



# Sealed and Restricted Documents - Attorney

In conjunction with the new local rules in 2008, attorneys were allowed to electronically file (“e-file”) certain sealed or restricted documents. Review the sealed/restricted event lists for civil and criminal on our web page. **ONLY** the events listed have a restriction on them. Every other event and document is electronically available to the public. If you choose a **public event** and link it to a **restricted event**, the entry and document will be public.

All docket entries for documents e-filed by attorneys will be electronically available to the public, the PDF documents will not (the exception is *ex parte* events).

## I. SEALING or RESTRICTING CASE/DOCUMENTS

### 1. Definitions

- a. SEALED - Court: electronic access limited to court users. “SEALED - Court” will be displayed in the docket text. Only court users can e-file a document with this type of restriction.
- b. SEALED – Attorney: electronic access limited to court users and the selected case participants. “SEALED – Attorney” will be displayed in the docket text.
- c. SEALED – Participants: electronic access limited to court users and case participants. “SEALED – Participants” will be displayed in the docket text. Any movants, interested parties or material witnesses will have electronic access to the document.
- d. EX PARTE: electronic access limited to court users and filer or selected case participants. “(Ex Parte)” will be displayed in the docket text.
- e. RESTRICTED: electronic access limited to court users, case participants and public terminals. “RESTRICTED” will be displayed in the docket text.

### 2. Queries on Sealed Documents

- a. When the entry is public and the document is sealed/restricted:
  - i. A party who does not have permission to view the document will be able to see the entry but when clicking on the document

hyperlink one of the following messages will be displayed depending on the restriction level: "This document is not available" or "You do not have permission to view this document."

- ii. A party who has permission to view the document will be shown a warning before accessing the document.
- b. When the entry is public and one of the documents are sealed/restricted:
- i. A party who does not have permission to view the document will be able to see the entry. When the hyperlink is clicked any document that is restricted will have the word "Restricted" in the description field. If you click on the restricted document hyperlink one of the following messages will be displayed depending on the restriction level: "This document is not available" or "You do not have permission to view this document."
  - ii. A party who has permission to view the document will be shown a warning before accessing the document.
- c. When the entry and document is sealed:
- i. A party who does not have permission to view the entry will not be able to see the entry or document.
  - ii. A party who has permission to view the entry and document will be shown a warning before accessing the document.

### 3. Sealed Cases

Attorneys cannot file a sealed case electronically. Any sealed case needs to be filed conventionally with the clerk's office.

- a. Criminal Cases: the court, on a case-by-case basis for **JUVENILE** cases only, may grant electronic access to the case to all counsel of record. All other cases will be sealed to court users only. For juvenile cases, attorneys must move for permission to have electronic access to the sealed case. All counsel should concur in the request.
- b. Civil Cases: attorneys must request within the motion to seal and proposed order whether:
  - i. The civil case is available electronically to the court only; or
  - ii. The civil case is available electronically to all counsel of record.

If the sealing level is not stated in the motion or order, the case will be electronically available to court users only.

All documents will have to be filed conventionally with the clerk's office, if the order grants electronic access to the court only.

If the order grants electronic access to all counsel of record, then the court will give electronic access to all active attorneys in the case at the time of the order. Afterwards, any subsequent attorneys must file their notice of appearance or initial pleading conventionally and move that they be granted electronic access to the case. Once permission is granted, the attorney will be given sealed electronic access to the case.

Since the case is sealed, attorneys can select any event from the list of events for e-filing. Please note, if you are filing an ex parte document, you will still need to choose the specific ex parte event.

Attorneys will be able to view documents and e-file in sealed cases, but will still have to serve the parties conventionally as no NEF is sent to any party, only to court users.

#### **4. Filing Sealed Documents**

##### **a. Motions, Responses and Other Documents**

Attorneys will be able to e-file sealed or restricted documents where some type of electronic access is provided to the participants, as described in Section I.1.b through I.1.e. Attorneys will not be able to e-file documents where electronic access is limited to court users only, as described in Section I.1.a.

In accordance with LCvR 6.1 and LCrR 55.1, a party must seek permission to file documents under seal unless they are being filed pursuant to a statute, local rule or in accordance with a previously entered Rule 26(e) Protective Order.

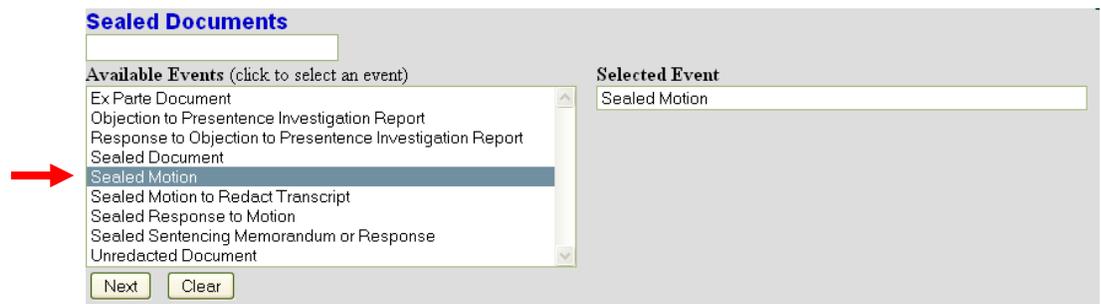
When electronic access should be limited to the court, attorneys will need to conventionally file the documents and **MUST** request within their motion to seal and proposed order, or in the instance of a filing pursuant to a statute or protective order, the attorney shall clearly state on cover page, whether:

- i. The document is sealed; or
- ii. The entry and the document are sealed.

If it is not stated or requested, the court will seal the document only.

Attorneys have the option to e-file certain sealed motions, responses, and documents. Review the listings of sealed/restricted events on our webpage. The steps for e-filing each are very similar, for purposes of illustration, below are the steps for e-filing a motion (only use the sealed motion event – if it is a motion).

- i. E-filing a “SEALED – Attorney” motion in a criminal case, *if allowed by the court*:
  1. Click on **Sealed Documents**.
  2. Select **Sealed Motion** under the *Available Events* and click on the Next button.



**Sealed Documents**

Available Events (click to select an event)

- Ex Parte Document
- Objection to Presentence Investigation Report
- Response to Objection to Presentence Investigation Report
- Sealed Document
- Sealed Motion**
- Sealed Motion to Redact Transcript
- Sealed Response to Motion
- Sealed Sentencing Memorandum or Response
- Unredacted Document

Selected Event: Sealed Motion

Next Clear

3. Enter Case Number, click on Find Case, select appropriate defendant(s) and then click on Next.
4. Upload the PDF document(s) and click on Next.
5. On the next screen, when prompted, type in the name of the party filing the document in the box.



**Sealed Documents**

[3:09-mj-00143 USA v. Wayne et al](#)

Type in the Party Filing the Document: Sara Lee

6. This screen also displays the below message regarding setting electronic access in red. Pick the parties who should have electronic access to the document. To select more than one party select the party and then hold the **Ctrl** key and click on the additional party(ies) and then click on the Next button. ABORT the entry if you do not get this screen. Make sure you have selected the correct event. If you have selected the correct event, but this screen is not displayed, do not continue and contact the help desk.

[Collapse All](#) [Expand All](#)

- ⊕ USA pla
- ⊕ Sara Lee dft

**SELECT the PARTIES who should have access on this screen. To select more than one party select the 1st party and then hold the Ctrl key and click on the additional party. The entry will be public.**

Select the Party:

- USA [pla]
- Lee, Sara [dft]

7. If possible, type in a non-confidential description of the relief sought. (*Remember: the public will be able to see the docket entry.*) Finish e-filing the document.
8. An NEF will be sent to all case participants, however, only the parties selected in step number 6 will have electronic access to view the document(s).

ii. E-filing an “Ex Parte” motion:

1. Click on **Motions**.
2. Enter case number and then select the filer.
3. Select **Ex Parte Motion** under the *Available Events*.
4. Upload the PDF document(s).
5. The following user message appears: ***Access to the entry and document is provided only to the filing party.*** ABORT the entry if you do not get the message. Make sure you have selected the correct event. If you have selected the correct event, but no message is displayed, do not continue and contact the help desk.
6. An NEF will be sent to the filer only and they will have electronic access to the entry and document(s).

b. **Exhibits**

In the event only certain **EXHIBITS** to a pleading should be sealed and not the pleading itself, attorneys shall file and attach a PDF document (similar to attachment 1) entitled “Notice of Sealed Exhibit” in the place where the exhibit would have been attached. Again, a party must seek permission to file documents under seal unless they are being filed pursuant to a statute or in accordance with a previously entered Rule 26(e) Protective Order.

Depending on the sealing restriction of the exhibit, either e-file the sealed exhibit(s) using the **Sealed Document** event under **Sealed Documents** and link to the main document, or conventionally file with the court if the document is only electronically available to the court. If there is more than one sealed exhibit, you should attach all the sealed exhibits to one entry as separate PDFs.

Example:

Included in the filing of a motion for summary judgment are a memorandum of law and 4 exhibits (2 of which are sealed pursuant to a protective order.)

The attorney will e-file using the **Summary Judgment** event under **Motions** and attach in PDF form:

- 1) The motion;
- 2) The memorandum;
- 3) Exhibits 1 and 3; and
- 4) Two notices of sealed exhibit for exhibits 2 and 4.

The final text will read:

MOTION for Summary Judgment by Defendant.  
(Attachments: (1) Memorandum of Law, (2) Exhibit 1 – Contract dated 1/15/06, (3) Exhibit 2 – Notice of Sealed Exhibit, (4) Exhibit 3 – Letter dated 3/11/06, (5) Exhibit 4 – Notice of Sealed Exhibit) (Attorney)

Next the attorney e-files sealed exhibits 2 and 4 using the **Sealed Document** event under **Sealed Documents**. The Notice of Sealed Exhibit along with a certificate of service is the main document and exhibit 2 and 4 are attachments.

The final text will read:

Sealed Document – Attorney: Exhibit 2 and 4 re: [28]  
MOTION for Summary Judgment by Defendant.  
(Attachments: (1) Exhibit 2; (2) Exhibit 4) (Attorney)

Note: should several sequentially numbered exhibits be sealed, you could file one Notice of Sealed Exhibits and within the notice state which exhibits (i.e. Exhibits 2-6).

## 5. Viewing Sealed/Restricted Documents

Individuals who receive electronic notification of a “sealed” or “restricted” filing are permitted one “free look” at the document as with any other document. However, clicking on the link will prompt the user to enter their ECF login and password (not PACER), to confirm their status as attorney of record. Once this authentication has been completed, the document will be displayed. If Internet Explorer is being used and the attorney is already logged into ECF, clicking on the link will take them directly to a warning message and then the document.

## II. REDACTED/UNREDACTED PLEADINGS

All filings with the court – including attachments – must comply with Fed.R.Civ.P. 5.2 or Fed.R.Crim.P. 49.1: Social Security or taxpayer-identification numbers; dates of birth; names of minor children; financial account numbers; and home addresses in criminal cases, may NOT appear, except as allowed by the applicable rule. Attorneys are required to redact this information from pleadings filed. It does not mean that the pleading(s) should be sealed.

If confidential information is redacted from a pleading, parties are not required to file an unredacted version, but should counsel feel it is important, they can:

1. **In Camera Review:** an unredacted version may be submitted for in camera review by using cyberclerk. If submitted through cyberclerk, the document is not filed in the case.
2. **Filing an Unredacted Copy:** If the attorney feels it is pertinent to have an unredacted version of the pleading filed in the case, the attorney e-files the document by using **Unredacted Document** under **Sealed Documents**. If the unredacted version should be part of the case file and electronically available to the court only, the attorney should submit the unredacted pleading conventionally with the clerk’s office.

ATTACHMENT 1

John Doe,  
Plaintiff

v.

Jane Doe,  
Defendant

Case No. 3:10-cv-10  
Filed Under Seal Pursuant  
to a Protective Order  
Entered 6/28/10

NOTICE OF SEALED EXHIBIT  
Motion for Summary Judgment by Defendant Jane Doe

Exhibit 2 is filed under seal pursuant to a Protective Order entered in this case on June 28, 2010 by Magistrate Judge David S. Cayer.

This 6<sup>th</sup> day of July, 2010.

s/ Attorney's Name  
Attorney's Name (NC Bar No. 1111)  
Attorney's Firm  
Attorney's Address  
Attorney's Phone Number  
Attorney's Fax Number  
Attorney's Email Address