

Procedures for the Filing of Sealed and Ex Parte Documents
For Criminal Defense Counsel

(Rev. 8/26/15)

Procedures for Filing Sealed Documents.....	2
Obtaining Leave of Court to File Sealed Materials (<i>exception: Restricted Docket Entries in Criminal Cases; Leave of Court Not Required</i>)	2
Submitting Proposed Sealed Materials for the Court’s Review	5
Filing Sealed Motions and Documents (<i>Protective Order in the case, obtaining leave of Court not required</i>).....	6
Sealed Orders	7
Procedures for Filing Ex Parte Documents.....	8
Filing Ex Parte Motions and Documents	8
Ex Parte Orders	9
Restricted Docket Entries – Criminal Cases Only	10
Sealed Plea Agreements.....	11
Sealed Motions for Downward Departure for Substantial Assistance.....	12
Sealed Motions having to do with Substantial Assistance or Cooperation	14
Orders on Restricted Motions	15
Personal Identifiers	17
Attachment A – Sample Proposed Order Granting Motion to Seal.....	18

Remember – the procedures require the Court to first rule on the motion to seal; if granted, the Clerk’s Office will then be directed to e-file the sealed document. (exception: Restricted Docket Entries in Criminal Cases; Leave of Court Not Required)

PROCEDURES FOR THE FILING OF SEALED DOCUMENTS

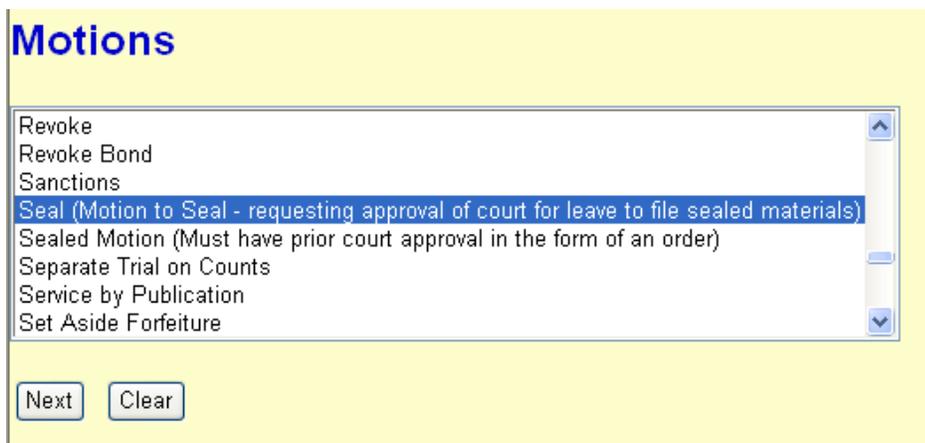
For Defense Counsel

Sealed documents will be identified on the public docket as **Sealed Motion**, **Sealed Document** or **Sealed Order**.

You must have *leave of court in the form of an order* to file sealed motions or documents. Exceptions are: **Sealed Motions to Seal** that are requesting leave of court to file sealed motions or documents; **sealed Motions for Downward Departure for Substantial Assistance**, **sealed Motions having to do with substantial assistance or cooperation**, **sealed Plea Agreements** and **sealed Responses or Replies to sealed cooperation documents**.

OBTAINING LEAVE OF COURT TO FILE SEALED MATERIALS

If you are requesting leave of court to file sealed materials, select **Motion to Seal- requesting approval of court for leave to file sealed materials** from the Motions list.



Motions

- Revoke
- Revoke Bond
- Sanctions
- Seal (Motion to Seal - requesting approval of court for leave to file sealed materials)**
- Sealed Motion (Must have prior court approval in the form of an order)
- Separate Trial on Counts
- Service by Publication
- Set Aside Forfeiture

Next Clear

Attach **only** the PDF of the motion to seal. Do not attach any other documents or your proposed order to the motion. If your motion is granted, the Clerk's Office will then e-file your proposed documents under seal.

**Attach only the PDF of the motion to seal.
DO NOT attach any other documents or your proposed order to the motion at this time pending the Courts approval.**

Select the **pdf** document (for example: C:\199cv501-21.pdf).

Filename

Attachments to Document: No Yes

Your docket entry will appear on the public docket. You can choose if the PDF can be viewed by the public or if it should be sealed and viewed only by the filer and court staff. If you select SEALED, your document can be viewed only by the filer and court staff only.

[1:12-cr-00002 USA v. Ferrante et al](#)

LC03

The docket entry, *Motion to Seal*, will appear on the public docket.

You may choose to file this motion unsealed or sealed.

Please check the appropriate radio button below.

Selecting *UNSEALED* means that the document can be viewed by all parties and the public.

Selecting *SEALED* means that the document will be sealed and cannot be viewed by the public.

You MUST choose one. CAREFULLY MAKE YOUR SELECTION

- Unsealed
 Sealed

You are instructed at the next screen to email your proposed order to the assigned judge in Word or WordPerfect format.

If you elected to file this motion as sealed, counsel must be served in paper as they cannot view the PDF.

If you elected to file this motion as unsealed, you will not need to serve counsel who are registered for electronic filing and noticing in paper as they will receive a Notice of Electronic Filing and will be able to view the PDF.

Email your proposed order to the assigned judge in Word or WordPerfect format. Include the case name and number on the subject line of your email.

Use the event **Sealed Documents-Proposed** to submit your proposed sealed materials for review by the Court.

All parties registered for CM/ECF will receive electronic notice of this filing. However, the attached document can only be viewed by court staff. Counsel must be served in paper.

This docket entry will appear on the public docket.

If you selected “sealed” your motion to seal will appear on the public docket as **-SEALED-Motion to Seal**. If you selected “unsealed” your motion to seal will appear on the public docket as **Motion to Seal**.

SUBMITTING PROPOSED SEALED MATERIALS FOR THE COURT'S REVIEW

After you have filed your Motion to Seal, select the event **Sealed Documents–PROPOSED***** from the dropdown box under **Other Filings, Other Documents** in the events menu. Use this event to attach the PDFs of your proposed order, any supporting documents, and any proposed sealed documents.

Other Documents



Sealed Documents-PROPOSED***

Next Clear

Important!

This event is **only** to be used for submitting proposed sealed materials for review by the court in conjunction with a motion to seal. This entry does not constitute a filing and does not appear on the public docket. If your Motion to Seal is granted, the Clerk's Office will be directed to file these materials using the docket event **Sealed Motion**, if your filing is a motion, or **Sealed Document**.

A Notice of Electronic Filing is not sent with this entry. The PDFs you attach can be viewed by court staff only.

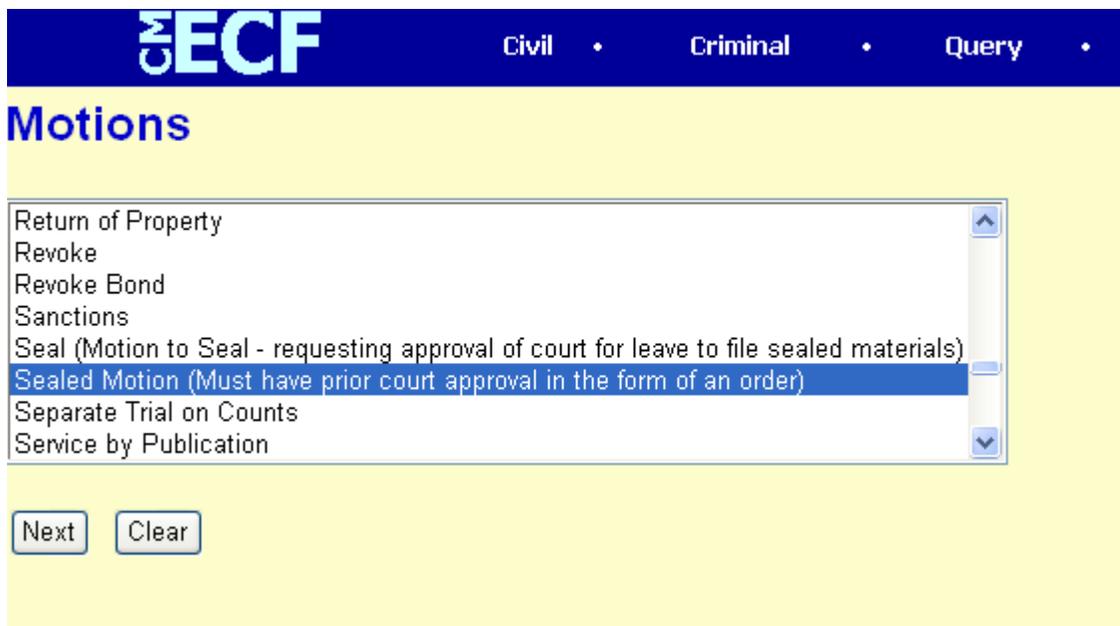
After you have obtained leave of court, in the form of an order, to file a sealed motion or other sealed documents - the Clerk's Office will be directed to file your sealed documents. The parties will receive electronic notification when the sealed documents are entered on the docket.

FILING SEALED MOTIONS AND DOCUMENTS-Protective Order in the case, obtaining leave of Court not required.

If there is a Protective Order in the case, attorneys can e-file sealed motions and documents pursuant to the Protective Order without requesting permission. The sealed document PDF can only be viewed by the filer and court staff. Sealed materials will need to be served on other counsel in paper.

If you want to file a sealed motion, select **Sealed Motion** from the Motions event list.

The motion will appear on the public docket as **Sealed Motion** and all parties registered for electronic filing and noticing will receive a Notice of Electronic Filing. Because only the filer and court staff can view the sealed PDF, all other parties will need to be served in paper.



If you want to file a sealed document *that is not a motion*, select **Sealed Document** from the dropdown box under **Other Filings, Other Documents** in the events menu.

The document will appear on the public docket as **Sealed Document** and all parties registered for electronic filing and noticing will receive a Notice of Electronic Filing. Because only the filer and court staff can view the sealed PDF, all other parties will need to be served in paper.

Other Documents

Sealed Document 

Next

Clear

SEALED ORDERS

The docket entry for sealed orders will appear on the public docket as **Sealed Order**.

A Notice of Electronic Filing will be sent to all counsel of record in the case who are registered for electronic filing and noticing.

Sealed Orders can be viewed by counsel.

PROCEDURES FOR THE FILING OF EX PARTE DOCUMENTS

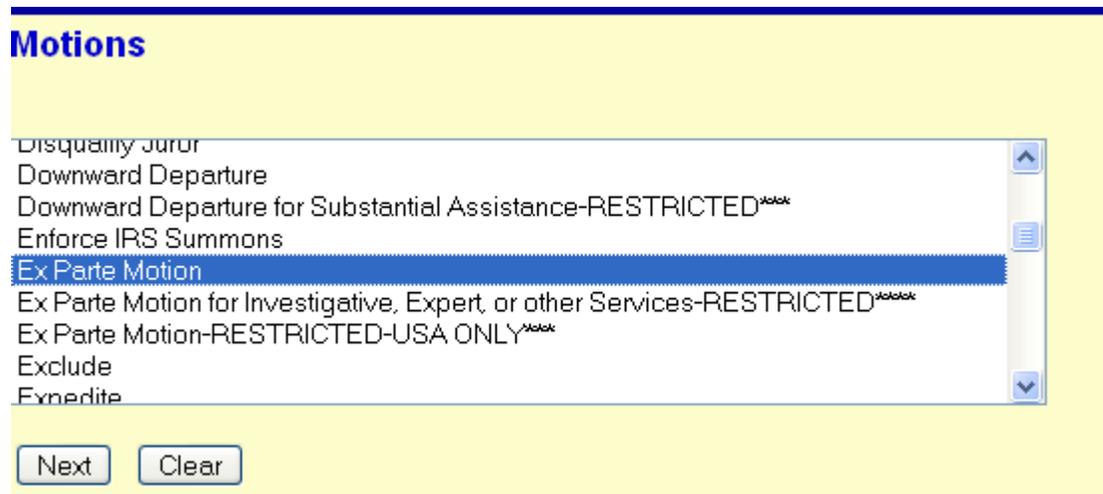
FILING EX PARTE MOTIONS AND DOCUMENTS

Ex Parte documents will be identified on the public docket as **Ex Parte Motion**, **Ex Parte Document** or **Ex Parte Order**.

When Ex Parte materials are e-filed by an attorney, a Notice of Electronic Filing will be sent to all parties who are registered for electronic filing and noticing. Only the counsel for the filing party and court staff will be able to view the PDF.

EX PARTE MOTIONS

Select **Ex Parte Motion** from the Motions events menu. Attach the PDF of your motion. If you have any supporting documents to file, use the **Ex Parte Document** event from the dropdown box under **Other Filings, Other Documents** in the events list.



Motions

- Disqualify Juror
- Downward Departure
- Downward Departure for Substantial Assistance-RESTRICTED^{XXXX}
- Enforce IRS Summons
- Ex Parte Motion**
- Ex Parte Motion for Investigative, Expert, or other Services-RESTRICTED^{XXXX}
- Ex Parte Motion-RESTRICTED-USA ONLY^{XXXX}
- Exclude
- Expedite

Next Clear

Important! If you are requesting oral or telephonic hearing on your Ex Parte motion, contact the Courtroom Deputy to arrange a date and time.

EX PARTE ORDERS

The docket entry for Ex Parte orders will appear on the public docket as **Ex Parte Order**. A Notice of Electronic Filing will be sent to all parties who are registered for electronic filing and noticing.

The PDF can only be viewed by court staff and by counsel for the applicable party.

RESTRICTED DOCKET ENTRIES – CRIMINAL CASES ONLY

The U.S. Judicial Conference policy states that documents such as sealed motions for downward departure for substantial assistance, ex parte motions for investigative, expert or other services, and sealed plea agreements should not be included in the public case file.

The following events are restricted events that do not show on the public docket. *** Denotes a restricted entry:

Sealed Plea Agreement***

Sealed Motion for Downward Departure for Substantial Assistance-RESTRICTED***

RESTRICTED-Memorandum*** (this is only used for a sealed Sentencing Memorandum having to do with downward departure for substantial assistance, a Sealed Memorandum in Support of a Sealed Motion for Downward Departure for Substantial Assistance, or a sealed Response/Reply to Sealed Motion for Downward Departure for Substantial Assistance).

Sealed Motion-RESTRICTED*** (this is used for motions having to do with substantial assistance or cooperation. EX: A Sealed Motion to Continue Pretrial and Trial dates *due to the fact that the defendant is cooperating.*)

Ex Parte Motion for Investigative, Expert or Other Services-RESTRICTED***

NOTE: Leave of Court is not required to file the restricted documents identified above (i.e., no Motion to Seal is required).

SEALED PLEA AGREEMENTS

Sealed Plea Agreement*** (located under **Other Filings, Other Documents**)

Other Documents

Plea Agreement-Sealed^{10/20/06} 

This entry will not show on the public docket. No Notice of Electronic filing will be sent. The PDF can be viewed by court staff only. Please make sure your PDF document has the word **Sealed** in the caption. You will need to serve counsel and Probation in paper.

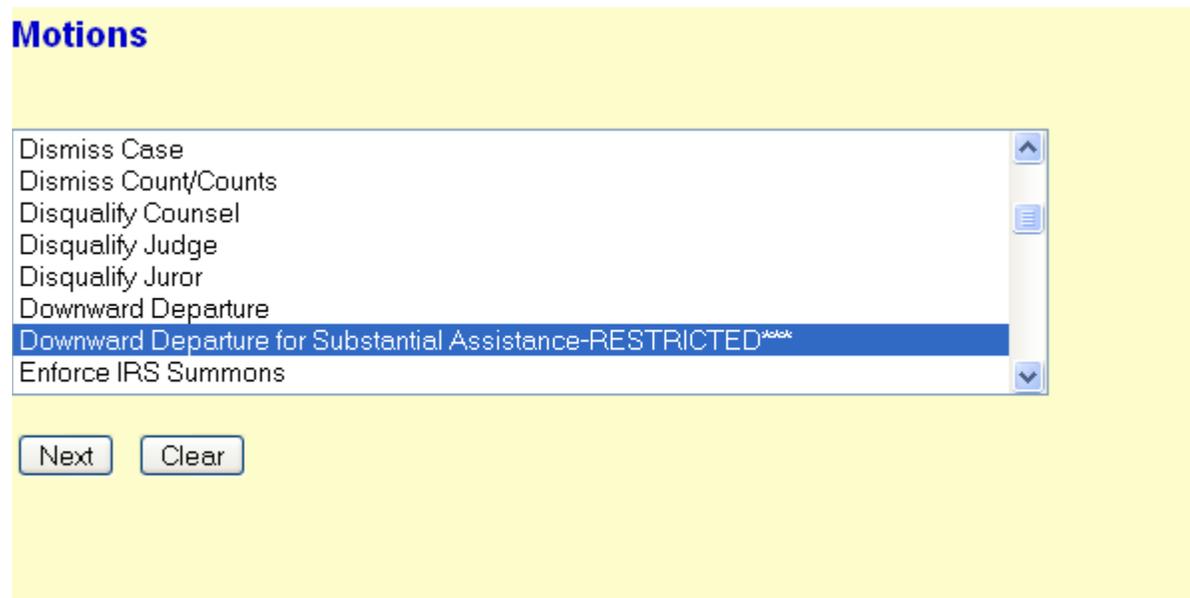
NOTE:

The event **PROPOSED Plea Agreement***** (located under **Other Filings, Other Documents**) is to be used to submit both sealed and unsealed plea agreements for review by the court **prior** to a change of plea hearing. This entry will not show on the public docket. No Notice of Electronic filing will be sent. The PDF can be viewed by court staff only. You will need to serve counsel and Probation in paper.

SEALED MOTIONS FOR DOWNWARD DEPARTURE FOR SUBSTANTIAL ASSISTANCE

Use the event **Motion for Downward Departure for Substantial Assistance-RESTRICTED***** to file your sealed motion.

Motions



Dismiss Case
Dismiss Count/Counts
Disqualify Counsel
Disqualify Judge
Disqualify Juror
Downward Departure
Downward Departure for Substantial Assistance-RESTRICTED***
Enforce IRS Summons

Next Clear

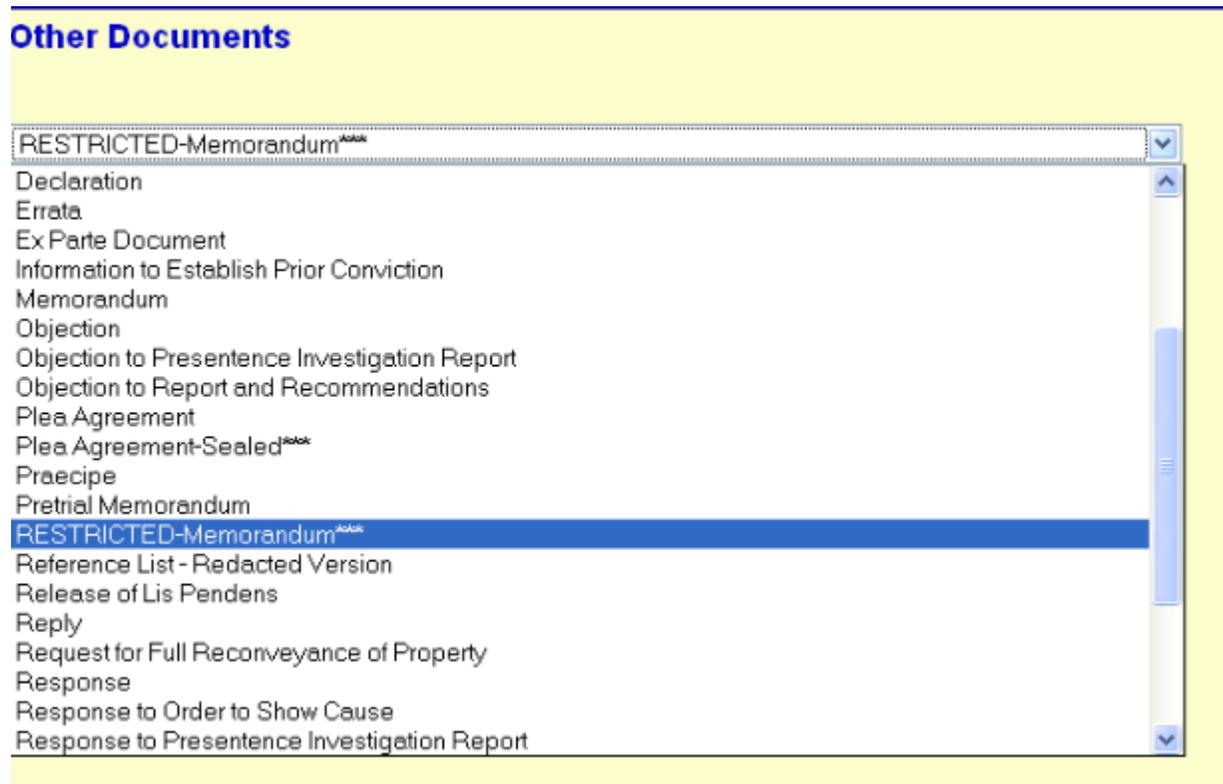
No Notice of Electronic Filing will be sent. You will need to serve other counsel and Probation in paper. Because this is a restricted entry, you will attach the proposed order, if any, in PDF format. You will need to email your proposed order to the court in Word or WordPerfect format.

Important!

If you are requesting oral or telephonic hearing on a restricted motion, contact the Courtroom Deputy to arrange a date and time.

Use the event **RESTRICTED-Memorandum***** (located under **Other Filings, Other Documents**) to e-file your sealed **Sentencing Memorandum** having to do with downward departure for substantial assistance or your sealed **Memorandum in Support** of your sealed Motion for Downward Departure for Substantial Assistance.

Use this event to file your **response** or **reply** to the sealed Motion for Downward Departure for Substantial Assistance.

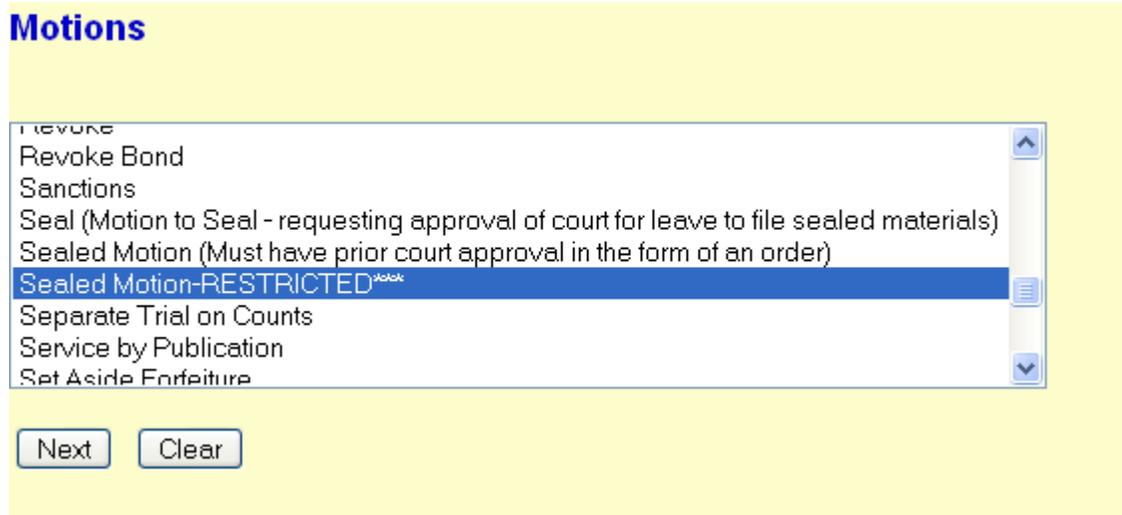


This entry does not appear on the public docket. No Notice of Electronic filing is sent. This document can be viewed by court staff only. You will need to serve counsel and Probation in paper.

OTHER SEALED MOTIONS HAVING TO DO WITH SUBSTANTIAL ASSISTANCE OR COOPERATION (EX: A Sealed Motion to Continue Pretrial and Trial Dates due to the fact that the defendant is cooperating.)

Use the event **Sealed Motion -RESTRICTED***** to file your sealed motion.

If this is a sealed Motion for Downward Departure for Substantial Assistance, do not use this event, use Motion – Downward Departure for Substantial Assistance – RESTRICTED***.



No Notice of Electronic Filing will be sent. You will need to serve other counsel and Probation in paper. Because this is a restricted entry, you will attach the proposed order and any supporting documents, if any, in PDF format. You will need to email your proposed order to the court in Word or WordPerfect format.

Important!

If you are requesting oral or telephonic hearing on a restricted motion, contact the Courtroom Deputy to arrange a date and time.

ORDERS ON RESTRICTED MOTIONS

The docket entry for orders on restricted motions will not appear on the public docket.

Orders on sealed restricted motions will be mailed to applicable parties. No Notice of Electronic will be sent.

On ex parte restricted motions, the orders will be sent electronically. The Notice of Electronic filing, the docket entry, and the PDF can only be viewed by court staff and by counsel for the parties designated by the Court.

PERSONAL IDENTIFIERS

You should not include sensitive information in any document filed with the court unless such inclusion is necessary and relevant to the case. You must remember that any personal information not otherwise protected will be made available over the Internet via PACER. If sensitive information must be included, certain personal identifiers must be partially redacted from the pleading or document (e.g., use only the last four digits of a social security number, the initials of a minor child's name, the year for an individual's date of birth, the last four digits of a financial account number, and in criminal cases the city and state for a home address that must be included, etc.).

Please refer to the Electronic Case File Access and Privacy notice at:

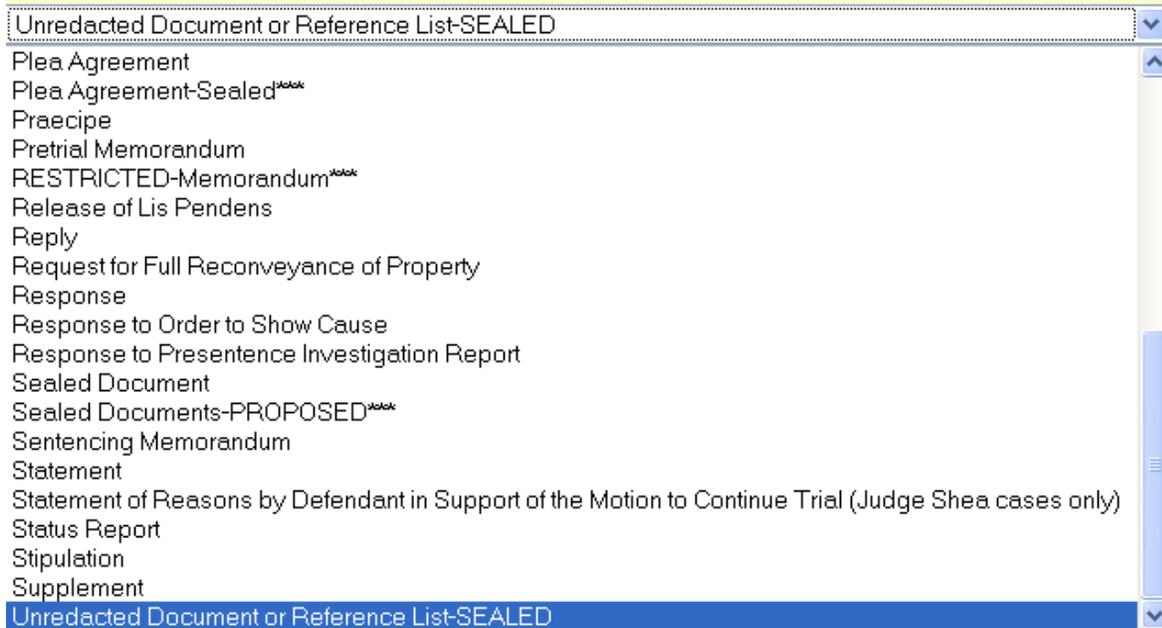
http://www.waed.uscourts.gov/sites/default/files/u90/elect_case_access-privacy.pdf.

Option for Additional Unredacted Filing Under Seal / Option for Filing Reference List

Pursuant to the Federal Privacy Rules, a person making a redacted filing may also file an unredacted copy under seal (Fed. R. Crim. P. 49.1 (f)). Another option is to file a reference list (Fed. R. Crim. P. 49.1 (g)). [To view these rules in their entirety, see the Federal Privacy Rules Brochure at: http://www.waed.uscourts.gov/sites/default/files/u90/Fed_R_Crim_P_49-1.pdf]

Use the event **Unredacted Document or Reference List** located in **Other Filings, Other Documents** to file your unredacted document (containing personal identifiers) or reference list under seal. A prior court order is not necessary if the document or reference list is filed pursuant to Fed. R. Crim. P. 49.1.

Other Documents



A screenshot of a dropdown menu titled "Other Documents". The menu is open, showing a list of document types. The top and bottom items are "Unredacted Document or Reference List-SEALED". The middle items are: "Plea Agreement", "Plea Agreement-Sealed^{XXXX}", "Præcipe", "Pretrial Memorandum", "RESTRICTED-Memorandum^{XXXX}", "Release of Lis Pendens", "Reply", "Request for Full Reconveyance of Property", "Response", "Response to Order to Show Cause", "Response to Presentence Investigation Report", "Sealed Document", "Sealed Documents-PROPOSED^{XXXX}", "Sentencing Memorandum", "Statement", "Statement of Reasons by Defendant in Support of the Motion to Continue Trial (Judge Shea cases only)", "Status Report", "Stipulation", and "Supplement". The bottom item, "Unredacted Document or Reference List-SEALED", is highlighted in blue. The menu has a scroll bar on the right side.

- Unredacted Document or Reference List-SEALED
- Plea Agreement
- Plea Agreement-Sealed^{XXXX}
- Præcipe
- Pretrial Memorandum
- RESTRICTED-Memorandum^{XXXX}
- Release of Lis Pendens
- Reply
- Request for Full Reconveyance of Property
- Response
- Response to Order to Show Cause
- Response to Presentence Investigation Report
- Sealed Document
- Sealed Documents-PROPOSED^{XXXX}
- Sentencing Memorandum
- Statement
- Statement of Reasons by Defendant in Support of the Motion to Continue Trial (Judge Shea cases only)
- Status Report
- Stipulation
- Supplement
- Unredacted Document or Reference List-SEALED

Note: A **redacted copy for the public file** must be filed with the Court. Use the appropriate event to e-file your motion or document, and attach a PDF with the appropriate redactions.

1
2
3 UNITED STATES DISTRICT COURT
4 EASTERN DISTRICT OF WASHINGTON

5
6 Plaintiff,) NO.
7)
8 -vs-) ORDER GRANTING
9) MOTION TO SEAL
10 Defendant.)
11 _____)

12
13 Before the Court is [Plaintiff's] [Defendant's] Motion to Seal, filed _____, **ECF No.**
14 [____].

15 The Court has reviewed the Motion and the supporting documents and is fully
16 informed. Accordingly,

17 **IT IS ORDERED** that:

18 1. The [Plaintiff's] [Defendant's] Motion to Seal, filed _____, **ECF No.** [____], is
19 **GRANTED.**

20 2. The District Court Executive is directed to file the proposed
21 sealed documents at **ECF No.** [] as sealed.

22
23 The District Court Executive is directed to file this Order and provide copies to
24 counsel.

25 **DATED** this ____ day of _____, _____.

26 _____
UNITED STATES DISTRICT JUDGE