

Ex Parte Motions Filed Electronically

Effective Date June 27, 2011

Overview Ex parte motions and supporting documentation to ex parte motions are no longer exempt from electronic case filing. If an ex parte motion is also being filed under seal or in a sealed case, then the document and the supporting documentation is treated as sealed and is exempt from electronic case filing. Sealed documents should be filed with the Clerk's Office in accordance with Local Civil Rule 5 and Local Criminal Rule 49.

There are two types of ex parte events for use for filing ex parte motions and supporting documentation, such as a memorandum in support of the ex parte motion. These filing events are as follows:

- **1 – Exparte Docket Entry AND Document-use ONLY with other selection** (Used with a motion relief such as motion for a temporary restraining order and will send a NEF to the parties selected during filing. The docket entry and document will not appear on the public docket sheet.) The filing attorney must use the ECF filing login/password to view the document from the NEF; not the PACER login/password.
- **1 – Exparte Document-use ONLY with other selection** (Used with a motion relief such as motion for a temporary restraining order and will send a NEF to all the parties in the case but only those parties selected during filing will be able to access the document. The docket entry will appear on the public docket sheet.) The filing attorney must use the ECF filing login/password to view the document from the NEF; not the PACER login/password.

Subpoena Duces Tecum Motions for the issuance of a subpoena duces tecum returnable before trial pursuant to Federal Rule of Criminal Procedure 17(c) may not be made *ex parte* except in unusual circumstances. The district court may allow the application process to proceed *ex parte* upon a showing that the disclosure of the application for a pre-trial subpoena would: (i) divulge trial strategy, witness lists, or attorney work-product; (ii) imperil the source or integrity of subpoenaed evidence; or (iii) undermine a fundamental privacy or constitutional interest of the requesting party. See, *United States v. Beckford*, 964 F.Supp. 1010, 1030 (E.D. Va. 1997).

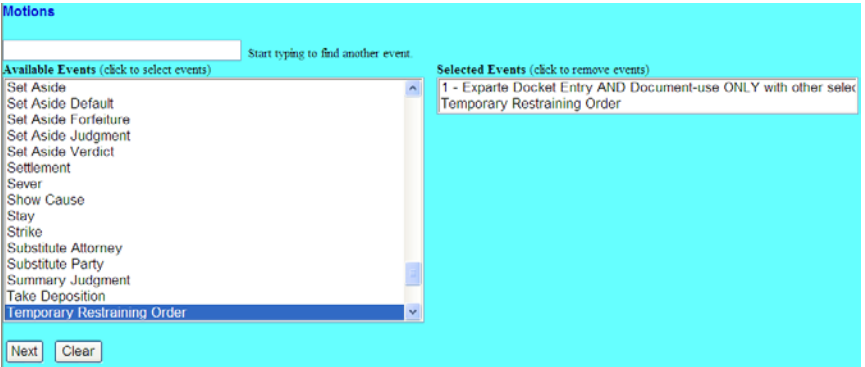
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Ex Parte Motions Filed Electronically, Continued

Steps for Electronically Filing an Ex Parte Motion That Does Not Appear on the Public Docket Sheet

To file a motion ex parte that does not appear on the docket sheet, take the following steps:

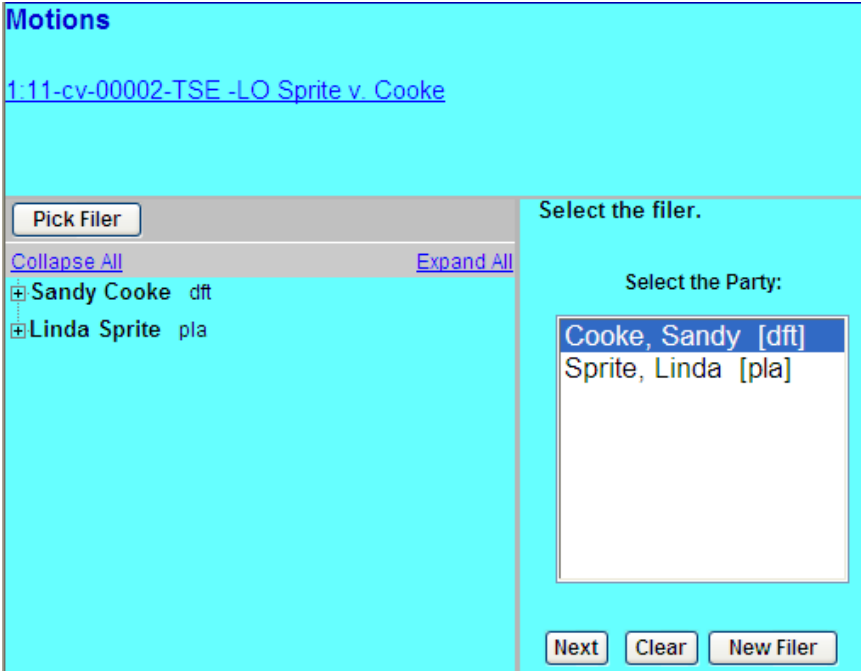
Note: The following steps also apply to the filing of any supporting documentation to the ex parte motion.

Step	Action
1	Select either <i>Civil</i> or <i>Criminal</i> from the main blue menu bar.
2	Select <i>Motions</i> .
3	<p>Select the following two events from the list:</p> <ul style="list-style-type: none"> • <i>Exparte Docket Entry AND Document-use ONLY with other selection</i> event, and • The motion relief for your motion (e.g. <i>Temporary Restraining Order</i>). <p>Note: To select both events you click on the first event (<i>Exparte Docket Entry AND Document-use ONLY with other selection</i>) and then click on the second event (e.g. <i>Temporary Restraining Order</i>).</p>  <p>The screenshot shows a web interface titled 'Motions'. At the top, there is a search bar with the text 'Start typing to find another event.' Below this, there are two columns: 'Available Events (click to select events)' and 'Selected Events (click to remove events)'. The 'Available Events' list includes: Set Aside, Set Aside Default, Set Aside Forfeiture, Set Aside Judgment, Set Aside Verdict, Settlement, Sever, Show Cause, Stay, Strike, Substitute Attorney, Substitute Party, Summary Judgment, Take Deposition, and Temporary Restraining Order. The 'Selected Events' list contains: 1 - Exparte Docket Entry AND Document-use ONLY with other selection and Temporary Restraining Order. At the bottom of the interface are 'Next' and 'Clear' buttons.</p>
4	Click the <i>Next</i> button.

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Ex Parte Motions Filed Electronically, Continued

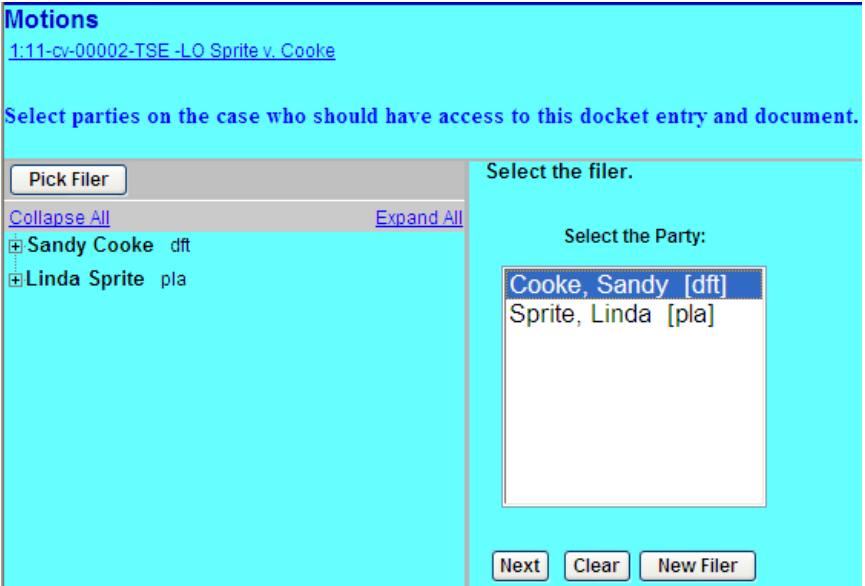
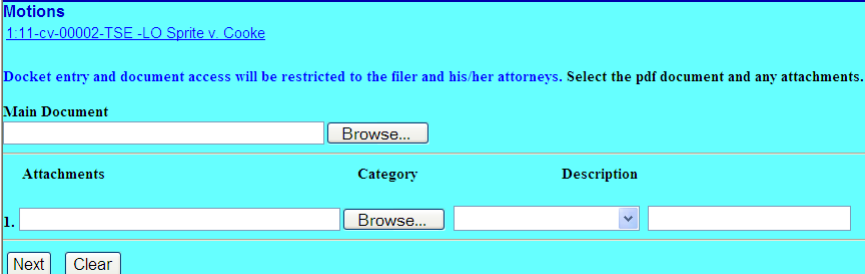
Steps for Electronically Filing an Ex Parte Motion That Does Not Appear on the Public Docket Sheet (continued)

Step	Action
5	<ul style="list-style-type: none">• Enter the Case Number,• Click the <i>Find This Case</i> button,• Click the <i>Next</i> button.
6	<p>Select the filer of the document and then click the <i>Next</i> button.</p>  <p>The screenshot shows a web interface for filing motions. At the top, it says "Motions" and displays the case number "1:11-cv-00002-TSE -LO Sprite v. Cooke". Below this is a "Pick Filer" button. There are also "Collapse All" and "Expand All" links. A list of filers is shown: "Sandy Cooke dft" and "Linda Sprite pla". To the right, there is a "Select the Party:" dropdown menu with two options: "Cooke, Sandy [dft]" and "Sprite, Linda [pla]". At the bottom of the interface are three buttons: "Next", "Clear", and "New Filer".</p>

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Ex Parte Motions Filed Electronically, Continued

Steps for Electronically Filing an Ex Parte Motion That Does Not Appear on the Public Docket Sheet (continued)

Step	Action
7	<p>Select the party(ies) that should have access to the docket entry and document and then click the <i>Next</i> button.</p> <p>Caution: This party should be the same as the filer. If you select opposing counsel, opposing counsel will have access to the document.</p> 
8	<p>Upload the document and then click the <i>Next</i> button.</p> 

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Ex Parte Motions Filed Electronically, Continued

Steps for Electronically Filing an Ex Parte Motion That Does Not Appear on the Public Docket Sheet (continued)

Step	Action
9	<p>Modify text as appropriate, if necessary, and then click the <i>Next</i> button.</p> 
10	<p>Verify that the correct document is attached and then click the <i>Next</i> button.</p> 

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Ex Parte Motions Filed Electronically, Continued

Steps for Electronically Filing an Ex Parte Motion That Does Not Appear on the Public Docket Sheet (continued)

Screen shot of the final filing screen. Notice that a NEF went only to the attorney filing the ex parte motion. This entry will **not** appear on the docket sheet.

The screenshot shows a blue header with the word "Motions" in bold. Below it is a blue link: [1:11-cv-00002-TSE -LO Sprite v. Cooke](#). The center of the screen is white and contains the text: "U.S. District Court" and "Eastern District of Virginia". Below this is a section titled "Notice of Electronic Filing". The text reads: "The following transaction was entered by Tunney, Theodore on 6/15/2011 at 10:26 AM CDT and filed on 6/15/2011". It lists: "Case Name: Sprite v. Cooke", "Case Number: [1:11-cv-00002-TSE -LO](#)", "Filer: Sandy Cooke", and "Document Number: [11](#)". Below this is a section titled "Docket Text:" with the text: "MOTION for Temporary Restraining Order by Sandy Cooke. (Tunney, Theodore)". At the bottom, it says: "1:11-cv-00002-TSE -LO Notice has been electronically mailed to:" followed by "Theodore Tunney Lorri_tunney@vaed.uscourts.gov" and "1:11-cv-00002-TSE -LO Notice has been delivered by other means to:".

Steps for Electronically Filing an Ex Parte Motion That Does Appear on the Public Docket Sheet

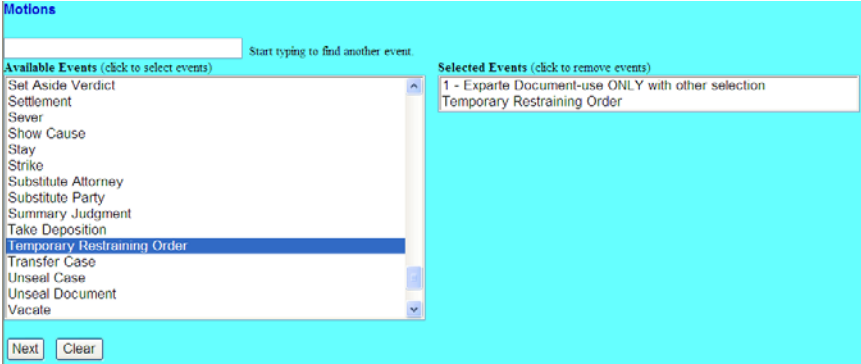
To file a motion ex parte that does appear on the docket sheet, take the following steps:

Step	Action
1	Select either <i>Civil</i> or <i>Criminal</i> from the main blue menu bar.
2	Select <i>Motions</i> .

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Ex Parte Motions Filed Electronically, Continued

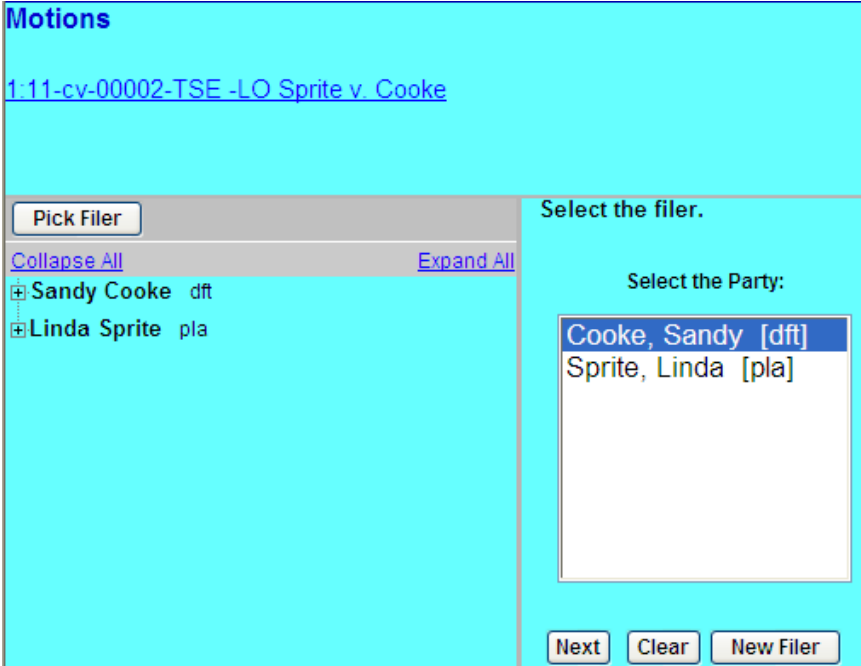
Steps for Electronically Filing an Ex Parte Motion That Does Appear on the Public Docket Sheet (continued)

Step	Action
3	<p>Select the following two events from the list:</p> <ul style="list-style-type: none"> • Exparte Docket Entry-use ONLY with other selection, and • The motion relief for your motion (e.g. <i>Temporary Restraining Order</i>). <p>Note: To select both events you click on the ex parte event (<i>Exparte Docket Entry-use ONLY with other selection</i>) and then click on the second event (e.g. <i>Temporary Restraining Order</i>).</p> 
4	Click the <i>Next</i> button.
5	<ul style="list-style-type: none"> • Enter the Case Number, • Click the <i>Find This Case</i> button, • Click the <i>Next</i> button.

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Ex Parte Motions Filed Electronically, Continued

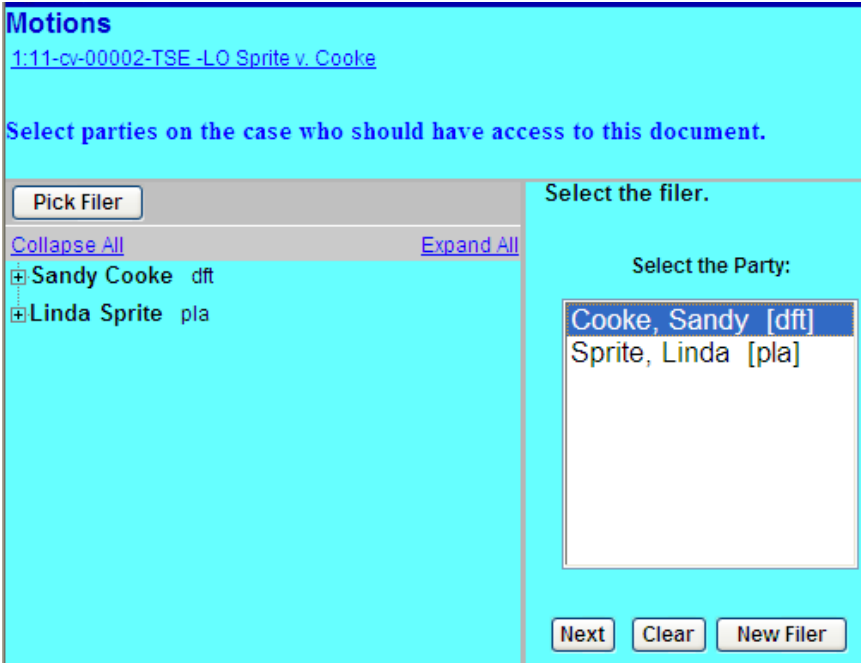
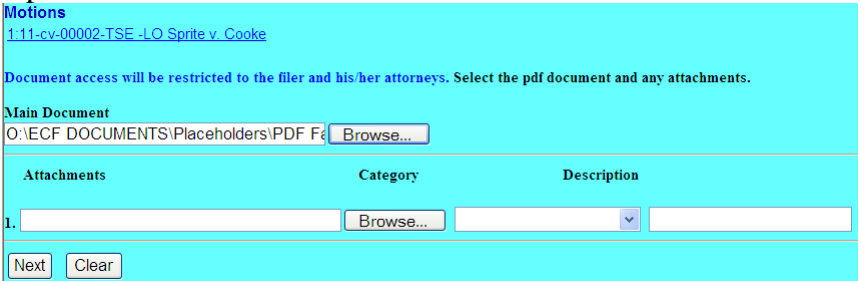
Steps for Electronically Filing an Ex Parte Motion That Does Appear on the Public Docket Sheet (continued)

Step	Action
6	<p>Select the filer of the document and then click the <i>Next</i> button.</p>  <p>Motions</p> <p>1:11-cv-00002-TSE -LO Sprite v. Cooke</p> <p>Pick Filer</p> <p>Collapse All Expand All</p> <ul style="list-style-type: none">⊕ Sandy Cooke dft⊕ Linda Sprite pla <p>Select the Party:</p> <ul style="list-style-type: none">Cooke, Sandy [dft]Sprite, Linda [pla] <p>Next Clear New Filer</p>

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Ex Parte Motions Filed Electronically, Continued

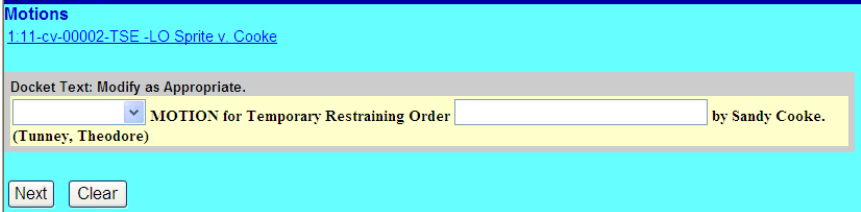
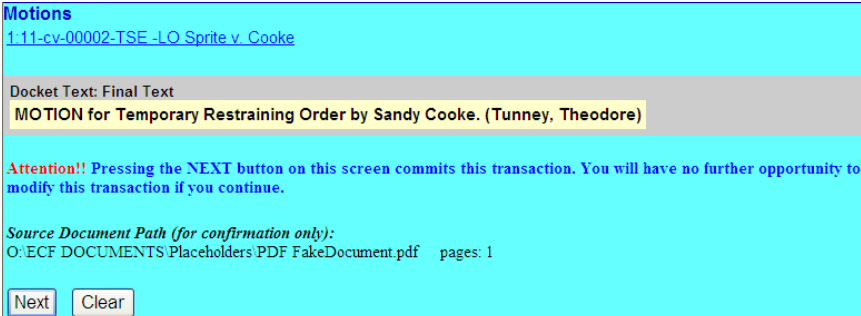
Steps for Electronically Filing an Ex Parte Motion That Does Appear on the Public Docket Sheet (continued)

Step	Action
7	<p>Select the party(ies) that should have access to the document and then click the <i>Next</i> button.</p> <p>Caution: This party should be the same as the filer. If you select opposing counsel, opposing counsel will have access to the document.</p> 
8	<p>Upload the document and then click the <i>Next</i> button.</p> 

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Ex Parte Motions Filed Electronically, Continued

Steps for Electronically Filing an Ex Parte Motion That Does Appear on the Public Docket Sheet (continued)

Step	Action
9	<p>Modify text as appropriate, if necessary, and then click the <i>Next</i> button.</p> 
10	<p>Verify that the correct document is attached and then click the <i>Next</i> button.</p> 

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Ex Parte Motions Filed Electronically, Continued

Steps for Electronically Filing an Ex Parte Motion That Does Appear on the Public Docket Sheet
(continued)

Screen shot of the final filing screen. Notice that a NEF went to **both** the attorney filing the ex parte motion and the attorney for the opposing side. Only the filing attorney will have access to the document because only the filing attorney was selected in *Step 7* above. This entry **will** appear on the docket sheet.

Motions
[1:11-cv-00002-TSE -LO Sprite v. Cooke](#)

U.S. District Court
Eastern District of Virginia

Notice of Electronic Filing

The following transaction was entered by Tunney, Theodore on 6/15/2011 at 11:36 AM CDT and filed on 6/15/2011

Case Name: Sprite v. Cooke
Case Number: [1:11-cv-00002-TSE -LO](#)
Filer: Sandy Cooke
Document Number: [12](#)

Docket Text:
MOTION for Temporary Restraining Order by Sandy Cooke. (Tunney, Theodore)

1:11-cv-00002-TSE -LO Notice has been electronically mailed to:

Larry Smith regina_voight@vaed.uscourts.gov
Theodore Tunney Lorri_tunney@vaed.uscourts.gov
