

Filing Documents Under Seal

Issue Date

October 11, 2011

Purpose

This procedure is written to guide the electronic filer through the process of filing a **motion to seal documents**.

General Rule

The general rule is that documents filed in a bankruptcy case are public records open to examination, under Section 107 of the Bankruptcy Code and Bankruptcy Rule 9018. The court may order that certain documents be filed under seal. Documents filed under seal will result in only certain parties having access to it and may even result in only limited court staff having access.

Documents ordered to be filed under seal are an exception from electronic filing requirements and shall be submitted in paper or via email to ensure that the proper access is granted pursuant to the Order.

Difference Between Sealing Document vs. Restricting Access

A request to *seal* a document is different than a request to *restrict* access. A request to seal a document requires a motion and order to seal the document before the document is filed.

A request to *restrict* a document requires a proposed order *only* before the Clerk's Office can restrict access to the document already filed. Some common reasons for filing a request to restrict include:

- Statement of Social Security Number is attached to the voluntary petition;
- Statement of Social Security Number is filed using an incorrect event;
- Statement of Social Security Number pdf file is uploaded when filing a Statement of Intention; and
- Tax Returns or Payment Advices are inadvertently filed with the Court.

If access needs to be restricted to a document or an attachment to a document already filed because of an error, it is not necessary to file a motion to seal document. Prepare a proposed order to the judge which explains (1) how the document image came to be filed and made available on the docket and (2) why

viewing access to the document should be restricted. The order may be submitted *ex parte*.

Procedure

STEP	ACTION
1	<p>Prepare the motion to seal documents. The motion should explain why the documents need to be filed under seal without disclosing the information that is to be sealed since the motion itself will be electronically filed and will be available to the public.</p> <p>Note: If the motion itself needs to be sealed, file the motion, proposed order and sealed documents in paper or via e-mail with a cover letter to the bankruptcy judge explaining why it is necessary to keep the motion itself sealed.</p>
2	<p>Log in to CM/ECF at https://ecf.nmb.uscourts.gov</p> <p>Click on Search in the blue menu bar.</p>
3	<p>In the Search box, type Seal Document</p> <p>The event Seal Document (Motion) will appear under both the Adversary and Bankruptcy headings.</p> <p>Make the appropriate selection.</p>
4	<p>Enter case number and click Next. The event will appear on the right side of the screen under Selected Events.</p> <p>Click on the Next button.</p>
5	<p>Select debtor(s) as party and upload motion pdf file.</p> <p>Note: remember to view the file first in the browse window to ensure the correct pdf file is uploaded.</p>
6	<p>If the document needing to be sealed is already on the docket, select the document(s) which will be sealed by selecting the box to Refer to existing event(s).</p>

STEP	ACTION
	<ul style="list-style-type: none"> • Select all the category to which your event relates, and click Next. • Select the documents, and click Next. • Review final docket text; if okay, click Next.
7	<p>Draft an Order granting the motion and submit it to the appropriate judge.</p> <p>The proposed order must contain the following language which serves as instructions for submitting the sealed documents to the Clerk’s Office:</p> <div style="border: 1px solid black; padding: 10px; margin: 10px 0;"> <p>The documents ordered to be filed under seal must be submitted for filing either (i) as an attachment to an email sent to web_ops@nmcourt.fed.us, or, (ii) in paper form to the Clerk of the Bankruptcy Court in a sealed envelope with a copy of this order attached to the outside of the envelope. If the filing is made as an attachment to an email sent to web_ops@nmcourt.fed.us:</p> <p>(a) a copy of this order must be attached to the email in addition to the document to be filed under seal</p> <p>(b) the subject line of the email message must state the case name and number, and SUBMISSION OF DOCUMENT TO BE FILED UNDER SEAL,</p> <p>(c) the text of the email message must state something to the effect “Please direct this message to Operations Management. Attached is a document to be filed under seal and the order directing the filing of the document under seal,” and</p> <p>(d) there is no guarantee the document will be filed on the same date that the email was sent.</p> </div>

STEP	ACTION
	<p>Instructions for submitting a proposed order are available in the Electronic Filing Manual at:</p> <p>http://www.nmb.uscourts.gov/files/online_atty_manual/Order_Upload.htm</p>
8	<p>If the motion is granted, after the order is docketed, you will receive e-mail notification of the docketing of the order from the ECF System (if you have properly enabled email notification).</p>
9	<p>A Notice of Electronic Filing (NEF) will not be generated when the sealed document is entered on the docket. As a result, the filer of the sealed document must make and certify service of the sealed document in another manner, as required.</p>

Whom to Contact for Help

Please contact the Court's Electronic Information Specialists for assistance at 505-348-2500 or toll-free at 866-291-6805 - select option 3. The help desk hours are 8:30 a.m. to 4:30 p.m., Monday through Friday.

Date	Comments	By
9/9/13	Revised to include information regarding submission of sealed documents; i.e. the language to be included in the proposed order.	MLS