

Memorandum on Sealed and Confidential Materials

(FRAP 25(a)(5), Local Rule 25(c) & Judicial Conference Privacy Policy for Electronic Case Files)

Internet Availability of Docket & Documents (except Appendices): All Fourth Circuit case dockets are available on the Internet via the Judiciary's PACER system (Public Access to Court Electronic Records). The Fourth Circuit docket is available on the Internet even if the district court docket was sealed. If a party's name was sealed in the district court, it should be replaced by "Under Seal" or a pseudonym on appeal. Documents filed in 2008 and thereafter are available on the Internet via PACER, with the exception of appendices, which are available in paper form only. Due to the electronic availability of court documents, the federal rules prohibit including certain personal data identifiers in court filings. In addition, parties should not include any data in their filings that they would not want on the Internet. Counsel should advise their clients on this subject so that an informed decision can be made. Responsibility rests with counsel and the parties, not with the clerk.

Federal Rules of Procedure: The federal rules of procedure require filers to redact any of the following personal data identifiers (PDIs) if included in court filings: (1) social security and tax ID numbers must be limited to last four digits; (2) minor children must be identified by their initials only; (3) dates of birth must show the year only; (4) financial account numbers must be limited to the last four digits only; and (5) home addresses in criminal cases must be limited to city and state only. The federal rules establish limited exceptions to these redaction requirements. See Fed. R. Civ. P. 5.2; Fed. R. Crim. P. 49.1; Fed. R. Bankr. P. 9037.

Judicial Conference Privacy Policy: In addition, the [Privacy Policy for Electronic Case Files](#) prohibits filers from including any of the following criminal documents in the public file: (1) unexecuted summonses or warrants; (2) bail or presentence reports; (3) statement of reasons in judgment of conviction; (4) juvenile records; (5) identifying information about jurors or potential jurors; (6) CJA financial affidavits; (7) ex parte requests to authorize CJA services and (8) any sealed documents, such as motions for downward departure for substantial assistance, plea agreements indicating cooperation, or victim statements.

Certificate of Confidentiality or Motion to Seal Required for Any Sealed Filing: A document may not be filed under seal in this court unless it is accompanied by a certificate of confidentiality or motion to seal as set out in more detail below.

Sealed Volume of Appendix: All appendices are filed and served in **paper form only**. Sealed documents must be placed in a **separate, sealed volume** of the appendix. In consolidated criminal cases in which presentence reports are being filed for multiple defendants, **each** presentence report must be placed in a separate, sealed volume to which only Government counsel and counsel for the defendant who is the subject of the report have access.

- File four paper copies of sealed appendix volumes, with the cover marked SEALED, in an envelope marked SEALED, with four copies of certificate of confidentiality.
- File six paper copies of public appendix volumes (five if counsel is court-appointed).
- Use electronic entry **Notice of paper filing** to reflect filing of sealed and unsealed volumes.
- Serve one paper copy of sealed and unsealed volumes on counsel (serve presentence reports only on Government counsel and counsel for defendant who is the subject of the report).

Sealed Version of Brief: All briefs are filed in **electronic and paper form**. Public briefs are served in electronic form; sealed briefs are served in paper form. There are two possible ways to file a sealed brief:

1. Option One—File Sealed Version, Public Version, and Certificate of Confidentiality if it is Possible to Create Public, Redacted Version of Brief.

- File four paper copies of sealed version of brief (with sealed material highlighted and covers marked SEALED), in an envelope marked SEALED, with four copies of certificate of confidentiality.
- File eight paper copies (six if counsel is court-appointed) of public version of brief (with sealed material redacted).
- Use electronic entry **SEALED BRIEF** to file sealed version electronically.
- Use electronic entry **Certificate of confidentiality** to file certificate electronically.
- Use electronic entry **BRIEF** to file public, redacted version electronically.
- Serve one paper copy of sealed version of brief on counsel since sealed version cannot be accessed through CM/ECF. Service of paper version of public brief is not required, but may be agreed to between parties.

2. Option Two—File Sealed Brief and Motion to Seal if it is Not Possible to Create Public, Redacted Version of Brief.

- File four paper copies of sealed brief, in an envelope marked SEALED, with four paper copies of motion to seal.
- Use electronic entry **SEALED BRIEF** to file sealed brief electronically.
- Use electronic entry **Motion / Seal** to file motion electronically. Motion must be accessible on public docket for five days prior to ruling; therefore, motion to seal **cannot**, itself, be filed under seal. If necessary, a sealed version and a public version of the motion to seal can be filed, together with a certificate of confidentiality.
- Court may require filing of a redacted, public version of brief when it rules on motion.

Sealed Version of Other Documents and Motions: Other documents and motions are filed in electronic form only. If sealed information must be included, there are two possible ways to file the document:

1. Option One—File Sealed Version, Public Version, and Certificate of Confidentiality if it is Possible to Create Public, Redacted Version of Document or Motion.

- Use electronic entry **SEALED DOCUMENT** to file sealed version electronically.
- Use electronic entry **Certificate of confidentiality** to file certificate electronically.
- Use the appropriate electronic entry (e.g., **Motion, Letter**) to file public, redacted version electronically.

2. Option Two—File Sealed Document and Motion to Seal if it is Not Possible to Create Public, Redacted Version of Document.

- Use electronic entry **SEALED DOCUMENT** to file sealed document electronically.
- Use electronic entry **Motion / Seal** to file motion to seal electronically. Motion must be accessible on public docket for five days prior to ruling; therefore, motion to seal **cannot**, itself, be filed under seal. If necessary, a sealed version and a public version of the motion to seal can be filed, together with a certificate of confidentiality.