

Electronic Filing and Service of Documents – Electronic Filing of Sealed Documents in Civil Cases

Introduction

Sealed **documents** in public civil cases are to be electronically filed in accordance with Local Civil Rule 5. Sealed **cases** will remain inaccessible and all documents in sealed cases must be filed on paper. The filing party is responsible for serving all sealed documents and attachments on opposing counsel in compliance with the Federal Rules of Civil Procedure.

Sealed documents will be remotely inaccessible to counsel and pro se litigants but the docket entry itself will be accessible to the public.

Motions to seal are public documents and are not noticed for hearing. The Court may require additional briefing or argument.

Whenever a document is filed under seal, the filer must deliver a copy of the document filed under seal and all pleadings and documents relating to the motion to seal to the chambers of the presiding judge for review. When the proceedings are concluded, the Court will either destroy the paper copies containing confidential information or direct counsel to retrieve them.

Effective Date

January 11, 2016

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Exceptions

Exceptions must be filed on paper and delivered to the Clerk’s office labeled “Under Seal” and 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 and a non-confidential descriptive title of the document shall also be noted on the container.

The types of documents that are exceptions to electronic filing of sealed documents in civil cases are:

- Documents filed in sealed cases,
 - In Camera Documents,
 - Social Security Administrative Records, and
 - Sealed documents filed by pro se litigants.
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Sealed Filing Events

Sealed filing events have been created for use when filing sealed documents.

Caution: If the sealed filing event is not used to electronically file the sealed document, then the document will be available to the public.

The sealed filing events must be used to file the sealed documents to ensure that only the court can access the documents.

The sealed filing events are:

- Sealed Memorandum In Support
- Sealed Attachment/Exhibit(s)
- Sealed Document
- Sealed Response/Reply/Opposition
- Sealed Motion (used **ONLY** when the sealed document to be filed is a sealed motion; do not use this event to file the motion seeking permission to seal. Use the “Motion to Seal” event found under the *Motions* category. For example, if filing a “Motion for Summary Judgment” under seal, use this event to file the “Motion for Summary Judgment” but use the “Motion to Seal” to seek permission to seal the “Motion for Summary Judgment.”)

These events can be found under the attorney *Civil Menu* in the category *Sealed Documents*.

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Notice Filing Events

In accordance with Local Civil Rule 5, two notice filing events were created as follows:

- *Notice of Under Seal Filing LCvR5(B)* to be used to electronically file Local Civil Rule 5(B) Notice and
- *Notice of Filing Sealing Motion LCvR5(C)* to be used to electronically file Local Civil Rule 5(C) Notice.

These events can be found on the Civil Menu under *Notices*. These filing events are public documents and should not contain any sealed information.

Service of Sealed Documents

Since the sealed document will not be accessible through the *Notice of Electronic Filing (NEF)*, the filing party is responsible for serving all sealed documents and attachments on the opposing counsel or unrepresented party by other means. A certificate of service must be included with every filing and a copy of the NEF should be served with the sealed document.

Sealed Orders

Sealed orders will not be accessible remotely. Sealed orders will be mailed to attorneys and pro se litigants.

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Steps for Filing Sealed Documents

If you are filing a document or portion of a document under seal pursuant to a governing statute, rule, or order, take the following steps:

Step	Action
1	File the document using the appropriate sealed filing event from the following selection: <ul style="list-style-type: none">• Sealed Motion• Sealed Memorandum In Support• Sealed Exhibit• Sealed Attachment• Sealed Response/Objection/Reply• Sealed Document <i>Note:</i> This document should be clearly marked “under seal.”
2	File the <i>Notice of Under Seal Filing LCvR 5(B)</i> (link to the sealed document) found under the <i>Notices</i> category. This document is available to the public.

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Steps for Filing a Motion to Seal

If you are motioning to file a document under seal, take the following steps:

Step	Action
1	File the Motion to Seal using the motion to seal or motion to seal case, as appropriate, found under the motions category and upload the proposed order as an attachment to the motion to seal. <i>Note:</i> The motion to seal is a public document and should not contain any sealed information.
2	File the <i>Notice of Filing Sealing Motion LCvR 5(C)</i> (link to the motion to seal) found under the <i>Notices</i> category. This notice is available to the public.
3	File the document you wish to seal using the <i>Sealed Document</i> filing event (link to the motion to seal).
4	File the non-confidential memorandum in support of the motion to seal using the event <i>Memorandum In Support</i> found in the category <i>Responses/Replies/Memoranda</i> (link to the motion to seal).
5	File any confidential memorandum in support of the motion to seal using the sealed event <i>Sealed Memorandum In Support</i> (link to the motion to seal).

Oppositions/Responses

If you are filing a sealed document that responds, replies, or opposes a motion to seal, use the sealed filing event *Sealed Response/Reply/Opposition* to ensure that your document cannot be viewed by the public.

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File Size of Documents

As with any electronic filing in the Eastern District of Virginia, your sealed document filing size is limited to PDF documents no larger than 10 megabytes (about 200 pages). The total number of megabytes in a submission, including attachments, must be no larger than 30 megabytes (about 600) pages. Each document in that submission must be no larger than 10 megabytes.

If the filing including attachments is larger than 30 megabytes, split your filing into submissions of no larger than 30 megabytes each.

Take the following steps to file **sealed** documents that are larger than 30 megabytes:

Step	Action
1	Break your document or filing, including attachments, into smaller PDF documents of no more than 10 megabytes each and into submissions of less than 30 megabytes each.
2	File the first submission as usual (as a main document with attachments) using the appropriate filing event.
3	Create formal document called <i>Continuation of Sealed Filing</i> that includes a <i>Certificate of Service</i> and your complete nine-element signature block.
4	File the <i>Continuation of Sealed Filing</i> using the sealed filing event <i>Sealed Attachment/Exhibit(s)</i> .
5	Upload the smaller PDF documents as attachments to the <i>Continuation of Sealed Filing</i> .

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Correcting Mistakes

If you erroneously file a sealed document without using a sealed filing event or erroneously file a public document using a sealed filing event, contact the Clerk’s Office Operations Section Helpdesk for assistance.

The Clerk’s Office Operations Section Helpdesk is available from 8:30a.m. to 5:00p.m. Monday through Friday with the exception of federal holidays or closures.

Division	Helpdesk Contact Number
Alexandria	703-299-2101
Norfolk/Newport News	757-222-7201
Richmond	804-916-2220
