

Summary of Amendments to Local Civil Rule 5

The Court will be modifying the CM/ECF filing procedures to require counsel to file electronically sealed materials in civil cases. In order to implement this new procedure and to clarify the obligations of counsel in filing a motion to seal, the Court is proposing to amend Local Civil Rule 5. The new procedure and accompanying changes to the ECF Policies and Procedures Manual will be made available in advance of the effective date of the proposed amendments, and will become effective on the same date.

The proposed amended rule provides that motions to file documents under seal are discouraged, that blanket sealing of an entire document is rarely appropriate, and anyone seeking to file material under seal must make a good faith effort to redact or seal only as much as necessary to protect legitimate interests.

When a document is filed under seal that is not already authorized to be filed under seal, the party filing the document must contemporaneously file a motion to seal, a supporting memorandum, a proposed order, and a notice of filing a motion to seal. If a motion to seal is not filed in a timely manner the document may be placed in the public record.

The memorandum in support of the motion to seal must provide a description of the material that has been filed under seal, a statement why sealing is necessary, an analysis of the appropriate standard to be applied, a description of how that standard has been satisfied, and the period of time the document should remain under seal. The proposed order shall recite the findings required by governing case law to support the proposed sealing.

The notice of filing a motion to seal shall inform the parties and non-parties that any person objecting to the motion to seal must file an objection with the Clerk within seven days. 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 to seal within seven days complying with the requirements of a supporting memorandum along with a proposed order.

A motion to seal shall not be noticed for a hearing but the Court may require additional briefing or argument. After the seven day time period for filing a response or objection, the Court will determine whether the material should remain under seal. If the Court determines that the appropriate standards have not been satisfied, it may order that the material be filed in the public record.

Whenever a party files a document under seal, the filer must deliver a copy of the document being filed under seal to the chambers of the presiding judge for review. In accordance with the presiding judge's policy, a copy of the motion to seal and all pleadings and documents relating to the motion to seal should be delivered to the chambers of the presiding judge. When the proceedings are concluded, the Court will either destroy the paper copies containing confidential information or direct counsel to retrieve them.