

UNITED STATES DISTRICT COURT
FOR THE
EASTERN AND WESTERN DISTRICTS OF KENTUCKY

JOINT GENERAL ORDER 11- 01

IN RE: SEALED DOCUMENTS: AMENDMENT TO JOINT GENERAL ORDER 06-01

Effective March 15, 2011, Sections One (1), Eight (8) and Nine (9) of the Amended Electronic Case Filing Administrative Policies and Procedures with regard to sealed and *ex parte* documents are amended as follows:

- 1.8 **“Sealed Document”** is defined as a document or motion filed pursuant to (1) a protective order, (2) an order granting leave to file the sealed document or motion, in conjunction with a motion for leave to seal or a previously filed redacted document, or (3) included within a category of documents considered sealed under a federal statute or federal rule of procedure, local rule, or standing order of this court. **The sealed document or motion is not available electronically or by any other means to the parties, attorneys or the public.**

8. **SEALED AND EX PARTE DOCUMENTS**

8.1 **SEALED DOCUMENTS**

(a) Procedure.

- (1) **Civil Motion for Leave to Seal.** A party seeking to file a sealed document shall electronically file a motion for leave to seal. The motion must state why sealing is required and whether redaction could eliminate or reduce the need for sealing. A motion for leave to seal is not required if the document is (1) already subject to a protective order or (2) included within a category of documents considered sealed under a federal statute or federal rule of procedure, local rule, or standing order of this court. The motion for leave to seal and any attachments to the motion to seal will be available electronically to the public.

- (2) **Criminal Motion for Leave to Seal.** A party seeking to file a sealed document shall electronically file a motion for leave to seal. The motion must state why sealing is required and whether redaction could eliminate or reduce the need for complete sealing. A motion for leave to seal is not required if the document is (1) already subject to a protective order or (2) included within a category of documents considered sealed under a federal statute or federal rule of procedure, local rule, or standing order of this court. The motion for leave to seal, any attachments to the motion for leave to seal, the document(s) subject to the motion, and any response or reply thereto, will not be available electronically or by any other means. The filing party must use alternate forms of service to provide any parties entitled to notice with a copy of the document.
 - (3) **Sealed Document.** The document to be sealed must not be attached to the motion, but rather must be electronically filed separately as a provisionally sealed document. This document stays provisionally sealed until the court rules on the motion to seal.
 - (4) **Delegation to Strike.** The Clerk of Court, or designee, is authorized to strike from the record a sealed document electronically filed in error. A notice of the action striking a document from the record shall be served on all parties in the case.
 - (5) **Order.** When documents are ordered to be placed under seal, the Clerk will officially file the documents.
 - (6) **Access to Sealed Documents.** Sealed documents will be electronically accessible only to the Court. Upon the filing of a notice of appeal to the Sixth Circuit Court of Appeals, electronic access to sealed documents in the record on appeal will depend upon the policy of the Sixth Circuit.
- (b) **Notice.** When a sealed document is filed, ECF provides notice of electronic filing to all parties in the case. A sealed document will not be available electronically to parties, attorneys or the public. The sealed document will be available electronically to the Court. The filing party must use alternate forms of service to provide any parties entitled to notice with copies of the sealed document.
 - (c) **Docket Sheet Entries.** When a sealed document is filed, an entry appears on the public electronic docket sheet. The parties, attorneys and the public do not have electronic access to the sealed document.

- (d) Motion to Unseal. A motion to unseal or obtain a copy of a sealed document may be made on any legal grounds.
- (e) Privacy Policy. Federal rules support compliance with the E-Government Act. See Fed. R. Civ. P. 5.2; Fed. R. Crim. P. 49.1. Parties and their attorneys are responsible under the rules for preventing disclosure of certain confidential information in case filings. **The clerk does not review case filings for compliance or independently redact or seal noncomplying filings.**

8.2. EX PARTE DOCUMENTS

- (a) Procedure.
 - (1) *Ex parte* Motion. A party seeking to file an *ex parte* motion shall electronically file an *ex parte* motion with attachments.
 - (2) Parties must ensure an *ex parte* motion is proper in light of the substantive, procedural and ethical rules that apply in the context of the filing.
- (b) Docket Sheet Entries. When an *ex parte* motion is filed, an entry appears on the public electronic docket sheet. An *ex parte* motion and attachments are not available electronically or by any other means to the parties, attorneys or the public.

8.3. DOCUMENTS IN A SEALED CASE

- (a) Procedure.
 - (1) Motion to Seal Case. A party seeking to seal a case shall electronically file a motion to seal. The motion must state why sealing is required and whether redaction could eliminate or reduce the need for complete sealing.
 - (2) Criminal Motion to Seal Case. A criminal motion to seal, any attachments to the motion, and any response or reply thereto, will not be available electronically or by any other means. The filing party must use alternate forms of service to provide any parties entitled to notice with a copy of the document filed in a criminal case.
 - (3) Order. When a motion to seal a case is granted, the case will not be available electronically or through any other means to the parties, attorneys or the public.

