

# New District Wide Procedures For Electronically Filing Sealed and Redacted Documents

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The United States Bankruptcy Court for the Northern District of California has adopted procedures authorizing registered participants to electronically file sealed and redacted documents in adversary proceedings and bankruptcy cases.

## **REQUIREMENTS:**

No document may be filed under seal or redacted and made a part of the record (i.e., closed to inspection by the public) except pursuant to a court order that authorizes the sealing of the particular document or redaction of portions thereof. An order authorizing sealing or redacting may be issued only upon a request that establishes that the document or portions thereof, are privileged, protectable as a trade secret or otherwise entitled to protection under the law. The request must be narrowly tailored to seek sealing only of sealable material, and must conform to Civil L.R. 79-5(d).

A party wishing to file a sealed or redacted document should comply with Civ. L.R. 79-5 (incorporated by B.L.R. 1001-2(c)). See also Fed. R. Bankr. P. 9018. Sealing or redacting filed documents is disfavored under the law and by this court (see 11 U.S.C. § 107); accordingly, any motion to file under seal or redact must satisfactorily explain why the court should disregard the policy of open access to public documents. Parties opposing such a request should respond as soon as possible, since the court will normally act on any such matter promptly and without a hearing.

Review all information pertaining to sealed or redacted documents and the detailed docketing instructions posted on the Court's Website at <http://www.canb.uscourts.gov/ecf/efiling-manual/sealed-events>. This will avoid docketing errors and unintentional disclosure of confidential information.

## **GUIDELINES:**

- A new Sealed Event category has been created in CM/ECF for all related sealed events.
- Parties no longer have to produce and submit hard copies to the court *unless* the presiding judge requires chamber copies.
- The court will no longer have to physically secure paper sealed or redacted documents.
- The presiding judge and designated staff will receive electronic access to sealed or redacted documents.
- Sealed or redacted documents will be restricted from public access.
- These procedures do not apply to redacted filings authorized by Fed. R. Bankr P. 9037. That rule permits certain redactions without an order of the court.
- Motions to Redact and Motions to File Redacted Document are two separate events and serve two different purposes:

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- **Motion to Redact:** This event is used when a filing party is requesting to redact or limit public access to personal identification (see Fed. R. Bankr. P. 9037) already filed with the court (e.g., claim form includes full SSN or pleading includes a full bank account number). This event is under the Motion Category in CM/ECF and requires a fee of \$25.00.
- **Motion to File Redacted Document:** This event shall be used when a party is requesting to redact certain information from a document prior to filing with the court (e.g., tax documents, financial statement, etc.). This event is located under the Sealed Events Category in CM/ECF and does not require a fee.

### CM/ECF FILING SEQUENCE FOR SEALED DOCUMENTS:

1. **File Motion to File Document under Seal.** The docket entry and motion will be viewable. **DO NOT ATTACH** sealed documents to this event.
2. **File Proposed Sealed Document.** The document must be clearly marked “PROPOSED DOCUMENT FILED UNDER SEAL.” The docket entry will be viewable but the document will be restricted. When clicking on the hyperlink, a message will display: **“You do not have access to the restricted document.”**
3. **Upload Order re: Motion to File Document under Seal.**
4. **Judge will review order, motion and the proposed documents.**
  - A. **If Motion is granted:** The Proposed Document(s) Filed under Seal will remain sealed and become a part of the record. The Clerk will annotate the original docket entry as follows: PROPOSED SEALED DOCUMENT(S) APPROVED – REFER TO DOCKET ENTRY #\_\_.
  - B. **If Motion is denied:** The Proposed Document Filed under Seal will remain on the docket with access restricted but will not become a part of the record. The Clerk will annotate the original docket entry: PROPOSED SEALED DOCUMENTS DENIED – REFER TO DOCKET ENTRY #\_\_.

### CM/ECF FILING SEQUENCE FOR REDACTED DOCUMENTS:

1. **File Motion to File Redacted Document.** The docket entry and motion will be viewable to the public. DO NOT ATTACH restricted documents to this event.
2. **File Unredacted Version of the Proposed Redacted Document.** The document must be clearly marked “UNREDACTED VERSION OF THE PROPOSED REDACTED DOCUMENT. The docket entry will be viewable but the document will be restricted. When clicking on the hyperlink, a message will display: “You do not have access to the restricted document.” The filer must highlight (in yellow) that portion of the document to be redacted. This enables the court to distinguish between public and confidential material and minimize the possibility that the court will accidentally disclose the restricted information in open court or in an order or decision. (e.g., Here is an example of a sentence containing an unredacted amount of **\$1,000,000**.).

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**3. File Redacted Document.** The redacted version may be entered on the docket and the document must be clearly marked “REDACTED VERSION OF (include the name of the document).” The redacted information must be concealed (e.g., Here is an example of a sentence containing a redacted amount of [REDACTED]). The docket entry and redacted version will be viewable.

**4. Upload Order re: Motion to File Redacted Document.**

**5. Judge will review order, motion and proposed documents:**

**A. If Motion is granted:** The Redacted version of the Proposed Redacted Document will remain as part of the record. The Clerk will annotate the original docket entry: PROPOSED REDACTED DOCUMENT APPROVED – REFER TO DOCKET ENTRY #\_\_.

**B. If Motion is denied:** The Unredacted Version and Redacted Document will be restricted and not become a part of the record. The Clerk will annotate the original docket entry: PROPOSED REDACTED DOCUMENT DENIED – REFER TO DOCKET ENTRY #\_\_.