer must complete any required service of the sealed document(s) conventionally. (2) Requests to seal a case in its entirety require a motion to seal that is filed conventionally in a plain envelope clearly marked "sealed document" with the style of the case noted on the outside. The motion must set forth the factual and legal basis for departing from the policy that Court filings be public, describe the proposed sealed filing with as much particularity as possible without revealing the confidential information, and specify the proposed duration of the requested sealing. If the motion is granted, subsequent filings shall be filed conventionally as sealed documents in a plain envelope clearly marked "sealed document" with the case number and style of the case noted on the outside. The filer must complete any required service of the sealed document(s) conventionally. **(e) Court Ruling**. (1) *Sealed Filings*. An order granting a motion to seal shall state the period of time that the sealed filing shall be sealed. If the Court denies the motion to seal, the proposed sealed filing shall not be public and shall be deleted from the docket by the Clerk's Office. (2) *Ex Parte Filings*. Access to ex parte motions and related filings will remain restricted unless the Court orders otherwise.
Middle District of Georgia **http://www.gamd.uscourts.gov/sites/gamd/files/GAMD_local_rules.pdf**	Rule 5.4: Privacy Protection for Filings Made with the Court **C. Filings Made Under Seal.** The court may order that a filing be made under seal without redaction. The court may later unseal the filing or order the person who made the filing to file a redacted version for the public record.
Northern District of Georgia	No sealing rule

http://www.gand.uscourts.gov/sites/default/files/NDGARulesCV.pdf	
Southern District of Georgia http://www.gasd.uscourts.gov/lr/lr1.htm	Rule 79.7: Sealed Documents – (a) Except as required or allowed by statute or rule, no matter may be placed under seal without permission of the Court. (b) Any person desiring to have any matter placed under seal shall present a motion setting forth the grounds why the matter presented should not be available for public inspection. The Clerk shall: (i) docket the motion as a Motion to Seal; (ii) refrain from labeling the filing as "sealed" or identifying the person seeking the sealing order unless the person consents; (iii) designate any accompanying materials as "sealed matter"; and (iv) maintain the motion and accompanying materials in a secure file pending a ruling on the Motion to Seal. (c) If the Motion to Seal is denied, any materials which the person sought to have sealed, and which were submitted to the Clerk with the motion, shall be returned to the person, who shall then have the option of filing the materials in the normal course. (d) Motions to Seal may extend to three layers of information: (1) the name of the movant; (2) the title of the filing sought to be sealed; and (3) the contents of the filing itself. In most cases, only the contents of the filing itself (e.g., proprietary data embodied within an in limine motion) will warrant sealing, not the title of the filing (e.g., Motion in Limine) or the identity of the movant (e.g., XYZ Tire Company). Therefore, unless the Court specifies otherwise, the Clerk shall construe all sealing orders to extend only to the contents of the underlying filing. The burden rests upon the moving party to justify all three sealing levels. The party seeking to have any matter placed under seal must rebut the presumption of the openness derived from the First Amendment by showing that closure is essential to preserve some higher interest and is narrowly tailored to serve that interest. (e) A party who moves to seal any matter submitted to the Court shall indicate whether the matter should be sealed permanently or until: (1) the conclusion of the trial, (2) the entry of final judgment, (3) the conclusion of the direct appeal, or (4) some other specified time. The permanent sealing of a Court record is not preferred and should be sought only where temporary sealing is not adequate to protect the interest at stake. Upon the expiration of any temporary sealing period, the matter shall be unsealed and made a part of the public record.
District of Guam http://www.gud.uscourts.gov/sites/default/files/documents/ci	No sealing rule

vil-rules_effective-20150215_1.pdf	
District of Hawaii http://www.hid.uscourts.gov/docs/localrules/Civil%20Local%20Rules%20updated%2006.29.16.pdf?pid=11&mid=47	83.12: Sealing of Information Filed with the Court (a) Any party may seek leave to file under seal any pleading, declaration, affidavit, document, picture, exhibit, or other matter if it contains confidential, restricted, or graphic information and/or images. These items shall not be filed under seal without leave of court. A stipulation or blanket protective order that allows a party to designate matters to be filed undereal will not suffice to allow the filing of the matter under seal. (b) Unless the court orders otherwise, a party seeking leave to file something under seal shall lodge a copy of the proposed sealed filing along with an appropriate motion. This motion shall specify the applicable standard for sealing the information and shall discuss how that standard has been met. Concurrently with the filing of the motion and lodging of the sealed matter, the party seeking to seal a matter must submit a proposed form of order. Copies of the lodged filing, the motion to seal, and proposed order shall be appropriately served, and two courtesy copies of each shall be delivered to the judge. No later than seven (7) days after the filing of a motion to seal, any party who contends that any information is not entitled to confidential treatment may challenge the designation. Pursuant to such a challenge, or if the court otherwise determines that all or part of the information should not be sealed, the submitting party shall have the option of withdrawing the lodged document or having it filed publicly. The submitting party shall inform the court within four (4) days whether it wants to withdraw the lodged document or have it filed. If the court does not receive such notification within four (4) days, the lodged document will be returned to the submitting party. If the request to seal is denied in part and granted in part, the submitting party may, within four (4) days, resubmit the pleading, declaration, affidavit, document, picture, exhibit, or other matter consistent with the order. If a party wishes to file a pleading, declaration, affidavit, document, picture, exhibit, or other matter that has been designated as confidential by another party pursuant to a protective order, or if a party wishes to refer in a memorandum or other filing to information so designated by another party, the submitting party must file and serve a motion to file the matter publicly. At the same time, the party shall lodge a copy of the pleading, declaration, affidavit, document, picture,

	exhibit, or other matter and submit a proposed form of order. Two courtesy copies of each shall be delivered to the judge. No later than seven (7) days after the filing of a motion to file a matter publicly, any party may file and serve written objections seeking to have all or part of the matter sealed. If no written response is filed within that period, the clerk shall automatically file the matter publicly. If written objections are received, the court will rule upon those objections and issue an appropriate order before filing the matter publicly. If the court determines at any time that any pleading, declaration, affidavit, document, picture, exhibit, or other matter has been improperly sealed or no longer needs to be sealed, the court may order its unsealing or take other appropriate action, including issuing sanctions against the party and/or the party's attorney responsible for having improperly sealed the information. (c) Any party granted leave to file under seal a pleading, declaration, affidavit, document, picture, exhibit, or other matter shall also file a copy of it with the confidential information redacted. That redacted copy shall be open for public inspection. This means that the parties shall make every attempt to seal only confidential information and allow filings to be open to public inspection to the fullest extent possible. (d) Because transcripts are available to the public via the court's CM/ECF system after a waiting period, and because members of the public may be seated in the audience, counsel and parties at any hearing open to the public shall argue, to the extent practicable, the merits and the underlying facts of the motion or matter without specifically discussing the confidential or restricted material. (e) The courtesy copies of sealed documents will be disposed of in accordance with the judge's discretion. Ordinarily, these copies will be recycled, not shredded, unless special arrangements are made.
District of Idaho **http://www.id.uscourts.gov/content_fetcher/print_pdf_packet.cfml?Court_Unit=District&Content_Type=Rule&Content_Sub_Type=Civil**	Rule 5.3: This Rule applies to documents filed electronically or those filed in paper format. (a) **General Provisions** (1) Motion to File Under Seal. Counsel seeking to file a document under seal shall file a motion to seal, along with supporting memorandum and proposed order, and file the

	document with the Clerk of Court. Said motion must contain "MOTION TO SEAL" in bold letters in the caption of the pleading. (2) Public Information. Unless otherwise ordered, the motion to seal will be noted in the public record of the Court. However, the filing party or the Clerk of Court shall be responsible for restricting public access to the sealed documents, as ordered by the Court. (b) **Electronic Filing of Sealed Documents** (1) Sealed documents and sealed cases will be filed in electronic format, with access restricted to the Court and authorized staff, unless otherwise ordered by the court. (2) A motion to seal a document or case shall be submitted electronically in CM/ECF. If a party wishes to file a document under seal in CM/ECF, they shall first contact the clerk's office for instructions regarding how to file the document and how to maintain the confidentiality of the information. The document submitted under seal shall be filed separately from the motion to seal. (3) Documents submitted to the Court for *in camera* review shall be submitted in the same fashion as sealed documents. (4) It is the attorney's responsibility to ensure that the documents submitted for *in camera* review are not accessible to other parties. On a case-by-case basis, the presiding judge may request that paper copies of documents submitted for *in camera* inspection be sent directly to the judge's chambers. (5) Additional instructions for the electronic submission of sealed and *in camera* documents are contained in the Electronic Case Filing Procedures. (c) **Documents submitted in Paper Format** (1) Format of Documents Filed Under Seal. If the material to be sealed is presented in paper format, counsel lodging the material shall submit the material in an UNSEALED 81⁄2 x 11 inch manila envelope. The envelope shall contain the title of the Court, the case caption, and case number. (2) Absent any other Court order, sealed documents submitted in paper format will be returned to the submitting party after the case is closed and the appeal time has expired, or if appealed, after the conclusion of all appeals.
Central District of Illinois	Rule 5.10- Sealed Cases, Documents for In Camera Review, and Ex Parte Documents

http://www.ilcd.uscourts.gov/sites/ilcd/files/local_rules/2016%20LR%20Manual%20FINAL_0.pdf	(A) SEALED CASES, DOCUMENTS FOR IN CAMERA REVIEW, AND EX PARTE DOCUMENTS Filing Under Seal. (1) Sealed Cases. All documents in sealed cases must be submitted conventionally to the Clerk's Office for filing. (2) Sealed Documents. The Court does not approve of the filing of documents under seal as a general matter. A party who has a legal basis for filing a document under seal without prior court order must electronically file a motion for leave to file under seal. The motion must include an explanation of how the document meets the legal standards for filing sealed documents. The document in question may not be attached to the motion as an attachment but rather must be electronically filed contemporaneously using the separate docket event "Sealed Document." In the rare event that the motion itself must be filed under seal, the motion must be electronically filed using the docket event "Sealed Motion." (rare but happens?) (3) Service. Parties must not use the Court's electronic notice facilities to serve documents in sealed cases or individually sealed documents. A publicly viewable Notice of Electronic Filing will be generated for a sealed document, but the document itself will not be viewable electronically. Service must be made in accordance with the Federal Rules of Civil Procedure and the Local Rules of this Court. A certificate of service must be attached to the filed document. (4) Denial of Requests to Seal. In the event that a motion for leave to file under seal is denied, the document tendered will remain under seal, and it will not be considered by the presiding judge for any purpose. If the filer wishes to have the document considered by the Court, it must be re-filed in the normal fashion as an unsealed document. The Court may, in its discretion, order a sealed document to be made public if (1) the document is filed in disregard of legal standards, or (2) if the document is so intricately connected with a pending matter that the interests of justice are best served by doing so.
Northern District of Illinois	Rule 5.7: Filing Cases Under Seal

http://www.ilnd.uscourts.gov/_assets/_documents/_rules/LRRULES.pdf	**(a) GENERAL.** The clerk is authorized to accept a complaint for filing and treat that complaint and the accompanying papers as if they were restricted pursuant to LR26.2 where the complaint is accompanied by a written request containing the following: (1) the name, address, and signature of the party or counsel making the request; (2) a statement indicating that the party believes that due to special circumstance which the party will promptly bring to the attention of the judge to whom the case is to be assigned, it is necessary to restrict access to the case at filing; (3) a statement that the party is aware that absent an order extending or setting aside the sealing, the file and its contents will become public on the seventh day following the date of filing; and (4) the attorney's or party's e-mail address if the attorney or party is registered as a Filing User of electronic case filing, the caption of the case, and the title of the document. Absent any order to the contrary, the contents of the case file shall be treated as restricted documents as defined by LR26.2 for seven days following the day on which the complaint was filed. Except as otherwise ordered, on the seventh day the file will no longer be treated as restricted. **(b) Filings Under 31 U.S.C. §3730.** The procedures set forth in section (a) shall also be followed in filing complaints in camera pursuant to 31 U.S.C. § 3730 with the following modifications: (1) the person presenting the complaint for filing in camera shall state in the instructions to the assignment clerk that the complaint is being filed pursuant to 31 U.S.C. § 3730; and (2) unless otherwise ordered by the court, the matter shall remain restricted for the period specified in 31 U.S.C. § 3730. Rule 5.8: Filing Materials Under Seal Any document to be filed under seal shall be filed in compliance with procedures established by the Clerk of Court and approved by the Executive Committee. Where pursuant to court order as a restricted or sealed document as defined by LR26.2 is not filed electronically, it must be accompanied by a cover sheet which shall include the following: (A) the caption of the case, including the case number; (B) the title "Sealed Document Pursuant to LR26.2"; (C) a statement indicating that the document is filed under seal in accordance with an order of court and the date of that order; and (D) the signature of the attorney of record or unrepresented party filing the document, the

	attorney's or party's name and address, including e-mail address if the attorney or party is registered as a Filing User of electronic case filing, and the title of the document. Any document purporting to be a sealed document as defined in LR26.2 that is not filed in compliance with such procedures shall be processed like any other document. In such instances, where the document has not been filed electronically, the clerk is authorized to open the sealed envelope and remove the materials for processing. Rule 26.2: Sealed Documents **(a) Definitions.** As used in this rule the term: "Sealed document" means a document that the court has directed be maintained under seal electronically or, where the court allows a sealed document to be filed non-electronically, within a sealed enclosure such that access to the document requires breaking the seal of the enclosure; and “Sealing order" means any order restricting access to one or more documents filed or to be filed with the court. **(b) Sealing Order.** The court may for good cause shown enter an order directing that one or more documents be filed under seal. No attorney or party may file a document under seal without order of court specifying the particular document or portion of a document that may be filed under seal. **(c) Sealing Motion for Documents filed Electronically.** Any party wishing to file a document or portion of a document electronically under seal in connection with a motion, brief or other submission must: (1) provisionally file the document electronically under seal; (2) file electronically at the same time a public-record version of the brief, motion or other submission with only the sealed document excluded; and (3) move the court for leave to file the document under seal. The sealing motion must be filed before or simultaneously with the provisional filing of the document under seal, and must be noticed for presentment promptly thereafter. Any document filed under seal without such a sealing motion may be stricken by the court without notice. **(d) Sealing Motion for Documents not filed Electronically.** Where the court has permitted documents to be filed non-electronically, the party seeking to file a document under seal must, before filing the document, move the court for a sealing order specifying the particular document or portion of a document to be filed under seal. The final paragraph of the order shall state the following information: (1) the identity of the persons, if any, who are to have access to the documents without further order of court; and (2) instructions for the disposition of the restricted documents following the conclusion of the case. A copy of the sealing order must be included with any document presented for filing under seal. The attorney or party submitting a restricted document must file it in a sealed enclosure that conspicuously states on the face of the enclosure the attorney's or party's name and address, including e-mail address if the attorney is

	registered as a Filing User of electronic case filing, the caption of the case, and the title of the document. **(e) Copies Served on Counsel and Judge's Paper Courtesy Copy.** Any sealed document served on any other party and any judge's paper courtesy copy must be a complete version, without any redactions made to create the public-record version unless otherwise ordered for good cause shown. **(f) Docket Entries.** The court may on written motion and for good cause shown enter an order directing that the docket entry for a sealed document show only that a sealed document was filed without any notation indicating its nature. Unless the Court directs otherwise, a sealed document shall be filed pursuant to procedures referenced by Local Rule 5.8. (doesn't need to indicate nature) **(g) Inspection of Sealed Documents.** The clerk shall maintain a record in a manner provided for by internal operating procedures approved by the Court of persons permitted access to sealed documents that have not been filed electronically. Such procedures may require anyone seeking access to show identification and to sign a statement to the effect that they have been authorized to examine the sealed document. **(h) Disposition of Sealed Non-electronic Documents.** When a case is closed in which an order was entered pursuant to section (b) of this rule, the clerk shall maintain the documents filed under seal non-electronically as sealed documents for a period of 63 days following the final disposition including appeals. Except where the court in response to a request of a party made pursuant to this section or on its own motion orders otherwise, at the end of the 63 day period the clerk shall notify the attorney or party who filed the documents that the documents must be retrieved from the clerk's office within 30 days of notification. If the parties do not retrieve the sealed documents within 30 days, the clerk shall destroy the documents.
Southern District of Illinois **http://www.ilsd.uscourts.gov/Forms/LocalRulesRev6R.pdf**	No sealing rule (except rule stating confidential identifiers should be redacted)
Northern District of Indiana **http://www.innd.uscourts.gov/sites/innd/files/LocalRulesMaster2016Jan19%28rev2%29.pdf**	5.3: Filing Under Seal or Ex Parte (a) General Rule. The clerk may not maintain a filing under seal unless authorized to do so by statute, court rule, or court order. (b) Filing Cases Under Seal. (1) Papers Required. To seal a case, a party must:

	(A) simultaneously file directly with the clerk: (i) the initial pleadings; (ii) a motion requesting that the court seal the case; (iii) a proposed order; and (B) otherwise comply with the CM/ECF User Manual. (2) Treatment of Case Pending Ruling. When the clerk receives a new case with a motion to seal it, the clerk must seal the case pending a ruling on the motion. (3) If Motion Is Denied. If the court denies the motion, the clerk must immediately unseal the case and may do so without first notifying the filing party.
Southern District of Indiana **http://www.insd.uscourts.gov/sites/insd/files/Local%20Rules%2012-1-16.pdf**	Rule 5.8- Public Access to Cases Filed Electronically Any person may review any unsealed document that has been filed with the court: **(a)** in person at the clerk's office; or **(b)** via the court's internet site (www.insd.uscourts.gov) if they have a PACER log-in and password. Rule 5-11: Filing Under Seal – Civil Cases **(a) Filing Cases Under Seal.** To seal a case, a party must file a motion requesting that the court seal the case with a proposed order at or before the time the party files its initial pleading. The clerk will seal the case until the court rules on the motion. If the court denies the motion, the clerk will unseal the case 21 days after service of the order, absent a Fed. R. Civ. P. 72(a) objection; motion to reconsider; or notice by a party of an intent to file an interlocutory appeal. **(b) Filing Documents Under Seal - General Rule.** The clerk may not maintain under seal any document unless authorized to do so by statute, rule, or court order. Once a document is sealed, the clerk may not, without a court order, allow anyone to see it other than: **(1)** the court and its staff; **(2)** the clerk's staff; and **(3)** the attorneys who have appeared and any pro se party in the case in which the document has been filed.

(c) Redaction in Lieu of Filing Under Seal.
(1) Documents redacted pursuant to Fed. R. Civ. P. 5.2(a) must not be filed under seal.

(2) When any of the confidential information in a document is irrelevant or immaterial to resolution of the matter at issue, the filing party may redact, by blacking out, the confidential information in lieu of filing under seal. Any party who files such a redacted document must serve an unredacted and complete version of the document upon all counsel and pro se parties.

(d) Filing Documents Under Seal - Procedure.

(1) To file a document under seal, a party must file it electronically as required under section 18 of the *ECF Policies and Procedures Manual* unless exempt from electronic filing under S.D. Ind. L.R. 5-2(a) or 5-3(e). In either case, the party must include a cover sheet as the first page for each document being filed under seal that must include:

(A) the case caption;

(B) the title of the document, or an appropriate name to identify it on the public docket if the title cannot be publicly disclosed;

(C) the name, address, and telephone number of the person filing the document; and

(D) if a motion requesting that it be sealed does not accompany the document, identification of the statute, rule, or court order authorizing the document to be sealed. A protective order does not authorize a party to file a document under seal.

(2) Unless the sealed filing is authorized by statute, rule, or prior court order (other than a protective order), a party filing a document under seal must contemporaneously:

(A) file a Motion to Maintain Document(s) Under Seal, and

(i) if the filing party designated the subject information confidential, a Brief in Support that complies with the requirements of subsection (e), and a redacted (confidential portions blacked out) public version of the document that is being filed under seal; and/or

(ii) if the filing party did not designate the subject information confidential, an identification of the designating party(ies); and

(B) serve an unredacted and complete version of the document upon all counsel and pro se parties.

(3) The designating party(ies) identified according to subsection (2)(A)(ii) must, within 14 days of service of the Motion to Maintain Document(s) under Seal, file a Statement

	Authorizing Unsealing of Document (or specific portions thereof) and/or a Brief in Support that complies with the requirements of subsection (e) and a redacted (confidential portions blacked out) public version of the document that was designated as confidential and filed under seal. If the designating party fails to file a supporting Statement or Brief, then the filing party must notify the court of that failure. The court may summarily rule on the (d)(2)(A) motion to seal if the designating party does not file the required Statement or Brief. **(e) Brief in Support**. A Brief in Support must not exceed 10 pages in length, without prior leave of court, and must include: **(1)** identification of each specific document or portion(s) thereof that the party contends should remain under seal; **(2)** the reasons demonstrating good cause to maintain the document, or portion(s) thereof, under seal including: **(A)** why less restrictive alternatives to sealing, such as redaction, will not afford adequate protection; **(B)** how the document satisfies applicable authority to maintain it under seal; and **(C)** why the document should be kept sealed from the public despite its relevance or materiality to resolution of the matter; and **(3)** a statement as to whether maintenance of the document under seal is opposed by any party; and **(4)** a proposed order as an attachment. **(f) Opposition to Maintenance Under Seal.** Any opposition to a Motion to Maintain Document(s) Under Seal must be filed within 14 days of service of the Brief in Support. Any Brief in Opposition must not exceed 10 pages in length. A member of the public may challenge at any time the maintenance of a document filed under seal. **(g) Denial of Motion to Maintain Under Seal.** If the court denies the motion, the clerk will unseal the document(s) after 21 days, absent Fed. R. Civ. P. 72(a) objection, motion to reconsider, appeal, or further court order. **Local Rules Advisory Committee Comment Re: 2015 Amendment** The 2015 revision includes a more detailed procedure for obtaining permission from the court to maintain filed documents under seal in civil matters. Filings under seal in criminal matters are the subject of new Local Criminal Rule 49.1-2. The parties are

	encouraged to consider and confer regarding redaction whenever practical and possible to avoid multiple filings of the same document and unnecessary motion practice. Parties should note that a protective order does not authorize a party to file or maintain a document under seal. In addition, the parties should follow Seventh Circuit guidance on the legal parameters for maintaining documents under seal enunciated in cases such as *City of Greenville, Illinois v. Syngenta Crop Protection.*
Northern District of Iowa **http://www.iand.uscourts.gov/e-web/Documents.nsf/0/58BE642F7E9E99E2862573C00000E093/$File/2009+Local+Rules+Redline+Version.pdf**	Rule 5: **c. Filing Sealed Documents.** Unless otherwise authorized by these rules, the ECF Procedures Manual, or a statute of the United States, a party seeking to file documents under seal first must file a motion requesting leave to do so. The documents sought to be filed under seal must not be attached to the motion or they will become part of the public case file. Instead, the documents must be described in the motion with sufficient particularity to enable the court to rule on the motion without reviewing the documents. Alternatively, in the Northern District the docu- ments may be e–mailed to the Clerk of Court at ecfmail@iand.uscourts.gov for review by the court. If an order is entered granting a motion to file documents under seal, or if the court enters a protective order or some other order directing the filing of documents under seal, then the parties thereafter must, without obtaining a further order from the court, docket and electronically file under seal all documents covered by the order. The parties also must file under seal all documents referring to or disclosing confidential information in the sealed documents. Certain categories of documents, because of their nature, are sealed by the ECF system without a motion by a party or an order of the court. Most of these "system-sealed" filings are in criminal cases. (A current list of system-sealed filings is available from the Clerk of Court and on the court's website at the web address in Local Rule 1.i.) A party filing such a document must not file a motion for leave to file the document under seal, but must file the document under seal directly through the ECF system. Generally, a document filed under seal is electronically accessible only to the court and counsel of record. Some documents filed under seal in criminal cases are electronically accessible only to the court. A document filed electronically under seal must include at the beginning of the document the caption of the case and the notation "FILED UNDER SEAL." A paper document submitted to the court for filing under seal must be delivered to the Clerk of Court in a sealed envelope marked with the caption of the case and the notation "FILED UNDER SEAL." If these requirements are not met, documents intended to be filed under seal could be filed in the public case file inadvertently. Not less than one year after a judgment has become final in a civil case, or if an appeal from the judgment has been filed, not less than one year after the issuance of the mandate

	by the circuit court, the Clerk of Court may destroy and discard any sealed paper documents in the civil case file, unless, before the expiration of the one- year period, a party files an objection to the destruction of the documents, or the parties file an agreement to a disposition of the documents in lieu of their destruction.
Southern District of Iowa **http://www.iasd.uscourts.gov/sites/default/files/Rules/2009%20Local%20Rules.pdf**	Rule 5: Service, Facsimile Delivery of Documents, Sealed Documents, In Camera Documents **c. Filing Sealed Documents.** Unless otherwise authorized by these rules, the ECF Procedures Manual, or a statute of the United States, a party seeking to file documents under seal first must file a motion requesting leave to do so. The documents sought to be filed under seal must not be attached to the motion or they will become part of the public case file. Instead, the documents must be described in the motion with sufficient particularity to enable the court to rule on the motion without reviewing the documents. Alternatively, in the Northern District the docu- ments may be e–mailed to the Clerk of Court at ecfmail@iand.uscourts.gov for review by the court. If an order is entered granting a motion to file documents under seal, or if the court enters a protective order or some other order directing the filing of documents under seal, then the parties thereafter must, without obtaining a further order from the court, docket and electronically file under seal all documents covered by the order. The parties also must file under seal all documents referring to or disclosing confidential information in the sealed documents. Certain categories of documents, because of their nature, are sealed by the ECF system without a motion by a party or an order of the court. Most of these "system-sealed" filings are in criminal cases. (A current list of system-sealed filings is available from the Clerk of Court and on the court's website at the web address in Local Rule 1.i.) A party filing such a document must not file a motion for leave to file the document under seal, but must file the document under seal directly through the ECF system. Generally, a document filed under seal is electronically accessible only to the court and counsel of record. Some documents filed under seal in criminal cases are electronically accessible only to the court. A document filed electronically under seal must include at the beginning of the document the caption of the case and the notation "FILED UNDER SEAL." A paper document submitted to the court for filing under seal must be delivered to the Clerk of Court in a sealed envelope marked with the caption of the case and the notation "FILED UNDER SEAL." If these requirements are not met, documents intended to be filed under seal could be filed in the public case file inadvertently.

	Not less than one year after a judgment has become final in a civil case, or if an appeal from the judgment has been filed, not less than one year after the issuance of the mandate by the circuit court, the Clerk of Court may destroy and discard any sealed paper documents in the civil case file, unless, before the expiration of the one- year period, a party files an objection to the destruction of the documents, or the parties file an agreement to a disposition of the documents in lieu of their destruction.
District of Kansas **http://www.ksd.uscourts.gov/wp-content/uploads/2016/04/KS-USDC-2016-WEB.pdf**	Rule 5.4.6- Sealed Documents **(a) Procedure for Requesting Leave to File Under Seal.** (1) *Motion.* A party filing a motion for leave to file documents under seal in civil cases must file that motion electronically, under seal, in the Electronic Filing System. (2) *Exhibit(s).* The motion for leave to file under seal must attach as sealed exhibits the document(s) the party requests to be filed under seal. (3) *Proposed Order.* The party must e-mail a proposed order to KSD_<Judge'sLastName>_chambers@ksd.uscourts.gov (4) *Provision to Other Parties.* Finally, the party must simultaneously provide the document(s) it requests to be filed under seal to all other parties in the case. **(b) Order Granting Leave.** If the court grants the motion for leave to file under seal, the assigned judge will enter electronically an order authorizing the filing of the document(s) under seal. The assigned judge will also direct the clerk's office to grant access to all attorneys who have entered an appearance in that case (and whose appearance has not been terminated) the ability to view sealed documents in that case (assuming this access has not previously been granted). The filing party may then file its document(s) electronically under seal. **(c) Order Denying Leave.** If the court denies the motion for leave to file under seal, the assigned judge will enter electronically an order denying the filing of the document(s) under seal. **(d) Notification of Termination.** Once the court has granted an attorney access to sealed documents in a case, that attorney is responsible for notifying the clerk's office if he or she is terminated from the case and the parties request that terminated attorneys no longer have access to sealed documents in that case.
Eastern District of Kentucky &	Rule 5.7- Filing Documents Under Seal

Western District of Kentucky http://www.kyed.uscourts.gov/kyed_lrf/KY_Amended_Civil_Rules%20_1-19-2017.pdf	a) Presumption of public access. Parties and counsel should presume that all documents filed in district court should be available for the public to access and that restricting public access can occur only in limited circumstances, as set forth in this Rule. (b) "Sealed Document" defined. A "sealed document"' is defined as a document or motion filed pursuant to (1) a protective order restricting public access. (2) an order granting leave to file the sealed document or motion, in conjunction with a motion for leave to seal or a previously-filed redacted document, or (3) included within a category of documents considered sealed under a federal statute or federal rule of procedure, local rule, or standing order of this court. A sealed document or motion is not available electronically, or by any other means, to the parties, attorneys or the public. (c) Specific Authority or Motion Required; Protective Orders. Absent a federal statute or federal rule of procedure, local rule, or standing order of this court. a party seeking to file a sealed document must electronically file a motion for leave to seal. The motion must state why sealing is required and must establish that the document sought to be filed under seal is entitled to protection from public disclosure. Reference to a stipulation that allows a party to designate certain documents as confidential is not sufficient grounds to establish that a document, or portions thereof warrants filing under seal. (d) Electronic Filing Rules and Procedures. All procedures for filing documents under seal, whether pursuant to this Rule or a federal statute or foderal rule of procedure, are contained in the court's Amended Electronic Case filing Administrative Policies and Procedures, available from the Clerk's office on the following websites: WDKY - http://www.kywd.uscourts.gov/ EDKY - http://www.kyed.uscourts.gov/
Eastern District of Louisiana http://www.laed.uscourts.gov/sites/default/files/local_rules/LAEDLocalCivilRules_4.pdf	Rule 5.6: Procedure for Filing Documents Under Seal (A) No document or other tangible item may be filed under seal without the filing of a separate motion and order to seal, unless authorized by law. (B) Any motion providing prospectively for filing materials under seal must be accompanied by a non-confidential supporting memorandum, a notice of the request to seal, and a proposed order. The non-confidential memorandum and proposed order must include: (1) A non-confidential description of what is to be sealed (e.g., medical records); (2) A statement as to why sealing is necessary; (3) Reference to governing case law; and (4) A statement of the period of time the party seeks to have the matter maintained under seal and how the matter is to be handled upon sealing.

	The proposed order must recite the findings required by governing case law to support the proposed sealing. The movant may also submit a confidential memorandum for in camera review in support of the motion. Memoranda supporting or opposing the motion may be submitted and may be designated, in whole or in part, as confidential. Any confidential memoranda must be treated as sealed pending the ruling on the motion to seal. The clerk must provide public notice by docketing the motion as set forth in the non-confidential description and date assigned for submission. (C) A party submitting a document or portion of a document for filing under seal pursuant to a governing statute, rule, or order must note on the face of the document that it or a portion of it is filed under seal pursuant to that statute, rule or order. Upon filing a document under seal, the clerk must provide public notice by stating on the docket that the document is sealed. (D) If the motion to file under seal is denied, the movant may file another motion to remove the document(s) from the record within seven days. If no such motion is timely filed, the document(s) must be filed as a public record. (E) Each document filed under seal must 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 and a non- confidential descriptive title of the document must also be noted on the container. (F) A motion to have the entire case sealed is subject to the requirements and procedures of subsections (C) and (E) of this rule. (G) Nothing in this Rule restricts the parties from stipulating access to materials that are not filed with the court. (H) Except as permitted by law, trial exhibits, including documents previously filed under seal, and trial transcripts will not be filed under seal.
Middle District of Louisiana **http://www.lamd.uscourts.gov/sites/default/files/2015%20LOCAL%20RULES.pdf**	No sealing rule

Western District of Louisiana **http://www.lawd.uscourts.gov/sites/default/files/UPLOADS/localrules.WDLA.2016May26.pdf**	Rule 5.7.06: Sealed Documents Documents ordered to be placed under seal must be filed electronically, except as may be admitted in open court. Adopted April 2005; Amended February 2016.
District of Maine **http://www.med.uscourts.gov/pdf/Local_Rules.pdf**	Rule 7A- Filing Sealed Documents and Pleadings A document or pleading may be filed under seal only upon order of the Court, in accordance with the following procedures: (a) Motion to Seal and Sealed Documents To obtain an order allowing one or more documents or pleadings to be sealed, a party shall electronically file on ECF a motion to seal together with the separate document(s) or pleading(s) sought to be sealed. The motion shall propose specific findings as to the need for sealing and the duration the document(s) should be sealed. The motion shall include a statement whether there is agreement of the parties to the sealing. The ECF system will generate and send a Notice of Electronic Filing (NEF) to counsel of record notifying them of the filing, but counsel will be unable to view the document. If service is required, all counsel must be served in a manner other than through ECF. (b) Objection to Sealing and Reply Unless otherwise ordered by the Court, any objection to a motion to seal and any reply thereto shall be filed electronically under seal and in accordance with Local Rule 7. (c) Order In making specific findings as to the need for sealing and the duration the document(s) shall be sealed, the Court may incorporate by reference the proposed findings in the motion to seal. If the motion to seal is denied, the motion to seal and any supporting document(s) tendered under provisional seal shall remain in the ECF system, sealed indefinitely, unless the Court orders otherwise. The parties should anticipate that the Court's order granting or denying the motion to seal will not be filed under seal and will be publicly available. (d) Public Notice The docket entry noting the filing of the motion to seal, and of any objection and reply thereto, and of the filing of the Court's order thereon, and of the filing of any sealed

	document(s) or pleading(s) shall be publicly available on ECF, but the document(s) or pleading(s) themselves shall only be available to the Court. (e) Exceptions (1) No motion or order is required for the filing of a document that has been redacted solely to remove personal identifiers pursuant to Fed. R. Civ. Pro. 5.2 or that is included within a category of pleadings and documents deemed sealed or authorized to be filed ex parte pursuant to a federal statute, the federal rules of procedure, or the local rules of this Court. Any filing of a redacted document shall reference the authority for such redaction. (2) Documents marked confidential pursuant to an existing protective order may not automatically be filed under seal. The parties must confer and attempt to redact the exhibit in order to remove "confidential" material that is not essential for the Court's use in rendering a decision. If the exhibit cannot be redacted by agreement to remove confidential information, the party claiming that the document should be under seal shall file a motion in compliance with paragraphs (a-b) above. (3) Sealed pleadings and documents, such as deeds, photographs, or bulky exhibits, which cannot be filed electronically, shall be filed in accordance with the provisions of the ECF User Manual.
District of Maryland **http://www.mdd.uscourts.gov/sites/mdd/files/LocalRules.pdf**	Rule 105: Any motion seeking the sealing of pleadings, motions, exhibits, or other documents to be filed in the Court record shall include (a) proposed reasons supported by specific factual representations to justify the sealing and (b) an explanation why alternatives to sealing would not provide sufficient protection. The Court will not rule upon the motion until at least fourteen (14) days after it is entered on the public docket to permit the filing of objections by interested parties. Materials that are the subject of the motion shall remain temporarily sealed pending a ruling by the Court. If the motion is denied, the party making the filing will be given an opportunity to withdraw the materials. Upon termination of the action, sealed materials will be disposed of in accordance with L.R. 113.
Massachusetts **http://www.mad.uscourts.gov/general/pdf/LC/2016%20LOCAL%20RULES.pdf**	Rule 83.6.11: Public Access and Confidentiality **(a) Matters Presumed to Be Public.** All matters before the court concerning alleged attorney misconduct and discipline are presumptively public. **(b) Exceptions.** The court, on its own motion or on request, may redact or protect the following types of matters and file them under seal.

	(1) ***Victim or Third-Party Privacy***. Any matters reasonably necessary to protect the privacy of a victim of attorney misconduct or of any innocent third party. **(2)** ***Privilege***. Any matters reasonably necessary to protect information subject to a valid attorney-client or other privilege. **(3)** ***Grand Jury or Criminal Investigation***. Any matters reasonably necessary to protect information subject to grand jury secrecy or to protect an ongoing criminal investigation. **(4)** ***Personal Privacy.*** Any matters of a highly personal or private nature; provided, however, that if the personal or private matter was the basis, at least in part, of a disciplinary action, a decision not to take disciplinary action, or a decision to mitigate discipline, public disclosure is required in sufficient detail to permit an informed public understanding of the court's decision. **(5)** ***Exceptional Circumstances.*** Any other matters that, due to exceptional circumstances presented in the case, should not be disclosed in the interests of justice. Any such redaction or protective order shall be in writing or made on the record and shall state the reasons for the order. The court, in fashioning such an order, shall give due regard to the need to protect the public from further attorney misconduct and to maintain public confidence in the integrity of the court.
Eastern District of Michigan **http://www.mied.uscourts.gov/PDFFIles/localRulesPackage.pdf**	Rule 5.3: Civil Material Filed Under Seal **(a) Sealing Items Authorized by Statute or Rule.** When a statute or rule authorizes filing a document or other item under seal in a civil case, the item may be filed without a court order. (1) A separate notice of filing under seal must be filed before filing an item under seal. (2) The notice must include: (A) a citation to the statute or rule authorizing the seal; (B) an identification and description of each item submitted under seal; and (C) a statement establishing that the items are within the statute or rule authorizing the seal. **(b) Sealing Items Not Authorized by Statute or Rule.** (1) Except as provided by statute or rule, documents (including settlement agreements) or other items may be sealed in a civil case only by court order. A party or other person may not file or tender to the clerk an item proposed for sealing under this subrule unless the court enters an order permitting sealing. (2) A party or other person seeking to file an item under seal in a civil case under LR 5.3(b) must either file and serve a motion or submit a proposed stipulated order to authorize sealing. sealing; (A) A motion or stipulated order to authorize sealing must:

1. (i) state the authority for sealing;
2. (ii) include an identification and description of each item proposed for
3. (iii) state the reason that sealing each item is necessary;

(iv) state the reason that a means other than sealing is not available or unsatisfactory to preserve the interest advanced by the movant in support of the seal; and

(v) have a supporting brief.

(B) When a motion to seal is filed, the movant must submit a proposed order with the motion. The proposed order submitted with the motion or a proposed stipulated order must state the reason the seal is required.

(c) Format Of Documents To Be Sealed.

1. (1) All documents must comply with LR 5.1(a).
2. (2) Only the germane portion of a filing may be sealed. For example, if the sealed item is an

exhibit to a motion, response, or reply, only the exhibit may be sealed.

(d) Unsealing Documents. When the court orders an item unsealed, the clerk will make it publicly available as any other public document.

(e) Disposition. Unless the court directs otherwise, the court will transfer sealed material to the Federal Records Center for maintenance under the judiciary's Records Disposition Schedule six months after expiration of the last applicable appeal period.

April 1, 2008

COMMENT: Attorneys are cautioned that attempts to circumvent (a) may result in the imposition of sanctions.

Sealed settlement agreements are covered by LR 5.3(b)(1). Generally, except in extraordinary circumstances, the sealing of settlement agreements is disfavored.

Protective orders are covered under LR 26.4.

The delivery of papers filed under seal to federal court facilities must be in accordance with LR 83.31(a)(3)(B). (7/1/08)

Other material provided by statute, e.g., *Qui Tam* cases, are not covered by this rule.

	Documents filed electronically must comply with the Court's ECF Policies and Procedures (Appendix ECF to these rules).
Western District of Michigan **http://www.miwd.uscourts.gov/sites/miwd/files/Local%20Civil%20Rules.pdf**	Rule 10.6: Filing Documents Under Seal (a) Policy - To preserve the qualified, common-law presumption of public access to judicial files in civil cases, the filing of documents under seal should be the exception. Sealing is to be limited to information that is truly proprietary or confidential. The Court strongly resists the sealing of entire civil pleadings, motions or briefs, as it is rare that the entire document will merit confidential treatment. In lieu of seeking leave to file an entire document under seal, parties should incorporate the confidential material in a separate document and seek leave to file only that document under seal. (b) Requests to seal - The procedures set forth in this rule apply to cases that have not been sealed in their entirety. Documents may be submitted under seal only if authorized by statute or by the Court for good cause shown. A person seeking leave to file a document under seal must file a motion requesting such relief, unless the Court has entered a previous order authorizing the submission of the document under seal or submission under seal is authorized by statute. The motion seeking leave to file under seal should generally be a public filing, unless the submitting party believes in good faith that public access to the motion will compromise the confidential matter. A proposed sealed document submitted by a registered attorney must be submitted electronically under seal as a separate document, under a separate docket entry, by use of the appropriate CM/ECF event. The docket entry and the NEF for any sealed document will be available for public viewing; the description of the sealed document should therefore be general in nature (*e.g.*, sealed affidavit, sealed exhibit). The proposed sealed document shall be appropriately identified on its face as sealed, but should not contain the word "proposed." Proposed sealed documents submitted by persons other than registered attorneys must be filed in a sealed envelope bearing the case caption and number, the identity of the party submitting the documents, and a general description of the contents; the proposed sealed document will be scanned and maintained electronically under seal. If the Court denies the motion to seal in whole or in part, the proposed sealed document will remain sealed, but the Court may order the submitting party to tender a modified document, either sealed or not under seal, as the Court directs. If the Court grants leave to file the document under seal, the Clerk of Court will modify the docket entry to remove reference to "proposed." (c) Access to sealed documents - A document filed under seal may be accessed electronically only by authorized personnel of this Court and the Court of Appeals and not by the public or any attorney or party. (d) Service of sealed documents - A party submitting a document under seal must serve it by non-electronic means of service on all other parties.

District of Minnesota **http://www.mnd.uscourts.gov/local_rules/Local-Rules-Master.pdf**	Rule 5.6: Filing Documents Under Seal in Civil Cases **(a) Application of Rule.** (1) A document may be filed under seal in a civil case only as provided by statute or rule, or with leave of court. (2) This rule does not require a party to file any document under seal, but sets forth the procedures used when a party seeks to file a document under seal. (3) This rule does not affect a party's obligation to redact personal identifiers under Federal Rule of Civil Procedure 5.2 or LR 5.5, nor any statutory, contractual, or other obligation to keep information confidential. **(b) Electronic Filing Required.** All documents filed in a civil case — whether sealed or not — must be filed in compliance with the CIVIL ECF PROCEDURES GUIDE. **(c) What May Be Sealed.** (1) A party may seek to file a document under seal only if the document contains confidential information. (2) "Confidential information" is information that: (A) the filing party contends is confidential or proprietary; (B) has been designated as confidential or proprietary by another party, by a nonparty, or under a non-disclosure agreement or protective order; or (C) is otherwise entitled to protection from disclosure under a statute, rule, order, or other legal authority. **(d) Procedure for Filing Under Seal In Connection With Motions Governed By LR 7.1.** (1) *Filing Under Temporary Seal.* A party seeking to file a document under seal in connection with a motion under LR 7.1 must first file the document under temporary seal. That party must file the temporarily sealed document separately so that the document is assigned its own docket number. (A) Redacted Public Version. A party filing a document under temporary seal must contemporaneously and publicly file:

	(i) a version of that document with the confidential information redacted; or (ii) a statement that the entire document is confidential or that redaction is impracticable. (B) Expiration of Temporary Seal. A document filed under temporary seal remains under seal until the latest of the following: (i) 28 days after entry of the magistrate judge's order disposing of the joint motion regarding continued sealing under LR 5.6(d)(2); (ii) 21 days after entry of the magistrate judge's order disposing of a motion for further consideration under LR 5.6(d)(3); or (iii) entry of the district judge's order disposing of an objection under LR 5.6(d)(4). (2) *Joint Motion Regarding Continued Sealing.* Within 21 days after the filing of the final memorandum authorized by LR 7.1 in connection with the underlying motion, the parties must file a completed Joint Motion Regarding Continued Sealing Form. (A) Joint Motion's Contents. The joint motion must list by docket number each document filed under temporary seal in connection with the underlying motion and, for each such document: 1. (i) briefly describe the document; 2. (ii) explain why the parties agree that the document or information in the document should remain sealed or be unsealed or, if the parties disagree, briefly explain each party's position; and (iii) identify any nonparty who has designated the document or information in the document as confidential or proprietary. (B) Party to File Joint Motion. Unless the parties agree or the magistrate judge orders otherwise, the party who filed the first document under temporary seal in connection with the underlying motion must file the joint motion. (C) Order on Joint Motion. The magistrate judge will ordinarily rule on the joint motion without oral argument. A party or nonparty who objects to the order must file a motion for further consideration under LR 5.6(d)(3). (D) Notice to Nonparties. If the magistrate judge orders the unsealing of information that a nonparty has designated as confidential or proprietary, the party who filed that

	information under temporary seal must, within 7 days after entry of the order, serve on the nonparty a copy of the document containing that information and the order. (3) *Motion for Further Consideration of Sealing.* Within 28 days after entry of the magistrate judge's order disposing of a joint motion regarding continued sealing under LR 5.6(d)(2), a party or nonparty may file a motion for further consideration by the magistrate judge. If the motion for further consideration relates to information that a nonparty has designated as confidential or proprietary, the movant must serve on that nonparty a copy of the motion and all documents filed in support of the motion. The motion for further consideration is a nondispositive motion governed by LR 7.1(b). (4) *Objection to Order Disposing of Motion for Further Consideration of Sealing.* A party or nonparty may object to a magistrate judge's order disposing of a motion for further consideration of sealing, but only if that party or nonparty filed or opposed the motion. The objection is governed by LR 72.2(a). **(e) Procedure for Filing Other Documents Under Seal.** A party who seeks leave of court to file a document under seal other than in connection with a motion under LR 7.1 must obtain direction from the court on the procedure to be followed. **2017 Advisory Committee Note to LR 5.6 …. I stopped here. ASW** LR 5.6 is a new rule regarding the filing of information under seal in civil cases. The new rule addresses two problems with current practice: First, the court has never established a uniform process for filing information under seal in civil cases. As a result, current practice is haphazard, varying from judge to judge and case to case. In fact, parties sometimes file information under seal in civil cases without seeking or receiving the permission of a judge. Second, parties have been filing too much information under seal in civil cases, in part because of confusion over the difference between protective orders and sealing orders. As a general matter, the public does not have a right of access to information exchanged in discovery; thus, protective orders are often quite broad, covering entire documents or sets of documents produced during discovery, even when most or all of the contents are not particularly sensitive. But the public does have a qualified right of access to information that is filed with the court. Even if such information is covered by a protective order, that information should not be kept under seal unless a judge determines that a party or nonparty's need for confidentiality outweighs the public's right of access. This rule is intended to reduce the amount of information that is sealed in civil cases and to ensure that no information is sealed without the permission of a judge.

	Subdivision (a). LR 5.6(a) provides that a document may be filed under seal only as provided by statute or rule, or with leave of court. This rule does not *require* any party to file any information under seal. Rather, this rule simply provides the procedures that a party must follow when the party seeks to file information under seal to protect its own interests or to comply with a statutory, contractual, or other obligation to keep information confidential. The procedures set forth in this rule need not be followed by a party who is merely redacting personal identifiers in compliance with Fed. R. Civ. P. 5.2 or LR 5.5. **Subdivision (b).** LR 5.6(b) provides that every document filed in a civil case—whether under seal or not—must be filed electronically and in compliance with the Civil ECF Procedures Guide. A document may not be filed in paper form unless such filing is authorized by the Guide. **Subdivision (c).** LR 5.6(c)(1) provides that a party may not seek to file information under seal unless that information is "confidential." LR 5.6(c)(2) defines "confidential information." **Subdivision (d).** LR 5.6(d) establishes a four-step procedure to determine whether information filed in connection with a motion under LR 7.1 will be sealed. *Step One (LR 5.6(d)(1)).* A party who seeks to file a document under seal must first file the document under temporary seal. The document must be filed separately, so that parties, nonparties, and the court can refer to the document by its own docket number. When a party files a document under temporary seal, the party must at the same time publicly file either (1) a version of that document with the confidential information redacted or (2) a statement that the entire document is confidential or that redaction is impracticable. The redaction requirement should not pose an onerous burden in connection with most discovery disputes. LR 5.6(d)(1)(A) does not require redaction when "the entire document is confidential." LR 5.6(c)(2) defines "confidential information" to include information that "has been designated as confidential or proprietary . . . under a . . . protective order." Thus, if an entire document has been designated as confidential under a protective order (as is often the case), that document need not be redacted. A large share of discovery disputes involve such documents. Outside of the context of discovery disputes, parties should only rarely file a statement that a document cannot be redacted. If a document reasonably can be redacted, the document must be redacted.

	After a document is filed under temporary seal, LR 5.6(d)(1)(B) ensures that the document will remain under temporary seal until the court makes a final decision about whether the document should remain sealed. *Step Two (LR 5.6(d)(2)).* After all memoranda and other documents pertaining to the underlying motion have been filed, all parties must together file a single Joint Motion Regarding Continued Sealing. The joint motion must be filed within 21 days after the filing of the final memorandum authorized by LR 7.1. The joint motion must be filed using the Joint Motion Regarding Continued Sealing Form, which is available on the court's website. That form is the only document that may be filed; no other filings, including the filings contemplated by LR 7.1, are required or permitted in connection with the joint motion. The party who first filed a document under temporary seal in connection with the LR 7.1 motion bears the responsibility for filing the joint motion. The joint motion must address every document that has been filed under temporary seal, even if all parties agree that a document may be unsealed. The parties must do three things with respect to each temporarily sealed document: First, the parties must briefly describe the document (e.g., "09/23/2016 email from A. Jones to B. Smith"). Second, the parties must *briefly* explain why they agree that the document should remain sealed or be unsealed—or, if the parties disagree, the parties should *briefly* explain each party's position. (The parties should bear in mind that, before a final decision is made to seal or unseal a document, every party and affected nonparty will have an opportunity to fully brief the issue.) Third, the parties must identify any nonparty who has designated the document or information in the document as confidential or proprietary. The magistrate judge will rule on the joint motion in an order that will specify whether and to what extent each document will remain sealed. The magistrate judge will almost always rule without oral argument, so the parties need not contact the magistrate judge to schedule a hearing. If the magistrate judge orders the unsealing of information that a nonparty has designated as confidential or proprietary, the party who filed that information under temporary seal must, within seven days after entry of the order, serve on the nonparty a copy of the document containing that information and the order. This will give the nonparty a chance to challenge the decision to unseal its information. No party or nonparty may ask the district judge to review the magistrate judge's order. Instead, a party or nonparty who objects to the order must first file a motion for further consideration under LR 5.6(d)(3). An order disposing of a motion for further consideration is reviewable by the district judge. *Step Three (LR 5.6(d)(3)).* After the magistrate judge rules on the joint motion, any party or any nonparty whose information has been ordered unsealed or who otherwise objects to the magistrate judge's ruling may file a motion for further consideration by the magistrate judge. The nonparty may file such a motion without intervening in the case under Fed. R. Civ. P. 24. If the motion for further consideration relates to information that a nonparty

	has designated as confidential or proprietary, the movant must serve on that nonparty a copy of the motion and all documents filed in support of the motion (unless, of course, the movant is the nonparty that designated the information as confidential or proprietary). A motion for further consideration by the magistrate judge is a nondispositive motion governed by LR 7.1(b); it is not a motion for reconsideration under LR 7.1(j). At this point, any party or nonparty who objects to the unsealing (or sealing) of information will have a full opportunity to brief the issue. *Step Four (LR 5.6(d)(4)).* After the magistrate judge disposes of the motion for further consideration, any party or nonparty who filed or opposed that motion may file an objection to the magistrate judge's order. Such an objection is governed by LR 72.2(a). **Subdivision (e).** The procedure provided by LR 5.6(d) applies only when a party seeks leave to file under seal a document in connection with a motion under LR 7.1. That procedure does not apply when a party seeks leave to file a document under seal in another context, such as when a party seeks leave to file a trial exhibit under seal. In such circumstances, the party should seek direction from the judge about how the party should request the judge's permission to file the document under seal.
Northern District of Mississippi & Southern District of Mississippi **http://www.msnd.uscourts.gov/sites/msnd/files/forms/2017MASTERCOPYCivil.pdf**	Rule 79- Sealing of Court Records Court Records Presumptively in Public Domain. Except as otherwise provided by statute, rule, including FED. R. CIV. P. 5.2, or order, all pleadings and other materials filed with the court (Acourt records@) become a part of the public record of the court. Documents Filed with the Court. Every document used by parties moving for or opposing an adjudication by the court, other than trial or hearing exhibits, must be filed with the court. No document may be filed under seal, except upon entry of an order of the court either acting sua sponte or specifically granting a request to seal that document. Any order sealing a document must include particularized findings demonstrating that sealing is supported by clear and compelling reasons and is narrowly tailored to serve those reasons. A statute mandating or permitting the non-disclosure of a class of documents provides sufficient authority to support an order sealing documents. Sealed Orders. A judicial officer may seal a court order, including an order to seal documents and related findings, when sealing a court order meets the standard for sealing a document. Stipulations, Confidentiality and Protective Orders Insufficient. No document may be sealed merely by stipulation of the parties. A confidentiality order or protective order entered by the court to govern discovery will not qualify as an order to seal documents for

	purposes of this rule. Any document filed under seal in the absence of a court order to seal may be unsealed without prior notice to the parties. Procedure for Filing Documents Under Seal or Sealing a case. (1) A party submitting a document or portion of a document for filing under seal under a governing statute, rule, or order must note on the face of the document that it or a portion of it is filed under seal under that statute, rule, or order (specifying the statute(s), rule(s) or order(s) relied upon). The clerk will provide public notice by stating on the docket that the document contains sealed material. (2) Any document not covered by section (e)(2) and filed with the intention of being sealed must be accompanied by a motion to seal. The clerk will provide public notice by docketing the motion in a way that discloses its nature as a motion to seal. The document and any confidential memoranda will be treated as sealed pending the outcome of the ruling on the motion. Any filing unaccompanied by a motion to seal will be treated as a public record. (3) Any motion to seal must be accompanied by a non-confidential supporting memorandum, a notice that identifies the motion as a sealing motion, and a proposed order. A party may also submit a confidential memorandum for in camera review. The non-confidential memorandum and the proposed order must include: (A) A non-confidential description of what is to be sealed; (B) A specific request that the document or case: (1) Be sealed from any access by the public and the litigants' counsel; (2) Be sealed from public access only, with CM/ECF access permitted to the litigants' counsel; or (3) Be sealed only from public access in CM/ECF, but available for public viewing at one or more terminals located within the Clerk's office. (C) A statement of why sealing is necessary, why the specific character of sealing set forth in subparts (1)-(3) above is most appropriate, and why another procedure will not suffice; (D) References to governing case law; and (E) Unless permanent sealing is sought, a statement of the period of time the party seeks to have the matter maintained under seal and how the matter is to be handled upon unsealing. (F) The proposed order must recite the findings required by governing case law to support the proposed sealing. Any confidential memoranda will be treated as sealed pending the outcome of the ruling on the motion. (f) Duration of Sealing. Court records filed under seal in civil actions will be maintained under seal until otherwise ordered by the court. (g) Non-Filed Documents. Nothing in this Local Rule limits the ability of the parties, by agreement, to restrict access to documents which are not filed with the court.

Eastern District of Missouri **http://www.moed.uscourts.gov/sites/default/files/CMECF_loclrule.pdf**	Rule 83-13.05- Pleadings and Documents Filed Under Seal **(A) Pleadings and Documents in Civil Cases.** (1) Upon a showing of good cause the Court may order that documents filed in a civil case be received and maintained by the Clerk under seal. The Clerk of Court will restrict access to such documents so that they are not in the file to which the public has access. Unless the docket reflects prior entry of an order to file under seal or the party offering a pleading or document presents the clerk with an order of the Court authorizing a filing under seal or a motion for such order, all pleadings and documents received in the office of the clerk will be filed in the public record of a civil case, except as otherwise required by law. For instructions on seeking leave to file sealed motions or sealed documents in CM/ECF, see the Sealed and Ex Parte Documents section of the Court's Administrative Procedures for Case Management/Electronic Case Filing at http://www.moed.uscourts.gov/administrative-procedures. (2) Not less than 30 days after a final order or other disposition has been issued in a civil action in the District Court, or 30 days after the receipt of a mandate from the Court of Appeals in a case in which an appeal has been taken, a motion may be filed with the Court requesting that documents previously filed under seal be unsealed and made part of the public record. Unless otherwise ordered by the Court, all documents previously sealed in a civil action will remain sealed by the Clerk of Court.
Western District of Missouri **http://www.mow.uscourts.gov/district/rules/Local_Rules.pdf**	No sealing rule
District of Montana **http://www.mtd.uscourts.gov/sites/mtd/files/Local%20Rules.pdf**	Rule 3.1- Filing a New Case **(e) Cases Filed Under Seal.** When a party files a civil action authorized to be initiated under seal, such as a qui tam action, the title of the pleading must include the phrase "TO BE FILED UNDER SEAL," followed by pinpoint citation to the statutory or other federal authority for sealing, for instance, in a qui tam action, 31 U.S.C. § 3730(b)(2). The case will be filed and conducted under seal without further leave of court unless the judge orders otherwise. Rule 5.1- Filing Under Seal **(a) Good Faith.** In addition to the certifications set forth in Fed. R. Civ. P. 11(b), any person who files a document or item under seal, with or without prior leave, certifies that sealing is appropriate to the best of the person's knowledge, information, and belief,

	formed after an inquiry reasonable under the circumstances and with due regard to the public's right of access. **(b) When Motion for Leave Required.** A motion for leave to file under seal is required unless the case is sealed or unless: (1) a protective order is sought under Fed. R. Civ. P. 26(c) and L.R. 26.4; or (2) filing under seal is otherwise preauthorized by state or federal law or an order already entered in the case. **(c) Caption.** Any document preauthorized to be filed under seal must include the phrase "FILED UNDER SEAL" in the case caption, followed by citation to the authority for sealing, e.g., "Per Fed. R. Civ. P. 45(e)(2)(B)," or "D. Mont. L.R. 5.1(b)(1), 26.4." **(d) Contents of Motion for Leave.** A motion for leave to file under seal (1) be filed in the public record of the case; (2) without disclosing confidential information, describe the document or item to be sealed and explain why inclusion in the public record is not appropriate; and (3) either: (A) state why it is not feasible to file a redacted version of the document or item in the public record, or (B) be accompanied by a redacted version of the document or item filed in the public record. **(e) Electronic Filing.** Attorneys filing electronically must follow the guidance of the clerk's office. Electronically filed sealed documents must be conventionally served on all other parties unless ex parte filing is authorized. **(f) Conventional Filing.** Persons filing conventionally must submit to the clerk: (1) the document or item to be sealed, placed in an envelope with the case number, date, and "Filing Under Seal Requested" clearly printed on the envelope; and, (2) if required, the motion for leave to seal and brief in support. **(g) Response and Order.** (1) The court may rule on a motion for leave to seal without awaiting a response.

	(2) If leave to file under seal is granted, the document or item will be deemed filed under seal, and the party need not refile the document. (3) The court may order that a document be redacted for the public record. Until the filing party complies, the unredacted document will not be deemed filed. (4) If leave to file under seal is denied, the document or item will remain in the record under seal but will be deemed not filed.
District of Montana **http://www.ned.uscourts.gov/internetDocs/localrules/NECivR.2016.pdf**	Rule 7.5- Sealed Documents and Objects (a) Procedure. (i) Motion to Seal. A party seeking to file a sealed document or object must electronically file a motion to seal. The motion must state why sealing is required and whether redaction could eliminate or reduce the need for sealing. A motion to seal is not required if the document or object is already subject to a protective order or included within a category of documents or objects considered sealed under a federal statute or rule of procedure, local rule, or standing order of this court. (ii) Sealed Document not Attached. The document to be sealed must not be attached to the motion but rather filed separately as a provisionally sealed document. The document remains provisionally sealed until the court rules on the motion to seal. (iii) Order. In ruling on the motion, the assigned judge may also unseal the document, strike it, or order the filing party to electronically file a redacted copy. (b) Notice. When a sealed document is filed, the System does not provide notice of electronic filing to all parties in the case. The filing party must use alternate forms of service to provide all parties entitled to notice with copies of the sealed document. (c) Docket Sheet Entries. When a sealed document is filed electronically, an entry appears on the electronic docket sheet only for court users and the filing party. The parties and the public do not have remote access to the sealed document from the docket sheet. (d) Motion to Unseal. A motion to unseal or view a document or object may be made on any legal grounds.

District of Nevada http://www.nvd.uscourts.gov/Files/2016%20Local%20Rules%20of%20Practice%20FINAL.pdf	Rule 10-5: Sealed Documents a) Unless otherwise permitted by statute, rule, or prior court order, papers filed with the court under seal must be accompanied by a motion for leave to file those documents under seal. If papers are filed under seal under prior court order, the papers must state on the first page, directly under the case number: "FILED UNDER SEAL UNDER COURT ORDER (ECF No. ___)." All papers filed under seal will remain sealed until the court either denies the motion to seal or enters an order unsealing them. b) The court may direct the unsealing of papers filed under seal, with or without redactions, after notice to all parties and an opportunity to be heard. c) An attorney or pro se party who files a document under seal must include with the document either (i) a certificate of service certifying that the sealed document was served on the opposing attorneys or pro se parties, or (ii) an affidavit showing good cause why the document has not been served on the opposing attorneys or pro se parties. d) Documents filed under seal in a civil case must be served in accordance with LR IC 4-1(c).
District of New Hampshire http://www.nhd.uscourts.gov/pdf/Local%20Rules.pdf	Rule 83.12- Sealed Documents **(a) Filings, Orders, and Docket Entries.** All filings, orders, and docket entries shall be public unless: (1) a filing, order, or docket entry must be sealed pursuant to state law, federal law, the Federal Rules of Criminal or Civil Procedure, or these rules; (2) a filing, order, or docket entry has been sealed by order of another court or agency; or (3) this court issues an order sealing a filing, order, or docket entry. **(b) Levels of Sealed Filings, Orders, and Docket Entries.** **(1) Level I.** Filings, orders, and docket entries sealed at Level I may be reviewed by any attorney or pro se party appearing in the action without prior leave of court. **(2) Level II.** Filings, orders, and docket entries sealed at Level II may be reviewed only by the filer or, in the case of an order, the person to whom the order is directed without prior leave of court. **(c) Motions to Seal.** A motion to seal must be filed conventionally together with the item to be sealed and both will be accepted provisionally under seal, subject to the court's subsequent ruling on the motion. The motion must explain the basis for sealing, specify the

	proposed date on which the requested seal order shall expire, and designate whether the material is to be sealed at Level I or Level II. If a party is requesting that only certain portions of a document be sealed, the party must provide a full copy of the document clearly displaying the portions sought to be sealed. Departure motions based on substantial assistance need not contain a proposed seal duration and, unless extended upon motion for good cause shown, shall remain sealed for five (5) years or until the completion of any term of imprisonment, whichever occurs later. Any motion to seal, upon specific request, may also be sealed if it contains a discussion of the confidential material. If the court denies the motion to seal, any materials tendered under provisional seal will be returned to the movant. **(d) Filing Procedures.** All material submitted by a party either under seal or requesting sealed status, provisionally or otherwise, must be submitted in compliance with this subsection and Administrative Procedure for Electronic Case Filing 3.3. The documents and data storage device shall be placed in a sealed envelope with a copy of the document's cover page affixed to the outside of the envelope. The party shall designate the envelope with a conspicuous notation such as "DOCUMENTS UNDER SEAL," "DOCUMENTS SUBJECT TO PROTECTIVE ORDER," or the equivalent. If the basis for the document's sealed status is not apparent, an explanatory cover letter should also be attached to alert the clerk's staff of its special status. Parties cannot seal otherwise public documents merely by agreement or by labeling them "sealed." (Prior rule stricken and replaced with §§ (a)-(d) 1/1/01; § (d) amended 1/1/08; § (c) amended 12/1/09; formerly LR 83.11 renumbered to 83.12, and § (c) amended 12/1/13; §§ (b)(1), (c), and (d) amended 12/1/15)
District of New Jersey **http://www.njd.uscourts.gov/sites/njd/files/completelocalRules.pdf**	Definitions: 10. Sealed Documents. (a) - Civil Documents. Documents, subject to sealing, must be submitted electronically and in compliance with Local Civil Rule 5.3. Unless otherwise provided by federal law, nothing may be filed under seal unless an existing order so provides or Local Civil Rule 5.3(c)(3) is complied with. FAILURE TO COMPLY WITH LOCAL CIVIL RULE 5.3 MAY RESULT IN A WAIVER OF ANY OTHERWISE VALID BASIS FOR SEALING AND MAY RESULT IN THE DOCUMENT IN ISSUE BECOMING PUBLICLY AVAILABLE. Rule 5.3- Protective Orders and Public Access Under CM/ECF (c) Motion to Seal or Otherwise Restrict Public Access (1) Form of Motion. Any request by a party, parties or nonparty to file materials under seal, or otherwise restrict public access to, any materials or judicial proceedings shall ordinarily be made on notice, by a single, consolidated motion on behalf of all parties, unless otherwise ordered by the Court on a case-by-case basis, including any non-party which has produced materials as to which it seeks to restrict public access. No brief is necessary in

	support or in opposition to the motion unless a party believes it will assist the Court. The single, consolidated motion shall include all information required by (c)(3) below. Any motion and supporting papers to seal or otherwise restrict public access shall be available for review by the public. (2) Timing (i) Not later than 21 days after the first filing of redacted materials, the parties shall confer in an effort to narrow or eliminate the materials or information that may be the subject of a motion to seal. (ii) Any motion to seal or otherwise restrict access made under this rule shall be filed by the party seeking to seal materials, unless the parties otherwise agree. Any such motion shall be (a) filed within 14 days following the completed briefing of the materials sought to be sealed or as may be ordered by the Court; and (b) filed electronically under the designation "motion to seal materials" or "motion to seal judicial proceedings," and shall be returnable on the next available motion date. (iii) In any action in which materials have been filed temporarily under seal pursuant to (c)(4) of this rule, and the motion or other filing which includes such materials is resolved or otherwise terminated before all briefing is completed, the party filing such materials shall have a continuing obligation to file a motion to seal. Such motion shall be filed within 14 days following the date on which the last of such materials was filed under temporary seal, or as may otherwise be ordered by the Court. (3) Contents of Motion. Any motion papers shall include as part of an affidavit, declaration, certification or other documents of the type referenced in 28 U.S.C. §1746, which shall be based on personal knowledge as required by Local Civil Rule 7.2(a), an index, substantially in form suggested by Appendix U, describing with particularity: (a) the nature of the materials or proceedings at issue; (b) the legitimate private or public interest which warrant the relief sought; (c) the clearly defined and serious injury that would result if the relief sought is not granted; (d) why a less restrictive alternative to the relief sought is not available; (e) any prior order sealing the same materials in the pending action; and (f) the identity of any party or nonparty known to be objecting to the sealing request. Such index shall also include, as to each objection to seal any material: (g) the materials to which there is an objection; (h) the basis for the objection; and

	(i) if the material or information was previously sealed by the Court in the pending action, why the materials should not be maintained under seal. Proposed Findings of Fact and Conclusions of Law shall be submitted with the motion papers in the proposed order required by (c)(6) below. Any party opposing the sealing request shall submit an alternative proposed order including the party's Proposed Findings of Fact and Conclusions of Law. (4) Temporary Sealing Pending Decisions on the Motion to Seal; Redacted Public Filings. Any materials deemed confidential by a party or parties and submitted under temporary sealing subject to a motion to seal or otherwise restrict public access shall be filed electronically under the designation "confidential materials" and shall remain sealed until such time as the motion is decided, subject to Local Civil Rule 72.1(c)(1)(C). When a document filed under seal contains both confidential and non- confidential information, an unredacted version shall be filed under seal, and a version with only the confidential portions redacted shall be filed publicly within one day of the filing of the unredacted version. (5) Intervention. Any interested person may move to intervene pursuant to Fed. R. Civ. P. 24(b) before the return date of any motion to seal or otherwise restrict public access or to obtain public access to materials or judicial proceedings filed under seal. (6) Sealing Order. Any order or opinion on any motion to seal or otherwise restrict public access shall include findings on the factors set forth in (c)(3) above as well as other findings required by law and shall be filed electronically under the designation "order" or "opinion to seal." Such orders and opinions may be redacted. Unredacted orders and opinions may be filed under seal, either electronically or in other medium. (7) Required Filing to Conform to Order. To the extent that any order or opinion grants less than the full relief sought for any document filed in redacted form, within 14 days after the order or opinion, or as otherwise directed by the Court, the filing party of the redacted materials shall file an amended redacted document or documents, reflecting the rulings of the Court. (8) Denial of Motion to Seal. To the extent any order or opinion denies a motion to seal material that has been filed under temporary seal, such material shall be unsealed by the Clerk of Court following the 14-day period set forth in Local Civil Rule 72.1(c)(1)(C), unless a notice of appeal is timely filed. (9) Emergent Application. Notwithstanding the above, on emergent application of a party, parties, nonparties or sua sponte, a district judge or magistrate judge may seal or otherwise restrict public access to materials or judicial proceedings on a temporary basis. The district judge or magistrate judge shall do so by written order which sets forth the basis for the

	temporary relief and which shall be filed electronically under the designation "temporary order to seal." The sealing party shall have 14 days from entry of the order to file a motion to seal, in accordance with this rule. Any interested person may move pursuant to L. Civ. R. 7.1 and Fed. R. Civ. P. 24 (b) to intervene, which motion shall be made returnable on the next available return date. (10) Failure to Timely File. When a motion to seal or otherwise restrict public access is not timely filed in accordance with this rule, the Court may direct that the filings be publicly available without notice.
District of New Mexico **http://www.nmd.uscourts.gov/sites/nmd/files/local_rules/2014-December-01_Local%20Rules%20of%20Civil%20Procedure_Amended%2012.1.2014_Appendix%20A.pdf**	No sealing rule
Eastern District of North Carolina **http://www.nced.uscourts.gov/pdfs/LocalCivilRulesDecember1_2016.pdf**	Rule 79.2: Sealed Documents **(a) Filing Sealed Documents.** No cases or documents may be sealed without an order from the court. A party desiring to file a document under seal must first file a motion seeking leave in accordance with Section T of the CM/ECF Policy Manual. All sealed and proposed documents shall be maintained electronically in CM/ECF unless otherwise ordered by the court. First-time filers are strongly encouraged to call the CM/ECF Help Desk at 866-855-8894. **(b) Proposed Sealed Documents.** **(1)** Unless otherwise permitted by Section T of the CM/ECF Policy Manual or order of the court, all proposed sealed documents must be accompanied by a motion to seal. The motion to seal shall be a public document and noted with a docket entry that gives the public notice of the request to seal. The docket entry for the proposed sealed document shall identify it as a “proposed” sealed document and describe the type of document it is (e.g., affidavit, record) and the substantive motion or other specific proceedings in the case to which it relates

	(e.g., in support of defendant's motion to compel at D.E. ____). The proposed sealed document is deemed to be provisionally sealed until the court rules on the motion to seal. If the motion to seal is granted, the clerk will remove the word "proposed" from the docket entry. **(3)** If the motion to seal is denied, the document will remain sealed and the word "proposed" will remain in the docket entry for the document in order to preserve the record. The document will not be considered by the court, except as provided herein or as otherwise ordered by the court. A party desiring to remove a proposed sealed document or docket entry therefor from the docket sheet must file a motion to strike in accordance with Local Civil Rule 7.1. A party whose motion to seal is denied but that desires the court to consider a proposed sealed document as a publicly filed document shall file the document as a public document within 3 days after entry of the order denying the motion to seal or within such other period as the court directs. **(c) Return of Sealed Documents.** **(1)** For those sealed documents not scanned into CM/ECF, upon 14 days' notice to all parties, the clerk may destroy or dispose of the sealed documents, unless the attorney or party who filed them retrieves them from the clerk. This notice may occur no earlier than 30 days after final disposition. (2) If, during the 14-day period after the clerk has given notice of intent to dispose of the sealed documents, any party files an objection to such disposition, the presiding judge in the case shall resolve the dispute over the proposed disposition. **(d) Procedures for Manual Filers.** For those parties who are required to manually file all court documents (i.e., *pro se* litigants), proposed sealed documents shall be delivered to the clerk's office in paper form in a sealed envelope. The proposed sealed documents must be accompanied by a motion to seal in accordance with Section T of the CM/ECF Policy Manual. Both the documents and the envelope shall be prominently labeled "UNDER SEAL." The envelope must also have written on it: the case caption; the case number; the title of the document or, if the title contains proposed sealed information, the title omitting the proposed sealed information; and the following notice in all capital letters and otherwise prominently displayed: PROPOSED SEALED DOCUMENTS: SUBMITTED PURSUANT TO MOTION TO SEAL.
Middle District of North Carolina	Rule 5.4 Filing Documents Under Seal

http://www.ncmd.uscourts.gov/sites/ncmd/files/CIV_LR.pdf	(a) If a party seeks to file documents or portions of documents under seal, that party should file a redacted, public version of the documents on the Court's docket, and should separately file a Motion to Seal, with complete, unredacted versions of the document or documents attached as sealed exhibits to the Motion to Seal. Documents may be filed under seal only if they are attached as exhibits to a Motion to Seal, or are excepted from this requirement in Paragraph (g) below. The Motion to Seal should include a non- confidential description of what is to be sealed, identifying the documents or portions thereof as to which sealing is requested. (b) If the party filing the documents is the party asserting confidentiality, the Motion to Seal should also be supported by a Brief, which may be filed under seal and which should: 1. State the reasons why sealing is necessary; 2. Explain (for each document or group of documents) why less drastic alternatives to sealing will not afford adequate protection; 3. Address the factors governing sealing of documents reflected in governing case law; and 4. State whether permanent sealing is sought and, if not, state how long the document should remain under seal and how the document should be handled upon unsealing. (c) If the party filing the documents is not the party claiming confidentiality (for example, if the material has been designated as confidential by another party pursuant to a protective order or agreement), the filing party should first confer with the party claiming confidentiality and obtain that party's position as to how much of the materials, if any, should be redacted or placed completely under seal. The filing party should then follow the procedure set out in paragraph (a). The Motion to Seal in that instance should also: 1. Confirm that the filing party has engaged in the consultation required by paragraph (c), or request to be excused from the consultation requirement for good cause; 2. State why the documents are relevant to a matter before the Court, and are not filed unnecessarily; 3. State the filing party's position on confidentiality; and 4. State that the party claiming confidentiality will have 14 days to file a Brief providing all of the information set out in paragraph (b) above. This rule applies whether the party claiming confidentiality is a litigant or a non-litigant from whom documents were obtained during the discovery process pursuant to a protective order or agreement. If the party claiming confidentiality is a non-litigant, the filer must serve a copy of the Motion to Seal on the non-litigant. (d) For cases under paragraph (c), if the party claiming confidentiality fails to file a Brief in accordance with paragraph (b) within 14 days after the Motion to Seal is filed, the Motion to Seal will ordinarily be denied and the materials will be unsealed. In addition, if the party

claiming confidentiality fails to file a Brief or files a Brief but fails to provide a reasonable basis for the claim of confidentiality, the filing party may request as sanctions the costs incurred in filing the Motion to Seal.

(e) A motion to have an entire case kept under seal shall be subject to the requirements and procedures of sections (a), (b), (c) and (d).

(f) Exhibits admitted at trial, including documents previously filed under seal, will not be filed under seal except upon a separate motion and showing of necessity demonstrated to the trial judge.

(g) Exceptions. No Motion or Order is required to file the following under seal:

(1) Documents for which sealing is provided by a governing statute, rule, or order, but in that case the face of the document should specifically note the statute, rule, or order providing for sealing, and the CM/ECF filer or Clerk shall provide public notice by stating in the docket entry that the document contains sealed material pursuant to the specified statute, rule, or order.

(2) Financial Affidavits of individuals seeking representation of an attorney at government expense under the Criminal Justice Act;

(3) Motions for issuance of criminal subpoenas;

(4) Motions to seal indictments and for issuance of corresponding arrest warrants;

(5) Motions for leave to subpoena witnesses at Government expense under the Criminal Justice Act;

(6) Motions for issuance of writs of habeas corpus ad testificandum;

(7) Motions filed pursuant to Section 5K1.1 of the United States Sentencing Guidelines for a downward departure;

(8) Motions filed pursuant to Section 3553(e) of Title 18, United States Code, for authority to impose a sentence below a statutory minimum;

(9) Motions filed pursuant to Rule 35 (b) of the Federal Rules of Criminal Procedure to reduce a sentence for substantial assistance;

(10) Motions and pleadings identifying national security information;

(11) Motions filed pursuant to 18 U.S.C. § 4241 for determination of mental competency to stand trial and pursuant to 18 U.S.C. § 4242 for determination of the existence of insanity at the time of the offense; and

(12) Administrative records in Social Security cases.

Commentary

	This rule describes the procedures in criminal and civil cases relating to sealed documents, including pleadings, motions, exhibits, and other material. Case law protects generally the right of public access to documents filed in court, both under the First Amendment and the common law. Motions to seal should be narrow and specific. When only part of an exhibit or a brief is confidential, the moving party should not seek to seal the entire brief or exhibit but rather should seek only partial sealing and should comply with Rule 5.4(a). Often the parties to a case will enter into a confidentiality agreement that provides that certain information exchanged between them in the course of discovery will remain confidential. The procedures described in this rule do not affect the ability of the parties to enter into such an agreement. However, the parties cannot agree to the sealing of documents filed in court without following the mandatory procedures set forth in this rule. In criminal cases, there are many instances where the local rules or federal statutes allow confidential or ex parte requests and orders. For example, Local Criminal Rule 32.3 addresses the confidentiality of presentence reports and any responses or objections. Federal Civil Rule 5.2 provides for the redaction of social security numbers, dates of birth, names of minors, and financial account numbers in certain situations. Statutory examples include ex parte applications for investigative, expert or other services under the Criminal Justice Act (18 U.S.C.A § 3006A(e)(1)), applications for interception of wire, oral or electronic communications (18 U.S.C. § 2518), applications for a pen register or a trap and trace device (18 U.S.C. § 3123), applications for tax information (26 U.S.C. § 6103(i)), documents disclosing the name of a child victim (18 U.S.C. § 3509(d)(2)), and civil actions for false claims (31 U.S.C. § 3730(b)(2)). When there is a statute or rule permitting the filing of sealed or redacted documents, a motion to seal is not required.
Western District of North Carolina **http://www.ncwd.uscourts.gov/sites/default/files/local_rules/LocalRulesMaster2011.Final_.pdf**	Rule 6.1: Sealed Filings and Public Access (A) Scope of Rule. This rule shall govern any request by a party to seal, or otherwise restrict public access to, any materials filed with the Court or utilized in connection with judicial decision-making. As used in this rule, "materials" shall include pleadings as well as documents of any nature and in any medium. (B) Filing Under Seal. No materials may be filed under seal except by Order of the Court, pursuant to a statute, or in accordance with a previously entered Rule 26(e) Protective Order. (C) Motion to Seal or Otherwise Restrict Public Access. A request by a party to file materials under seal shall be made by formal motion, separate and apart from the motion or other pleading sought to be sealed, pursuant to LCvR 7.1. Such motion shall be filed electronically under the designation "Motion to Seal." The motion or supporting brief shall set forth:

	(1) a non-confidential description of the material sought to be sealed; (2) a statement as to why sealing is necessary and why there are no alternatives to filing under seal; (3) unless permanent sealing is sought, a statement as to the period of time the party seeks to have the material maintained under seal and as to how the matter is to be handled upon unsealing; and (4) supporting statutes, case law or other authority. (D) Filing of an Unredacted Copy Allowed. If necessary, information deemed confidential by a party may be redacted from the filed motion or brief and an unredacted version submitted under seal for in camera review. Materials deemed confidential may be submitted under seal for in camera review via cyberclerk. (E) Public Notice. No motion to seal or otherwise restrict public access shall be determined without reasonable public notice. Notice shall be deemed reasonable where a motion is filed in accordance with the provisions of LCvR 6.1(C). Other parties, interveners, and non-parties may file objections and briefs in opposition or support of the motion within the time provided by LCvR 7.1 and may move to intervene under Fed. R. Civ. P. 24. (F) Orders Sealing Documents. Orders sealing or otherwise restricting access shall reflect consideration of the factors set forth in LCvR 6.1(C). In the discretion of the Court, such orders may be filed electronically or conventionally and may be redacted. (G) Filings Subsequent to Entry of an Order Sealing Documents. After an Order permitting the filing under seal has been entered, any materials filed pursuant to that Order shall be filed electronically with a non-confidential description of the materials filed. Administrative Procedures (H) Motions to Unseal. Nothing in this Local Rule shall limit the right of a party, intervenor, or non-party to file a motion to unseal material at any time. Such a motion to unseal shall include a statement of reasons why the material should be unsealed and any change in circumstances that would warrant unsealing. (1) Case Closing. Unless otherwise ordered by a Court, any case file or documents under Court seal that have not previously been unsealed by the Court shall be unsealed at the time of final disposition of the case. (2) Access to Sealed Documents. Unless otherwise ordered by the Court, access to documents and cases under Court seal shall be provided by the Clerk of Court only pursuant to Court Order. Unless otherwise ordered by the Court, the Clerk of Court shall make no copies of sealed cases files or documents. (I) Impact on Designation of Confidential Materials. Nothing in this Local Rule shall limit the ability of parties, by agreement, to restrict access to discovery or other materials not filed with the Court or to submit motions pursuant to Fed. R. Civ. P. for a Protective Order governing such materials.

District of North Dakota **http://www.ndd.uscourts.gov/lci/2016_Local_Rules.pdf** **Admin policy:** **http://www.ndd.uscourts.gov/ecf/cm_ecf_policy.pdf**	Local rule 5.1 refers us to Admin Policy- ADMINISTRATIVE POLICY GOVERNING ELECTRONIC FILING AND SERVICE: **XV. Sealed Cases and Sealed Filings** **1. (A) Parties must obtain leave of court to file a sealed document or a sealed motion. See Guide to Filing Sealed Documents & Motions. If the court grants leave to file a sealed motion or sealed document, no additional leave is required for a responsive filing. For additional information, see the Court's Standing Order re: Sealed Documents and Standing Order re: Search and Seizure Warrants.** **2. (B) Sealed Cases and Documents.** **1. (1) Sealed cases are not available to the public. Non-case participants who attempt to access a sealed case will receive a message that the case is sealed and not available for viewing.** **2. (2) Motions for leave to file under seal, sealed documents, sealed motions, responses to sealed motions, replies to sealed motions, and sealed orders are not available to the public. Non-case participants who attempt to access sealed documents or motions will receive a message that they do not have permission to view the document.**
District of Northern Mariana Islands **http://www.nmid.uscourts.gov/documents/localrules/lcvr01012004.pdf**	Appendix A: Administrative Procedures for Electronic Filing: 8. Sealed Documents Documents ordered to be placed under seal may be filed conventionally or electronically as authorized by the court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. If filed conventionally, a paper copy of the order must be attached to the documents under seal and delivered to the clerk.

Northern District of Ohio **http://www.ohnd.uscourts.gov/home/rules-and-orders/local-civil-rules/** http://www.ohnd.uscourts.gov/assets/Rules_and_Orders/Local_Civil_Rules/Rule52.pdf	Rule 5.2: Filing Documents Under Seal No document will be accepted for filing under seal unless a statute, court rule, or prior court order authorizes the filing of sealed documents. If no statute, rule, or prior order authorizes filing under seal, the document will not be filed under seal. Materials to be sealed shall be filed electronically whenever possible pursuant to the Court's Electronic Filing Policies and Procedures Manual. Sealed documents which exceed the size limitations for electronic filing shall be presented in an envelope which shows the citation of the statute or rule or the filing date of the court order authorizing the sealing, and the name, address and telephone number of the person filing the documents. If the sealing of the document purports to be authorized by court order, the electronically filed sealed document shall be linked to the order authorizing the sealing. For manually filed sealed documents, the person filing the documents shall include a copy of the order in the envelope. If the order does not authorize the filing under seal, or the electronic filing is not linked to the order, or in the case of manual filing no order is provided, the Clerk will unseal the documents. Before unsealing the documents, the Clerk will notify the electronic filer by telephone. If the document was manually filed, the Clerk will notify the person whose name and telephone number appears on the envelope in person (if he or she is present at the time of filing) or by telephone. The filer may withdraw the documents before 4:00 p.m. the day the Clerk notifies him or her of the defect. If not withdrawn, the documents will be unsealed. After the entry of a final judgment or an appellate mandate, if appealed, the sealed record will be shipped to the Federal Records Center in accordance with the disposition schedule set forth in the guide to Judiciary Policies and Procedures.
Southern District of Ohio **http://www.ohsd.uscourts.gov/sites/ohsd/files/Local%20Rules%20EFFECTIVE.January%201%202016.pdf**	Rule 5.2.1- Sealed Documents (a) Filing Under Seal. Unless permitted by statute, parties cannot file documents under seal without leave of Court. Upon obtaining leave of Court, litigants other than pro se litigants must file the documents electronically using the ECF system as provided in S.D. Ohio Civ. R. 5.1. Pro se litigants who have obtained leave must follow the procedures set forth in subsection (b). The Court may strike any document filed under seal if the filing party failed to obtain leave of Court. (b) Documents Submitted for in Camera Inspection. Unless the Court directs otherwise, documents submitted for in camera inspection and documents pro se litigants submit for filing under seal must be submitted to the Clerk in a securely sealed envelope or box. The face of the envelope or box containing such documents, as well as the first page of each document, must state that it contains "DOCUMENTS FOR IN CAMERA INSPECTION" or "DOCUMENTS UNDER SEAL." The face of the envelope or box shall also contain the case caption, a descriptive title of the documents (unless such information is to be, or has

	been, included among the information ordered sealed), and a reference to the specific order or statute permitting the documents to be sealed.
Eastern District of Oklahoma **http://www.oked.uscourts.gov/sites/oked/files/Local_Civil_Rules.pdf**	Rule 79.1: Sealed Documents (a) **Policy.** It is the policy of this Court that sealed documents, confidentiality agreements, and protective orders are disfavored. Sealed documents and confidentiality agreements may be approved by the Court only upon a showing that a legally protected interest of a party, non-party or witness outweighs the compelling public interest in disclosure of records. (b) **Motion Required.** Leave of Court is required to file a document or a portion of a document under seal. The motion seeking such an order must contain sufficient facts to overcome the presumption in favor of disclosure. The relief sought shall be narrowly tailored to serve the specific interest sought to be protected. Underneath the case number, in the style of any document sought to be sealed, the document shall be marked in all caps "SEALED." Parties are referred to this Court's ECF Policy Manual for specific procedure to be followed for filing motions to seal, proposed orders and sealed filings. (c) **Docketing.** Titles of sealed pleadings will be docketed and open to the public, unless otherwise ordered by the Court. Therefore, parties should take every precaution to remove confidential material from the title of the sealed pleading.
Northern District of Oklahoma **https://www.oknd.uscourts.gov/docs/27ac6e56-0243-40c5-8385-71647442fb8b/Local_Civil_Rules.pdf**	Rule 79.1: Sealed Documents (a) **Policy.** It is the policy of this Court that sealed documents, confidentiality agreements, and protective orders are disfavored. Sealed documents and confidentiality agreements may be approved by the Court only upon a showing that a legally protected interest of a party, non-party or witness outweighs the compelling public interest in disclosure of records. All protective orders dealing with confidentiality must be approved by a magistrate judge and filed of record. In civil cases in which confidential information covered by a protective order must be attached to a pleading, attorneys should file an unsealed pleading with nonconfidential exhibits and redacted confidential exhibits. At the same time, attorneys should file a supplemental sealed pleading which contains the unredacted exhibits covered by the protective order. The Court strongly urges attorneys to present all arguments and all documents in unsealed pleadings. In an effort to do this, attorneys should use good judgment in generically referring to matters covered by a protective order without revealing confidential information. In those rare instances where specific confidential documents must be

	attached to a pleading, attorneys should file the supplemental sealed pleading referenced above. (b) **Caption of Sealed Documents.** Underneath the case number, in the style of any document sought to be sealed, the document shall be marked in all caps, "SEALED." (c) **Sealed Documents in Public Cases.** A person seeking to file a document under seal in a public case shall electronically file both a motion to seal and the sealed document separately. The motion seeking such an order must contain sufficient facts to overcome the presumption in favor of disclosure and may itself be filed under seal. The relief sought shall be narrowly tailored to serve the specific interest sought to be protected. A proposed order shall be submitted pursuant to the Administrative Guide. If the motion to seal is denied, the court will direct that the document either be stricken or be unsealed. (d) **Documents in Sealed Cases.** Documents to be filed in sealed cases (nonpublic cases) must be filed in paper format.
Western District of Oklahoma **http://www.okwd.uscourts.gov/wp-content/uploads/local_rules_05-10-2016.pdf**	No sealing civil rule.
District of Oregon **https://www.ord.uscourts.gov/index.php/local-rules-of-civil-procedure-all-with-amendments/1177-local-rules/local-rules-of-civil-procedure-effective-march-1-2017?tmpl=component&print=1**	Rule 3.7- Sealed Documents **(a) Sealed Documents Generally** Portions of a document cannot be placed under seal. Instead, the entire document must be placed under seal in order to protect the confidential information and remote access to filed sealed documents is restricted to court users only. **(b) Filing a Document Sealed by Previous Court Order Other Than by Protective Order** When a previous court order other than a protective order authorizes the filing of a document or other materials under seal, the filing party must present the clerk with a copy of the court order and submit the materials in an envelope provided by the Clerk's Office marked "SEALED MATERIALS." In addition, all documents authorized to be filed under seal must have the words "AUTHORIZED TO BE FILED UNDER SEAL" typed directly below the document title. See LR 26-4(c) addressing documents filed under seal pursuant to a protective order in a civil case. **(c) Motions to File a New Document Under Seal** Motions to file a new document under seal - even those offered by stipulation of the parties - will be handled as in camera submissions pursuant to LR 3-8.

	(d) Motion to Seal Previously Filed Documents A party seeking to place under seal a document that is currently in the public record must file and serve a motion and proposed order pursuant to LR 3-7(e). Unless requested, the motion will be treated as a discovery motion pursuant to LR 26-3 and LR 26-4. **(e) Order to Seal Documents** A proposed order to seal a document must include language that identifies the persons authorized to review, copy, photograph, and/or inspect the materials.
Eastern District of Pennsylvania **http://www.paed.uscourts.gov/documents/locrules/civil/cvrules.pdf**	Rule 5.1.2- Definitions 7. Sealed Documents Documents ordered to be placed under seal must be filed in paper copy filed in the traditional manner and not electronically. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. A paper copy of the order must be attached to the documents under seal and be delivered to the clerk of court. Rule 5.1.5- Documents Filed Under Seal (a) A document in a civil action may be filed under seal only if: (1) the civil action is brought pursuant to a federal statute that prescribes the sealing of the record or of certain specific documents; or (2) the Court orders the document sealed. (b) (1) Where a document is sealed pursuant to § 5.1.5(a) (1), the continued status of the document under seal shall be governed by the relevant federal statute. If no federal statute governs, §§ 5.1.5(b) (2) and (c) shall apply. (2) When a document is sealed pursuant to § 5.1.5(a)(2), the document, if it remains in the custody of the Court, shall not be unsealed for two years after the conclusion of the civil action including all appeals, unless the Court orders otherwise. (c) If a document is still sealed at the conclusion of the two- year period and the Court has not entered an order continuing its sealed status beyond that time, the Clerk of Court shall notify the attorney for the party having submitted the sealed document at the attorney's address on the docket that the document will be unsealed unless the attorney or the submitting party advises the Clerk within sixty (60) days that said attorney or submitting party objects. If the attorney or submitting party objects to the unsealing of the document

	or ifthe Clerk's notification is returned unclaimed, the Court will make a determination, on a case-by-case basis, whether to maintain the document under seal, to unseal it, or to require further notification.
Middle District of Pennsylvania **http://www.pamd.uscourts.gov/sites/default/files/local_rules/LR120114.pdf**	Rule 5.8- Filing of Documents Under Seal Unless otherwise prescribed by federal statutes, the Federal Rules of Criminal Procedure, the Federal Rules of Civil Procedure or other provisions of these Rules, including LR 5.2(e), no document shall be filed under seal unless authorized by an order of court. The filing of documents under seal shall be in accordance with LCrR 49. **LR 79.5 Unsealing of Civil Cases/Documents.** Unless good cause is shown, all civil cases and/or documents in those cases which still remain under seal after the case is terminated will be unsealed by the court no later than two (2) years after the final judgment and/or the exhaustion of all appeals.
Western District of Pennsylvania **http://www.pawd.uscourts.gov/sites/pawd/files/local_rules/lrmanual_0.pdf**	Rule 49- Electronic Case Filing; Sealing of Documents D. Filing Under Seal. The following documents shall be accepted by the Clerk for filing under seal without the necessity of a separate sealing order: (1) Motions setting forth the substantial assistance of a defendant in the investigation or prosecution of another person pursuant to U.S.S.G. § 5K1.1 or Fed. R. Crim. P. 35; (2) Motions for writs to produce incarcerated witnesses for testimony; (3) Motions for subpoenas for witnesses; (4) Motions by counsel seeking authorization for the expenditure of funds under the Criminal Justice Act, or seeking reimbursement for expenses incurred or attorney's fees. Such documents should be presented to the Clerk in hard copy for scanning and docketing under seal. E. Provision of Sealed Documents to Opposing Party. Counsel of record may exchange copies of sealed documents, without obtaining leave of court, if the document is provided in an ongoing criminal case.
District of Puerto Rico **http://www.prd.uscourts.gov/sites/default/files/documents/94/Local_Rules_amended_as_of_Sept_2_2010_with_TOC.pdf**	No civil sealing instructions
District of Rhode Island	Rule 102- Documents Containing Confidential Information

http://www.rid.uscourts.gov/menu/generalinformation/rulesandprocedures/localrulesandprocedures/Local_Rules-120116.pdf	**(b) Sealed Documents.** **(1) Filing of Sealed Documents.** Documents may be sealed by order of the Court only upon the filing of a motion to seal. The motion to seal, a separate memorandum stating the basis for the sealing as required by LR Cv 7 and LR Cr 47, and the document(s) subject to the motion to seal must be filed electronically and will remain provisionally under seal until the Court rules on the motion. Documents submitted by a party under seal, provisionally or otherwise, must be stamped or labeled by the party on the cover page "FILED UNDER SEAL." If the Court denies the motion to seal, the document(s) subject to the motion to seal will not be accepted for filing in the case. **(2) Service of Motions to Seal.** (**A) Civil Cases**. A motion to seal in a civil case may be served electronically if the party has consented to electronic filing pursuant to LR Gen 304(c) and LR Gen 309(b). Parties who are ineligible to file and receive documents electronically or exempt from electronic filing must be served conventionally pursuant to LR Cv 5.1(b). **(B) Criminal Cases.** A motion to seal in a criminal case must be conventionally served on all parties in the case pursuant to LR Cv 5.1(b). **(3) Limiting Sealed Filings and Redactions.** Rather than automatically requesting the sealing of an entire motion or other filing, parties shall consider whether redaction would be sufficient. If only a portion of a document contains confidential information, the party requesting sealing pursuant to (b)(1) shall file both an unredacted version of the document and a redacted version that excises the confidential information. **(c) Unsealing of Documents.** Documents sealed by the Court may be unsealed at any time upon motion of a party or non-party or by the Court *sua sponte*, provided that the parties first are given notice and an opportunity to be heard.
District of South Carolina https://www.scd.uscourts.gov/Rules/2014/Civil%20Rules%20-	5.03: Filing Documents Under Seal. Absent a requirement to seal in the governing rule, statute, or order, any party seeking to file documents under seal shall follow the mandatory procedure described below. Failure to obtain prior approval as required by this rule shall result in summary denial of any request or attempt to seal filed documents. Nothing in this rule limits the ability of the parties, by agreement, to restrict access to documents that are not filed with the court. See Local Civ. Rule 26.08 (D.S.C.).

%20August%2020,%202014.pdf	(A) A party seeking to file documents under seal shall file and serve a "Motion to Seal" accompanied by a memorandum, see Local Civ. Rule 7.04 (D.S.C.), and the attachments set forth below in (B) and (C). The memorandum shall (1) identify, with specificity, the documents or portions thereof for which sealing is requested; (2) state the reasons why sealing is necessary; (3) explain (for each document or group of documents) why less drastic alternatives to sealing will not afford adequate protection; and (4) address the factors governing sealing of documents reflected in controlling case law. E.g., Ashcroft v. Conoco, Inc., 218 F.3d 288, 302 (4th Cir. 2000); In re Knight Publ'g Co., 743 F.2d 231, 235 (4th Cir. 1984). (B) The motion shall be accompanied by (1) a non-confidential, descriptive index of the documents at issue and (2) counsel's certification of compliance with this rule. (C) A separately sealed attachment labeled "Confidential Information to be Submitted to Court in Connection with Motion to Seal" shall be submitted with the motion. The sealed attachment shall contain the documents at issue for the court's in camera review and shall not be filed. The court's docket shall reflect that the motion and memorandum were filed and were supported by a sealed attachment submitted for in camera review. (D) The clerk of court shall provide public notice of the motion to seal in the manner directed by the court. Absent direction to the contrary, this may be accomplished by docketing the motion in a manner that discloses its nature as a motion to seal. (E) No settlement agreement filed with the court shall be sealed pursuant to the terms of this rule.
District of South Dakota http://www.sdd.uscourts.gov/sites/sdd/files/local_rules/12-1-15%20CIVIL%20LOCAL%20RULES%20OF%20PRACTICE.pdf	Rule 7.1: Motions 1. **Motions to Seal. Any motion seeking the sealing of pleadings, motions, exhibits, or other documents to be filed in the court record must include (a) proposed reasons supported by specific factual representations to justify the sealing and (b) an explanation why alternatives to sealing would not provide sufficient protection. A motion to seal and the documents to which the motion refers must be filed consistent with the CM/ECF User Manual and Administrative Procedures found at www.sdd.uscourts.gov.**
Eastern District of Tennessee http://www.tned.uscourts.gov/docs/localrules.pdf	Rule 26.2: Sealing of Court Rules (a) Public Record. Except as otherwise provided by statute, rule, or order, all pleadings and other papers of any nature filed with the Court ("Court Records") shall become a part of the public record of this Court.

	(b) Procedure. Court Records or portions thereof shall not be placed under seal unless and except to the extent that the person seeking the sealing thereof shall have first obtained, for good cause shown, an order of the Court specifying those Court Records, categories of Court Records, or portions thereof which shall be placed under seal; provided however, documents that are the subject of a motion to seal may be temporarily placed in the court record under seal pending a ruling on the motion. Unless the Court orders otherwise, the parties shall file with the Court redacted versions of any Court Record where only a portion thereof is to be placed under seal.
Middle District of Tennessee **http://www.tnmd.uscourts.gov/files/Local%20Rules%20July%2015%202016.pdf**	No civil sealing instructions
Western District of Tennessee **https://www.tnwd.uscourts.gov/pdf/content/LocalRules.pdf**	Rule 8: Sealed Documents **8.1 Filing of Motions and Other Documents** It is the policy of this District Court, consistent with its past practice regarding paper filings, that whenever an E-Filer desires to electronically file a document under seal, the E-Filer may do so, and ECF has been designed to allow the filer to make that optionavailablewheneverdesired. Thecourtwillsubsequentlydecideprecisely how long a sealed filing will remain under seal, but initially any document can be filed under seal. Please consult the ECF User Manual for the mechanics of effectuating a sealed filing. Further, a document subject to an existing sealing order or sealing statute shall be filed electronically under seal pursuant to those procedures set forth in the ECF User Manual. *NOTE:* Any document filed under SEAL will not be accessible via PACER or the Court's public terminals. The Court's electronic filing system will notify parties that a Sealed Motion or Other Sealed Document has been filed via Notice of Electronic Filing; however, the document will not be accessible. The submitting filer is responsible for service of the Sealed Motion or Sealed Document on all opposing counsel or parties. The submitting filing should also ensure that the Certificate of Service reflects appropriate service for Sealed Motions or Sealed Documents. Rule 13.3: Sealed Cases and Documents

	As discussed elsewhere, any case or document under seal shall not be available to the public through electronic or any other means; however, attorneys may be permitted access to sealed documents in cases in which they appear with permission of the court.
Eastern District of Texas **http://www.txed.uscourts.gov/page1.shtml?location=rules**	Local Rule 5: (7) Sealed Documents. (A) All sealed documents must state "Filed Under Seal" at the top of the document. (B) Unless authorized by statute or rule, a document in a civil case shall not be filed under seal unless it contains a statement by counsel following the certificate of service that certifies that (1) a motion to seal the document has been filed, or (2) the court already has granted authorization to seal the document. (C) A motion to file document(s) under seal must be filed separately and immediately before the document(s) sought to be sealed. If the motion to seal is granted, the document will be deemed to have been filed as of the original date of its filing. If the motion is denied, the document will be stricken. A motion to seal that is filed as a sealed document does not need to include the certification specified in Section (B) above. *See* LOCAL RULE CR-49(b) (additional rules regarding the filing of sealed documents in criminal cases). (D) Documents requested or authorized to be filed under seal or *ex parte* shall be filed in electronic form. Service in Aelectronic form@ shall be of documents identical in all respects to the documents(s) filed with the court; service copies shall not include encryption, password security, or other extra steps to open or access unless the same are found in the document as filed. All sealed or *ex parte* documents filed with the court must comply with the file size and other form requirements of LOCAL RULES CV-5(a) and CV-7. Counsel is responsible for serving documents under seal to opposing counsel and may do so in electronic form. Counsel is also responsible for complying with LOCAL RULE CV-5(a)(9) regarding courtesy copies of filings. When a sealed order is entered by the court, the clerk will send a sealed copy of the order only to the lead attorney for each party who is responsible for distributing the order to all other counsel of record for that party. *See* LOCAL RULE CV-11.
Northern District of Texas **http://www.txnd.uscourts.gov/sites/def**	Rule 79.3: Sealed Documents (a) A party may file under seal any document that a statute or rule requires or permits to be so filed. The term "document," as used in this rule, means any pleading, motion, other

ault/files/documents/CIVRULES.pdf	paper, or physical item that the Federal Rules of Civil Procedure permit or require to be filed. (b) If no statute or rule requires or permits a document to be filed under seal, a party may file a document under seal only on motion and by permission of the presiding judge. (1) When a party files on paper a motion for leave to file a document under seal, the clerk must file the motion under seal. The party must attach as an exhibit to the motion a copy of the document to be filed under seal. The party must also submit with the motion the original and a judge's copy of the document to be filed under seal. The original of the document must neither be physically attached to the motion nor made an exhibit to the motion. If leave to file the document under seal is granted, the clerk must file the original of the document under seal. (2) When a party files by electronic means a motion for leave to file a document under seal, the party may file the motion under seal and must attach the proposed sealed document as an exhibit. If leave is granted, the sealed document will be deemed filed as of the date of the order granting leave, or as otherwise specified by the presiding judge, and the clerk will file a copy of the sealed document. Rule 79.4: Disposition of Sealed Documents Unless the presiding judge otherwise directs, all sealed documents maintained on paper will be deemed unsealed 60 days after final disposition of a case. A party that desires that such a document remain sealed must move for this relief before the expiration of the 60-day period. The clerk may store, transfer, or otherwise dispose of unsealed documents according to the procedure that governs publicly available court records.
Southern District of Texas http://www.txs.uscourts.gov/sites/txs/files/dclclrl2014.pdf	Rule 83.6: Preserving Confidentiality ***83.6A Civil Actions.*** On the filing of a civil action that the party desires be sealed, the party shall present an application to the clerk attaching the complaint and accompanying materials in a sealed envelope marked "sealed exhibit." A miscellaneous case number will be assigned and the case file presented to the miscellaneous judge. Once that judge has ruled on the application, the case file and order will be returned immediately to the clerk for the drawing of a civil action number and random assignment to a judge.
Western District of Texas http://www.txwd.uscourts.gov/CourtInfo/SitePages/Local%20Rules.aspx	Rule 5.2: Documents Under Seal **(a)** In appropriate circumstances a party may need to submit a sealed document for consideration by the court. For purposes of this rule, the term "sealed document" may include any pleading, motion, paper, physical item, or other submission that the Federal Rules of Civil Procedure or these rules permit or require to be filed. If the sealed document is associated with a pleading, motion or other submission requesting or opposing relief from the court, as in the case of an exhibit to such submission, the sealed document must

	not be filed with the submission. Instead, the sealed document must be separately filed as an exhibit to a motion requesting permission to keep the document under seal (a "sealing motion"). All documents intended to be kept under seal must be filed as an exhibit to a sealing motion. **(b)** Motions to keep pleadings, motions, or other submissions requesting or opposing relief from the court under seal are disfavored. The court expects parties to draft such submissions in a manner that does not disclose confidential information. **(c)** The sealing motion must identify the submission the sealed document is associated with, if applicable. The sealing motion and the accompanying sealed document must be filed under seal, state the factual basis for the requested sealing order, and otherwise comply with the requirements of Rules CV-7 and CV-10 and the procedures governing electronic or paper filings, as applicable to the submission. The court expects parties to draft sealing motions in a manner that does not disclose confidential information because the sealing motion, without the sealed document, may subsequently be unsealed by court order. **(d)** If the court grants a sealing motion, the clerk will keep the sealed document under seal unless and until otherwise ordered by the court, and, if appropriate, the clerk shall link the sealed document to its associated pleading, motion, or other submission. The court may order that the sealing motion, without the sealed document, be unsealed. If the court denies a sealing motion, the clerk, on order of the court, shall delete the sealed document. **(e)** Counsel for the party moving to keep any document under seal is responsible for serving a copy of the sealed document on all counsel of record, but may not use the court's electronic notice facilities to serve the sealed document. Rule 79(b: Documents filed under seal in civil actions must remain sealed with the clerk, unless otherwise ordered by the court.
District of Utah **http://www.utd.uscourts.gov/forms/rules.pdf**	Rule 5.2: Filing Cases and Documents Under Court Seal **(a) General Rule.** The records of the court are presumptively open to the public. The court has observed that counsel are increasingly and improperly overdesignating sealed materials in pleadings and documents filed with the court. In order to prevent such overdesignation, the court is now requiring counsel to be highly selective in filing documents under seal. A portion of a document or portion of a pleading shall be filed under seal only if the document or pleading, or portions thereof, are privileged or protectable as a trade secret or otherwise entitled to protection under the law (hereinafter "Sealed Material"). A stipulation, or a blanket protective order that allows a party to designate documents as sealable, will not

suffice to allow the filing of documents under seal. To prevent the overdesignation of sealed materials in the court record, counsel shall:

(1) Refrain from filing memoranda under seal merely because the attached exhibits contain confidential information;
(2) Redact personal identifiers, discussed in DuCivR 5.2-1, and not use the presence of personal identifiers as a basis for sealing an entire document; and
(3) Redact documents when the confidential portions are not directly pertinent to the issues before the court and publicly file the documents.

The court recognizes that on rare occasions, statutes, rules, and orders in specific cases may require restriction of public access. On motion of a party and a showing of good ause, a judge may order a case, a document, or a portion of a document filed in a civil case to be sealed.

(b) Sealing of New Cases.

(1) On Ex Parte Motion. In extraordinary circumstances, and upon a judge's order granting an ex parte motion of the plaintiff or petitioner, an entire case may be sealed at the time it is filed.

(2) Civil Actions for False Claims. When an individual files a civil action on behalf of the individual and the government pursuant to 31 U.S.C. § 3729, the clerk will seal the complaint for a minimum of sixty (60) days. Extensions may be approved by the court on motion of the government.

(c) Sealing of Pending Cases.

A pending case may be sealed at any time upon a judge's sua sponte order or the granting of a motion by any party.

(d) Procedure for Filing Documents Under Seal.

Documents ordered sealed by the court or otherwise required to be sealed by statute must be delivered to the court for filing in the following manner:

(1) Original Document. The original document must be unfolded in an envelope with a copy of the document's cover page affixed to the outside of the envelope. The cover page must include a notation that the document is being filed under court seal and must indicate one of the following reasons why the document has been filed under seal:

(A) it is accompanied by a court order sealing the document;

(B) it is being filed in a case that the court has ordered sealed; or

(C) the document contains Sealed Material.

Any exhibits filed must include a paper index to the exhibits, including the title (description) of the exhibit and the exhibit number.

(2) CD-ROM. The sealed filing must be accompanied by a CD-ROM (or other tangible electronic media) containing a PDF version of each document filed, including exhibits and the index of exhibits. The CD-ROM shall be placed in the same envelope as the original document and shall be marked with the case name, case number, and the date of delivery,

(3) Courtesy Copies. Courtesy copies of both the document and the CD-ROM, prepared in the manner described above, shall be delivered at the same time as the originals. Individual chambers may also notify counsel that an electronic version of the sealed document shall be delivered to chambers via email or other method of secured electronic delivery.

(4) Notice of Conventional Filing. When a sealed document is delivered to the court, the filer shall electronically file a "Notice of Conventional Filing."

(e) Filing Memoranda That Contain Sealed Material

(1) Two Versions of Memorandum Must Be Filed. If a party refers in a memorandum to Sealed Material, two versions of the memorandum must be filed with the court: a confidential, sealed memorandum and a nonconfidential, redacted memorandum.

(A) Sealed Memorandum. One memorandum shall be labeled "FILED UNDER SEAL." The specific confidential material must be highlighted, put in brackets, or otherwise designated as confidential. This memorandum shall be filed as set forth above in 5.2(d).
(B) Nonconfidential, Redacted Memorandum. A memorandum from which confidential matter has been redacted shall be labeled "REDACTED- NONCONFIDENTIAL" and electronically filed with the court. The caption of the redacted version of each sealed document and the docket entry created when the document is filed shall identify the title of the sealed document, its docket number, and the date on which the sealed version was filed. The redacted version of the memorandum must be filed within fourteen (14) days of filing the sealed version. Failure to file a redacted version within the time prescribed may result in the court's unsealing the memorandum.

(2) Exceptions. Subsection (e)(1) does not apply to:

(A) Filings in cases that have been sealed pursuant to statute or court order; or (B) A memorandum that contains such an abundance of confidential information that filing a

	redacted version of the memorandum would not be meaningful. In this situation, counsel shall file a declaration pursuant to Section(e)(3) below so stating. (3) Declaration Required. The lead attorney on the case shall file a declaration certifying that the sealed exhibits, memoranda, and/or other documents are privileged or protectable as a trade secret or otherwise entitled to protection under the law and that the sealed filing has been narrowly tailored to protect only the specific information truly deserving of protection. (4) Resolutions of Disputes; Party Seeking Protection Bears Burden. (A) If a party intends to refer to and file Sealed Material, and the filing party is unable to ascertain what information was intended to be protected, the filing party shall notify the designating party of the uncertainty, and the parties shall meet and confer so that the protected information may be highlighted as confidential as required in 5.2(e)(1)(A) and then redacted in the publicly filed version as required in 5.2(e)(1)(B). (i) If the uncertainty is not resolved by the time the filing is made, the filing party shall: (a) file the document(s) under seal; (b) file a certification that the parties attempted to confer in good faith and that a Declaration, as required by 5.2(e)(3), cannot be filed; and (c) file a notice to opposing counsel to prepare a redacted version for the filing party to file in the public docket within fourteen (14) days. (ii) If the party seeking protection does not provide to the filing party a redacted version of the memorandum within fourteen (14) days of the filing of the sealed document, the filing party shall file, within seven (7) days, a notice that the court may unseal the document. (B) A party who contends that a document was improperly filed under seal may notify the filing party of the contention. The parties shall then meetand confer. If conferral does not result in agreement, the party challenging the designation may file a Notice of Dispute Regarding Sealed Document(s). (i) The party to whom the Notice of Dispute is directed must file, within fourteen (14) days of filing date of the notice, a motion to preserve the seal. If no such motion is timely filed, the other party may file a brief motion to remove the seal, attaching the notice given. The motion to remove the seal shall be summarily granted without briefing or hearing. If a motion is timely filed, the opposing side need not respond, unless ordered to do so by the court. **(f) Access to Sealed Cases and Documents.**

	Unless otherwise ordered by the court, the clerk will provide access to cases and documents under court seal only on court order. Unless otherwise ordered by the court, the clerk will make no copies of sealed case files or documents.
District of Virgin Islands **http://www.vid.uscourts.gov/sites/vid/files/local_rules/VID_LRCi_1-10-2014.pdf**	Rule 5.4: Electronic Filing (f) SEALED DOCUMENTS Documents ordered to be placed under seal may be filed conventionally or electronically as authorized by the Court. A motion to file documents under seal may be filed electronically unless prohibited by law. The order of the Court authorizing the filing of documents under seal may be filed electronically unless prohibited by law. If filed conventionally, a paper copy of the order must be attached to the documents under seal and delivered to the Clerk.
Eastern District of Virginia **http://www.vaed.uscourts.gov/localrules/LocalRulesEDVA.pdf**	Local Rule 5: Requests to File Documents Under Seal and the Handling of Documents Under Seal (A) Unless otherwise provided by law, Court rule, or prior order of the Court, no document or portion of a document may be filed under seal unless the filer has complied with the procedures set forth herein. (B) **As Provided by Law:** A party filing a document or a portion of a document 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 a statute, rule, or order. Other than in cases filed under seal pursuant to the False Claims Act, 31 U.S.C. § 3730(b), at the time of the 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) **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. Failure to file a timely motion to seal may result in the document being placed in the public record. 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 shall include: (1) A non-confidential description of what material has been filed under seal; (2) A statement why sealing is necessary, and why another procedure will not suffice, as well as appropriate evidentiary support for the sealing request; (3) References to the 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; (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 how the matter is to be handled upon unsealing. 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 after the filing of the motion to seal, 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) 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) 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 to seal, shall be securely sealed with the container clearly labeled "UNDER SEAL." The case number, case caption, a reference to any statute, rule, order, or motion relating to the filing, the corresponding ECF docket number of the sealed material, 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 (B) or (C), as applicable. (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.
Western District of Virginia **http://www.vawd.uscourts.gov/media/519/local_rules.pdf**	Rule 9: Sealed Documents The following procedures govern documents under seal in criminal and civil cases in this Court. (a) General. A "sealed document" is a document in the form of a pleading, exhibit or other paper to which access is restricted to the Court and authorized court personnel. A document may be sealed only by order of the Court, except where otherwise permitted by law or as set forth in paragraph (c) of this Rule. Portions of a document cannot be filed or placed

	under seal—only the entire document may be sealed. No sealed document may be disclosed except upon order of the Court. (b) Procedures for Filing a Sealed Document. (1) Format. Any sealed document must be tendered to the Clerk and conspicuously labeled "SEALED." (2) Motion to Seal. To obtain a sealing order a party must file an unsealed written motion containing: a generic, non-confidential identification of the document to be sealed; the bases upon which the party seeks the order, including the reasons why alternatives to sealing are inadequate; and the duration for which sealing is requested. The moving party also must file with the motion a proposed unsealed order granting the motion and setting forth the bases for the Court's action. If it already has not been tendered, the moving party also must tender to the court, in camera, the document proposed to be sealed. The document will be kept under seal by the Clerk pending a decision by the Court on the motion. If the motion to seal is denied, the document will be returned by the Clerk to the party tendering it, unless the Court orders otherwise. (3) Public Notice of Motion to Seal or Sealing Order. A motion to seal and any order to seal must be docketed according to the administrative procedures of the Court. (4) Objection to Sealing. Any person or entity, whether a party or not, may object to a motion to seal a document or may file a motion to unseal a document previously sealed. (5) Agreement by Parties. These provisions do not limit the ability of the parties by agreement to restrict access to documents that are not filed with the Court. Any agreement calling for the sealing of any document to be filed with the Court will be deemed to have incorporated the provisions of this rule. (6) Extension of Sealing. No order to seal will be extended except upon a subsequent order of the Court obtained in accordance with this rule. (7) Sealed Case. No case may be sealed in its entirety except by order of the Court for cause shown, obtained in accordance with this rule. (c) Exceptions. (1) No motion or order is required to file the following under seal: a. An unredacted version of a pleading, paper, exhibit, a reference list or other document containing personal data identifiers, in compliance with these rules, the federal rules of procedure, or the E-Government Act;

1. An ex parte motion or application where sealing is permitted or required by law;
2. Presentence investigation reports, pretrial services reports, psychiatric or psychological evaluations in criminal cases, including documents incorporating the content of the foregoing documents;
3. Affidavits submitted in support of a motion for in forma pauperis status;
4. Motions, orders, notices, and other matters occurring before the grand jury, subject to the provisions of Fed. R. Cr. P. 6;
5. Applications and orders for the disclosure of tax information (26 U.S.C. § 6103);
6. Motions and orders involving the Classified Information Procedures Act (18 U.S.C. app 3 §§1 – 16) or Foreign Intelligence Surveillance Act (50 U.S.C. § 1801);
7. Pleadings and documents involving the Juvenile Delinquency Act;
8. Requests and orders for authorization of investigative, expert, or other services pursuant to the Criminal Justice Act;
9. Other documents required by law to be filed under seal.

(2) No publicly filed motion and order under this rule is required for sealing the following:

10. Motion by the United States for a downward departure or reduction of sentence in a criminal case, with leave of court upon a showing of particular need in an individual case to prevent serious harm;
11. Search, seizure and arrest warrants and affidavits;

(3) A publicly filed motion and order citing only the statutory authority for sealing is required for the following:

12. Applications and orders for pen/trap devices (18 U.S.C. §2703)
13. Applications and orders for wire, oral, or electronic communication

(d) Unsealing. interception (18 U.S.C. § 2516).
Unless the Court orders otherwise, the Clerk will unseal the following sealed documents when indicated:

(1) Search Warrant. After the search is executed and the warrant is returned to the Clerk;

(2) Arrest Warrant, and In a Violation Case, Any Violation Report. After the arrest is made;

(3) Indictment. Upon the arrest or appearance of a single defendant. In multi-defendant cases, and unless the court orders otherwise, upon the earliest of any of the following:

1. 10 days following the arrest of any defendant;
2. 30 days after return of the indictment; or
3. when all defendants have been arrested or summoned.

Commentary

This rule describes the procedures in criminal and civil cases relating to sealed documents, including pleadings, motions, exhibits, and other material. Case law protects generally the right of public access to documents filed in court, both under the First Amendment and the common law. See, e.g., Va. Dept of State Police v. Washington Post, 386 F.3d 567, 575 (4th Cir. 2004).

Questions relating to sealed documents are presented in varying circumstances. For example, a party to a case may desire to file an exhibit to a brief containing confidential business information that has been disclosed to the opposing party under an agreement of confidentiality, but which the parties do not wish the public to see. The procedure to be followed is to file a motion not under seal that describes in a non-confidential way the document that the party desires to file under seal (in this hypothetical example, the exhibit). The motion must also state, in a generic, non-confidential way, the reasons why sealing is requested (in this case, the fact that the exhibit contains confidential trade secrets whose disclosure would be harmful to the business of the party) and why alternatives to sealing are inadequate. Finally, the motion must also state the length of time that the party desires the document to be sealed. The motion must be accompanied by the document desired to be sealed (the exhibit, in this example) for review by the presiding judge, as well as a proposed unsealed order allowing the document to be sealed, which order recites the necessary findings.

Often the parties to a case will enter into a confidentiality agreement that provides that certain information exchanged between them in the course of discovery will remain confidential. The procedures described in this rule do not affect the ability of the parties to enter into such an agreement. However, the parties cannot agree to the sealing of documents filed in court without following the mandatory procedures set forth in this rule.

In other words, the parties cannot seal documents filed in court merely by agreement or by labeling them “sealed.”

There are certain exceptions to the rule that any document to be sealed must be accompanied by an unsealed motion. Where the sealed document is an unredacted version of a document required to be redacted by these rules, the federal rules of procedure, or the E-Government Act, or a reference list of personal data identifiers, then no motion or order is required. Like all sealed documents, however, the unredacted version or the reference list must be clearly labeled “SEALED.”

The government, a defendant or other party may have a basis for a confidential communication to the court that is permitted or required by law. There is no need for an unsealed motion or order in those circumstances, but the motion must be clearly labeled “EX PARTE AND SEALED.”

	This rule provides that unless the Court orders otherwise, all documents in a case will be unsealed at the conclusion of the case. The rule does not flatly prohibit the continued sealing of a document, but leaves that decision to the presiding judge. As an alternative, the judge may order a sealed document in paper form returned to the party submitting it at the conclusion of the case. If a document is ordered sealed for a particular period of time, the period may be extended by a later order, obtained by following the procedures set forth.
Eastern District of Washington **http://www.waed.uscourts.gov/sites/default/files/localrules/Local_Rules-20160127_0.pdf**	Rule 79.1: Custody and Disposition of Exhibits, Depositions and Sealed Documents (e)**SealedPaperDocuments-Generally**. Unlessotherwiseorderedbythe Court, any sealed paper document, paper, paper case file or tangible thing in any action where final judgment or final disposition occurred in 2006 or thereafter, will be subject to the custody and disposition processes according to (f) or (g), below, as applicable. (f) **Sealed Documents Filed in Paper; Actions in which No Trial Commenced**. Unless otherwise ordered by the Court, any paper document, paper, paper case file or tangible thing filed under seal in any action, for which no trial commenced, shall be eligible for destruction no less than 23 years from the date of entry of final judgment or final disposition. The seal will be vacated without further action by the Court at the time of destruction. (g) **Sealed Documents Filed in Paper; Actions in which the Case was Terminated During or After Trial**. Unless otherwise ordered by the Court, any paper document, paper, paper case file or tangible thing filed under seal in any action, for which a trial commenced or in a case designated by the Clerk for permanent retention, shall be unsealed without further action by the Court 23 years from the date of entry of final judgment or final disposition, and will remain stored as a permanent record. This Local Rule further applies to all cases consolidated pursuant to Rule 65(a), Federal Rules of Civil Procedure. The following types of cases will be exempt from this practice: Sexual abuse cases filed pursuant to 18 U.S.C. § 3509 and Juvenile cases, unless the record has been expunged.
Western District of Washington **http://www.wawd.uscourts.gov/sites/wawd/files/WAWDAllLocalCivilRules%282016%29.pdf**	Rule 5: Serving and Filing Pleadings and Other Papers **(g) Sealing and Redacting of Court Records** There is a strong presumption of public access to the court's files. This rule applies in all instances where a party seeks to overcome the policy and the presumption by filing a document under seal.

	(1) A party must explore all alternatives to filing a document under seal. (A) If the party seeks to file the document under seal because another party has designated it as confidential during discovery, the filing party and the designating party must meet and confer to determine whether the designating party will withdraw the confidential designation or will agree to redact the document so that sealing is unnecessary. (B) Parties must protect sensitive information by redacting sensitive information (including, but not limited to, the mandatory redactions of LCR 5.2) that the court does not need to consider. A party who cannot avoid filing a document under seal must comply with the remainder of this rule. (2) A party may file a document under seal in only two circumstances: (A) if a statute, rule, or prior court order expressly authorizes the party to file the document under seal; or (B) if the party files a motion or stipulated motion to seal the document before or at the same time the party files the sealed document. Filing a motion or stipulated motion to seal permits the party to file the document under seal without prior court approval pending the court's ruling on the motion to seal. The document will be kept under seal until the court determines whether it should remain sealed. A party filing a document under seal shall prominently mark its first page with the phrase "FILED UNDER SEAL." (3) A motion to seal a document, even if it is a stipulated motion, must include the following: (A) a certification that the party has met and conferred with all other parties in an attempt to reach agreement on the need to file the document under seal, to minimize the amount of material filed under seal, and to explore redaction and other alternatives to filing under seal; this certification must list the date, manner, and participants of the conference; (B) a specific statement of the applicable legal standard and the reasons for keeping a document under seal, with evidentiary support from declarations where necessary. Where parties have entered a litigation agreement or stipulated protective order (*see* LCR 26(c)(2)) governing the exchange in discovery of documents that a party deems confidential, a party wishing to file a confidential document it obtained from another party in discovery may file a motion to seal but need not satisfy subpart (3)(B) above. Instead, the party who designated the document confidential must satisfy subpart (3)(B) in its response to the motion to seal or in a stipulated motion. (4) A party must minimize the number of documents it files under seal and the length of each document it files under seal. Where the document to be sealed is an exhibit to a document filed electronically, an otherwise blank page reading "EXHIBIT __ FILED UNDER SEAL" shall replace the exhibit in the document filed without sealing, and the

	exhibit to be filed under seal shall be filed as a separate sealed docket entry. Where the document to be sealed is a declaration, the declaration shall be filed as a separate sealed docket entry. (5) Only in rare circumstances should a party file a motion, opposition, or reply under seal. A party who cannot avoid including confidential information in a motion, opposition, or reply must follow this procedure: (A) the party shall redact the confidential information from the motion, opposition, or reply and publicly file the redacted motion, opposition, or reply; and (B) the party shall file the unredacted motion, opposition, or reply under seal, accompanied by a motion or stipulated motion to seal the unredacted motion, opposition, or reply in compliance with part (3) above. (6) When the court denies a motion to seal, the clerk will unseal the document unless (1) the court orders otherwise, or (2) the party who is relying on the sealed document requests in the motion to seal or response that, if the motion to seal is denied, the court withdraw the document from the record rather than unseal it. If a document is withdrawn on this basis, the parties shall not refer to it in any pleadings, motions or other filings, and the court will not consider it. For this reason, parties are encouraged to seek a ruling on motions to seal well in advance of filing underlying motions relying on those documents. (7) When a court grants a motion to seal or otherwise permits a document to remain under seal, the document will remain under seal until further order of the court. (8) Parties may file a motion or stipulated motion requesting that the court unseal a document. A non-party seeking access to a sealed document may intervene in a case for the purpose of filing a motion to unseal the document. (9) When a party files a paper copy of a sealed document, the party shall seal the document in an envelope marked with the case caption and the phrase “FILED UNDER SEAL.” This requirement applies to pro se parties and others who are exempt from mandatory electronic filing and to parties submitting courtesy copies to comply with LCR 10(e)(9).

Northern District of West Virginia http://www.wvnd.uscourts.gov/sites/wvnd/files/Local%20Rules%20-%20Final%20July%202010%20JPB_1.pdf	Rule 6.01- Sealed Documents in Public Cases (a) Motion for Leave to File Under Seal: (1) Motion: To file a document under seal, a party must first electronically file a Motion for Leave to File Under Seal. If the Motion for Leave to File Under Seal itself contains sensitive information, the party shall: (i) Electronically file it under seal in CM/ECF and because this is a sealed event that is inaccessible to recipients of the NEF, parties shall effect service of process traditionally, or (ii) File the motion with the Clerk's office in paper. The Clerk's office will then file the motion under seal. The parties remain responsible for effecting service of process traditionally. (2) Memorandum: Along with the motion to file under seal, the party shall file a memorandum of law that explains why sealing is required. (3) Exhibits: (i) If necessary, the filer may present exhibits that contain the sensitive information in an envelope marked "sealed" to the Clerk's office; (ii) If filing the Motion for Leave to File Under Seal is itself filed under seal per (a)(1)(i) or (ii) above, the filer may attach the exhibits to the Motion for Leave to File Under Seal. (b) Order on Motion for Leave to File Under Seal: If the Court grants the Motion for Leave to File Under Seal, the judge will electronically enter the order authorizing the filing of the documents in the appropriate manner. The party then may file the document under seal in CM/ECF or may bring the document to the Clerk's Office to be filed as appropriate. (c) Service: Sealed filings produce a NEF, but the recipient cannot open the attached document. Consequently, filers must effect service through traditional means, as appropriate.
Southern District of West Virginia	Rule 26.4: Protective Orders and Sealed Documents

http://www.wvsd.uscourts.gov/sites/default/files/local_rules/Local%20Rules%20of%20Procedure%20-%20NOVEMBER%202013.pdf	(a) Protective Orders. If a party, or parties jointly, seek entry of a protective order to shield information from dissemination, the movant or movants must demonstrate with specificity that (1) the information qualifies for protection under FR Civ P 26(c), and (2) good cause exists for restricting dissemination on the ground that harm would result from its disclosure. (b) Sealed Documents. (1) General. The rule requiring public inspection of court documents is necessary to allow interested parties to judge the court=s work product in the cases assigned to it. The rule may be abrogated only in exceptional circumstances. (2) Submission. Unless otherwise authorized by law, a motion to seal shall be filed electronically pursuant to the Administrative Procedures for Electronic Case Filing and accompanied by a memorandum of law which contains: (A) the reasons why sealing is necessary, including the reasons why alternatives to sealing, such as redaction, are inadequate; (B) the requested duration of the proposed seal; and (C) a discussion of the propriety of sealing, giving due regard to the parameters of the common law and First Amendment rights of access as interpreted by the Supreme Court and our Court of Appeals.
Eastern District of Wisconsin http://www.wied.uscourts.gov/sites/wied/files/documents/2010%20Local%20Rules%20%28amended%20September%209%2C%202015%29.pdf	Rule 79- Custody of Exhibits, Return of Exhibits and Depositions; Withdrawal of Material sin Court Files; Confidential Mattes; Sealed Records (d) Confidential Matters; Sealed Records. (1) The Court will consider any document or material filed with the Court to be public unless, at the time of filing, it is accompanied by a separate motion requesting that the document or material, or portions thereof, be sealed by the Court, or unless the document or material is otherwise protected from disclosure. (2) The separate motion to seal must be publicly filed and must describe the general nature of the information withheld from the public record. To the extent possible, the movant should include with the public filing a version of the document or material that redacts only those portions of the document that are subject to the sealing request. If the motion is

	denied, the document or material subject to the sealing request will be publicly filed by the Clerk of Court, unless otherwise ordered by the Court. (3) Any motion to seal must be supported by sufficient facts demonstrating good cause for withholding the document or material from the public record. If the documents or materials sought to be sealed have been designated confidential by someone other than the filing party, the filing party may explain in the motion that the documents or materials are being filed under seal pursuant to a Court-approved protective order or otherwise, and that the filing party supports, objects to, or takes no position on the continued sealing of the documents or materials. In response, the person or party that originally designated the documents or materials as confidential may, if it chooses, provide sufficient facts demonstrating good cause to continue sealing the documents or materials. Absent a sufficient factual basis demonstrating good cause sufficient to seal the documents or materials, the motion must be denied and the documents or materials publicly filed by the Clerk of Court, unless otherwise ordered by the Court. (4) Any party seeking to file confidential documents or materials under seal, whether pursuant to a Court-approved protective order or otherwise, must include in the motion a certification that the parties have conferred in a good faith attempt to avoid the motion or to limit the scope of the documents or materials subject to sealing under the motion. (5) The following documents or materials do not require a separate motion: (a) an unredacted disclosure statement filed in accordance with Civil L. R. 10(c); (b) documents or materials filed in an action under the False Claims Act, in accordance with 31 U.S.C. § 3730(b), unless otherwise ordered by the Court; (c) documents or materials concerning or contesting ongoing grand jury proceedings; and (d) documents or materials concerning cooperation by criminal defendants, filed pursuant to 18 U.S.C. § 3553, United States Sentencing Guideline § 5K1.1, and Fed. R. Crim. P. 35. (6) To the extent that any answers to interrogatories, transcripts of depositions, responses to requests for admissions, or any other papers filed or to be filed with the Court contain material designated as confidential, these papers, or any portion thereof, must be filed under seal by the filing party with the Clerk of Court in an envelope marked “SEALED.” (7) Any party filing material claimed to be confidential under subsection (6) must include with that filing either: (1) a motion to seal the material pursuant to this rule; or (2) an objection to the designation of the material as confidential and a statement that the objection to the designation has been provided to the person claiming confidentiality. If such an objection is made, the person having designated the material as confidential may file a motion to seal under this rule within 21 days of the objection. Committee Comment: The withdrawal contemplated by General Local Rule 79(c) is not a permanent withdrawal from the record. Rule 79(c) addresses the temporary withdrawal

	from the file or "checking out" pleadings and/or exhibits from the court file for purposes such as copying or preparing an appeal. The motion to seal filed in accordance with General Local Rule 79(d) should be limited to that portion of the material necessary to protect the movant from the harm that may result from disclosure, e.g., the fact that a single page or paragraph of a document contains confidential material generally will not support a motion to seal the entire document. The Court encourages the parties to avoid filing materials designated confidential whenever reasonably possible. The standard for showing good cause is quite high, and there is no guaranty that material designated confidential will remain under seal. Instructions for filing the material under seal are set forth in the Electronic Case Filing Policies and Procedures Manual, which may be found on the official website of the United States District Court for the Eastern District of Wisconsin.
Western District of Wisconsin **http://www.wiwd.uscourts.gov/sites/default/files/Local_Rules.pdf** **http://www.wiwd.uscourts.gov/sites/default/files/AdminProcedures.pdf (electronic filing procedures)**	No sealing rule in local rules, but in electronic filing procedures **IV, B. Sealed Documents** Documents may be filed under seal only in accordance with Administrative Order #311 regarding the general rules for filing documents under seal. 1. **Filing Motions to Seal or for a Protective Order**. A motion for protective order may be filed under the "Motion for Protective Order" event if a Filing User contemplates filing several documents under seal in the case. A motion to seal a particular document or documents must be filed and served electronically using the "Motion to Seal" event. The motion itself may be sealed, if appropriate. Documents that are the subject of the motion to seal must be filed separately as sealed documents. If the court denies the motion to seal, these documents will be unsealed and made available electronically to the public. If a protective order has previously been entered, a Filing User should not file a motion to seal with a document covered under the protective order. 2. **Filing Documents Under Seal**. Documents are filed under seal in civil cases by selecting the "sealed" radio button during filing and in criminal cases by selecting an event in the "Sealed Documents" category. Documents filed electronically under seal are served on opposing counsel through ECF.
District of Wyoming	Rule 5.1- Filing with the court (g) Filing Cases and Documents Under Seal.

http://www.wyd.uscourts.gov/pdfforms/localrules/localrules-cv.pdf	On motion of one or more parties with a showing of good cause or as otherwise provided by law, the Court may order a case or a portion of the documents in a case to be filed under seal. Rule 79.1: Records of the Court (a) Access to Public Court Records. Cases filed after June 1, 2006, are available for review electronically via the Court's website at http://www.wyd.uscourts.gov/htmlpages/cmecf.html. To access an electronic case file, users must first register for Public Access to Court Electronic Records (PACER) at http://pacer.psc.uscourts.gov/register.html. Lengthy exhibits and other supporting materials that cannot be converted to electronic format are accessible in the Clerk's Office. Paper files of cases prior to June 1, 2006 may be ordered from the National Archives and Records Administration (through the Clerk's Office), upon payment of the prescribed fees, and may be checked out from the Clerk's Office by members of the bar or the public, with permission of the Clerk of Court. Public records not electronically available may be made available through the Clerk of Court. (b) Sealed Records. Submissions or documents ordered sealed by the Court are not public records.

Exhibit 2

University at Buffalo
Clinical Legal Education
School of Law

NYCLU
NEW YORK CIVIL LIBERTIES UNION

KNIGHT
FIRST AMENDMENT
INSTITUTE
at Columbia University

John M. Domurad
Chief Deputy
James T. Foley U.S. Courthouse
445 Broadway
Albany, NY 12207

RE: Comments on Proposed Amendment to Local Rule 83.13 Regarding Sealing in Civil Cases

Dear Mr. Domurad,

We write on behalf of the Civil Liberties and Transparency Clinic at the University at Buffalo School of Law, the New York Civil Liberties Union, and the Knight First Amendment Institute at Columbia University to comment on the proposed amendment to Local Rule 83.13 regarding sealing in civil cases ("Proposed Rule"). As you may recall, we submitted a proposal to amend this rule, and we welcome the Court's effort to address the concerns raised in our submission. Among other things, the proposed rule would require that applications to seal satisfy the governing legal standards on sealing, and it would prevent the routine sealing—mandated by the rule currently in effect—of applications and proposed sealing orders. We strongly support these changes for the reasons given in our original proposal.[1]

After reviewing the proposal carefully, we have four remaining concerns that could be addressed with minor modifications to the proposed text. These modifications would ensure that the amended text is fully compliant with governing Second Circuit law and would also make the amended rule as effective as possible. Below, we describe each concern and propose a narrow textual amendment (**in bold and underlined text**) to the Proposed Rule designed to address it.

1. Requiring a Specified Duration for Sealing Orders.

In our original comments, we noted that a critical loophole in this Court's sealing practices is the failure to enforce limits on the duration of sealing orders, or to reexamine indefinite seals at appropriate intervals. The current version of Rule 83.13(b) partially addresses that issue by requiring that sealed material be unsealed automatically 60 days after final disposition of the case. Although we found that the provision is not enforced, it theoretically acts as a backstop to prevent sealing orders from persisting even after the rationale for sealing has expired. The Court's proposed amendment to the Rule would do away with that backstop without any substitute to address the problem of indefinite sealing. It would not, for example, explicitly require the parties or the Court to specify the duration of a sealing order, or create a backstop to replace the 60-day provision. As a result, the Proposed Rule does not explicitly address the

[1] Our original proposal is available for download here: https://buffalo.box.com/v/Sealing-Rule-Proposal.

problem we documented of sealing orders being routinely issued without any durational limit, such that they routinely persist long after their rationales have expired.

Accordingly, we recommend that the Court amend the Proposed Rule to require any party seeking sealing to propose a duration in its application to the Court. The duration could be specified as a defined period of time, by an end date, or by reference to a future litigation event or other change in circumstances that would obviate the need for sealing. In cases where a court determines that the need for sealing will not foreseeably lapse, the sealing order should state that the material should remain sealed only so long as the proffered justification continues to exist.

This amendment would also ensure that the Proposed Rule conforms with case law in the Second Circuit holding that any sealing of judicial documents must be narrowly tailored both in scope and duration. *See United States v. Strevell*, No. 05-cr-477, 2009 WL 577910, at *6-7 (N.D.N.Y. Mar. 4, 2009); *see also Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119 (2d Cir. 2006) (describing narrow tailoring requirement); *United States v. Moten*, 582 F. 2d 654 (2d Cir. 1978) (requiring a durational limit on sealing of *in camera* proceeding at criminal trial.

Specifically, we suggest the following addition to Proposed Rule 83.13(a):

> **Proposed Rule 83.13(a):** A party seeking to have a document, a portion of a document, a party or an entire case sealed shall submit bears the burden of filing an application setting forth the reason(s) that the referenced material should be sealed under the governing legal standard. . . . The application shall also attach a proposed order (which shall not be filed under seal unless the Court deems doing so to be appropriate) containing specific findings justifying the sealing under the governing legal standard for the assigned judge's approval. The proposed order shall include an "ORDERED" paragraph stating the referenced material to be sealed **and the proposed duration of the sealing order**. . . .

2. Ensuring Unsealing When A Sealing Order Expires.

To ensure that sealed materials are in fact unsealed once their justification lapses, we further propose that the amended rule require the party seeking sealing to notify the Clerk and the Court when a sealing order has expired or is no longer required. The existing version of Rule 83.13(b) contains a 60-day sunset provision, mentioned above, meant to trigger unsealing by the Clerk. We are concerned that, absent that provision or a comparable one as well as a mechanism to give it effect, sealing orders will persist long after their durations or justifications expire. To address that concern, we recommend that the Court amend the Proposed Rule to require that the party who sought sealing notify the Clerk and the Court when records should be unsealed. This will help to ensure that cases and documents do not needlessly and improperly remain under seal beyond the period narrowly tailored to the purpose of sealing, as specified in the sealing order. To this end, we recommend the addition of one sentence to Proposed Rule 83.13(c):

> **Proposed Rule 83.13(c):** Once the Court seals a document, a portion of a document, a party or an entire case, the material shall remain under

> seal for the duration of the sealing order or until a subsequent order is entered directing that the sealed material be unsealed. **The party seeking sealing must promptly notify the Clerk and the Court upon the expiration of the sealing period or when sealing is no longer justified.** A party or third-party seeking unsealing must do so by motion on notice.[2]

3. Requiring that Sealing Orders Be Publicly Docketed.

We recommend that the Proposed Rule explicitly require that sealing orders be filed publicly, unless otherwise appropriate. As written, the Proposed Rule directs the public filing of only *proposed* orders. *See* Proposed Rule § 83.13(b) (stating that proposed order "shall not be filed under seal unless the Court deems doing so to be appropriate."). There is no explicit requirement that approved sealing orders be filed publicly. However, as we noted on page 4 of our original proposal to the Court, governing case law requires that sealing orders generally be made public. *See In re Herald*, 734 F.2d 93, 102-3 (2d Cir. 1984). We therefore recommend adding the following clause to Proposed Rule 83.13(b):

> **Proposed Rule 83.13(b):** Upon the assigned judge's approval of the sealing order, **the sealing order shall be filed on the public docket (unless the Court deems sealing all or a portion of it to be appropriate), and** the redacted or sealed document shall be filed as directed by the Clerk. . . .

4. Guaranteeing an Independent Judicial Determination of the Need for Sealing.

Finally, we propose a small change to the Proposed Rule to make it explicit that the Court, when considering an application to seal, must make an independent determination that sealing is

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[2] In addition to this change to the Proposed Rule, we further suggest that the Court direct the Clerk to create and implement a system that will ensure that records are in fact unsealed whenever a sealing order has expired or is no longer justified. One possibility, for example, would be for the Clerk to record, within a centralized system, the expiration date of every sealing order that specifies a date certain. The Clerk would then automatically unseal records on the expiration date, perhaps after providing notice to the parties in advance of that date that the sealed items will be placed on the public docket absent a motion to extend sealing.

In order to address the common circumstance where the duration of a sealing order is not necessarily tied to a date certain, but instead contingent upon the occurrence of some event or other change in circumstances, the Court could facilitate unsealing by creating a public compilation of sealing orders that includes, at a minimum, the name and docket number of the case, a description of the sealed items, and the duration or justification for the seal as specified in the sealing order. This compilation would allow members of the public more easily to intercede if it appears that sealing is no longer justified. In some cases, it may suffice for a member of the public simply to bring it to the attention of the Clerk and Court that a sealing order, by its own terms, appears to have lapsed. This may obviate the need for a formal motion on notice. A public compilation of sealing orders would also allow parties who have obtained a sealing order to quickly review such orders and thereby facilitate compliance with the requirement that they notify the Clerk when records should no longer be sealed. As we noted at pages 8-9 of our original proposal, this Court has established an analogous practice of compiling sealing orders with respect to applications for warrants and court orders authorizing investigative activities. *See In re Sealing Order(s) for Public Filing*, No. 5:17-sp-02017; *In re Sealing Order(s) for Public Filing*, No. 5:16-sp-02016; *In re Sealing Order(s) for Public Filing*, No. 5: 15-sp-02015.

warranted under the governing legal standard. As currently written, the Proposed Rule states that the party seeking sealing must submit a proposed order (including findings of fact) for the assigned judge's approval. We propose to make it explicit that, before granting the sealing order, the Court must independently endorse the proposed findings and determine that sealing is warranted.

This modification should ensure that sealing orders are justified by "specific, on the record findings . . . demonstrating that closure is essential to preserve higher values and is narrowly tailored to serve that interest." *Lugosch*, 435 F.3d at 120 (internal quotation omitted). As a practical matter, this modification should also prevent documents or cases from being sealed solely based on the parties' stipulation/consent by ensuring that the Court makes an independent determination.[3] We therefore recommend the following text be added to the Proposed Rule:

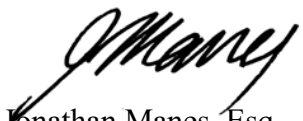
> **Proposed Rule 83.13(a):** . . . The application shall also attach, together with a proposed order (which shall not be filed under seal unless the Court deems doing so to be appropriate) containing specific **proposed** findings justifying the sealing under the governing legal standard for the assigned judge's approval **if the assigned judge independently makes findings of fact that warrant sealing under the governing legal standard.** The proposed order shall include an "ORDERED" paragraph . . . .

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We support the Court's effort to refine its rule on sealing in civil cases and believe that these additional minor changes would bring the Proposed Rule more clearly into compliance with governing law and would limit ambiguity about how the rule is to be administered. We would be happy to discuss these suggestions or to address any questions that arise therefrom. We thank the Court and the Clerk's office for the time and care with which they have approached these proposed amendments to Rule 83.13, and for your consideration of our additional proposed modifications. We very much hope that a revised Rule 83.13 will be approved by the Board of Judges and come into force in the New Year.

[3] As noted in our original proposal (at pages 3 and 6, and Exhibit B), our review of a sample of cases from this Court revealed a number of instances where sealing had been authorized based solely on the consent of the parties.

Respectfully submitted,



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