

Instructions for Electronically Filing Sealed Documents Under LBR 5005.1, Appendix 1-01, Section VI

These instructions explain how to electronically file a motion for leave to file under seal. Following these instructions will meet the requirements in the Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means in LBR 5005.1, Appendix 1-01, Section VI.

These instructions also explain how to electronically file items if the court ordered you to file a document or non-document item under seal.

To avoid disclosing sensitive or confidential information, please follow these instructions carefully. If you have any questions or problems while filing you may contact the Clerk's Office for assistance.

- A. *How to File a Motion and Exhibits That Do Not Contain Sensitive or Confidential Materials.* Unless the court has ordered otherwise or the exception in subsection I.C of LBR 5005.1, Appendix 1-01 applies (excusing pro se parties or attorneys from electronically filing), a movant must electronically file any motion for leave to file under seal (hereinafter "motion") by using the "File Under Seal" event. In CM/ECF go to:

Bankruptcy > Motions/Applications > File Under Seal
or
Adversary > Motions > File Under Seal.

The motion and any attachments filed using this event will be publicly visible documents.

1. *Contents of the Motion.* The motion must briefly describe the documents and non-document items (e.g., computer hard drives) that the movant seeks permission to file under seal and must explain why the court should exercise its authority to seal the documents and non-document items at issue.
 - a. If the movant seeks leave to serve the motion and its attachments on a restricted number of recipients, the motion must explain the reasons why service of the motion and its attachments should be served upon fewer than:
 - i. All parties, if the case is an adversary proceeding, or
 - ii. All parties listed in the matrix, if the case is not an adversary proceeding.
 - b. If the movant seeks leave to serve sensitive or confidential exhibits (which must be filed separately from the motion as described below in paragraph B) upon a restricted number of recipients, the motion must

explain the reasons why service of the sensitive or confidential exhibits should be served upon fewer than:

- i. All parties, if the case is an adversary proceeding or
- ii. All parties listed in the matrix, if the case is not an adversary proceeding.

2. ***The Movant Must Not*** attach to the motion a copy of documents that the movant seeks leave to file under seal, and the motion itself ***must not*** disclose the substance of the sensitive or confidential information. Sensitive or confidential information and exhibits must be filed separately, as described in paragraph B. However, affidavits or declarations that do not disclose the sensitive or confidential information may be attached in support of the motion.
3. Unless otherwise ordered by the court, the movant must serve the motion and a notice with an opportunity to object upon:
 - a. All parties (if the case is an adversary proceeding),
 - b. All parties listed in the matrix (if the case is not an adversary proceeding), or
 - c. The smaller set of recipients that the movant described in the motion. (See paragraph A.1.a.) The motion need not be set for hearing unless a timely objection is filed or the court instructs otherwise.

B. *How to File Sensitive or Confidential Documents Separately From the Motion.*

1. At the time that a motion for leave to file under seal is filed, the movant must use the “Confidential Material Submitted Under Seal” event to electronically submit a copy of each document that the movant moves the court to file under seal. In CM/ECF go to:

Bankruptcy > Other > Confidential Material Submitted Under Seal
or
Adversary > Other > Confidential Material Submitted Under Seal.

2. If other documents in support of the motion (e.g., declarations, affidavits, or written descriptions of any non-document item that the movant asks leave to file under seal) contain sensitive or confidential information, they may be filed as separate electronic files using the “Confidential Material in Support of Motion” event. In CM/ECF go to:

Bankruptcy > Other > Confidential Material Submitted Under Seal
or
Adversary > Other > Confidential Material Submitted Under Seal.

3. Each document must be submitted or filed as a separate electronic file. (For example, a settlement agreement would be submitted as one file and a

description of the sensitive contents of a hard drive would be submitted as a separate file because each is a distinct document).

4. Documents submitted or filed using the “Confidential Material Submitted Under Seal” event in CM/ECF are automatically placed under seal until the Court orders otherwise.
5. Before electronically submitting or filing sensitive or confidential exhibits, movant may mark such documents with a legend or watermark indicating that they were electronically submitted or filed under seal. The legend or watermark must not make the contents of the document illegible nor change the substantive content of the document.
6. Unless otherwise ordered by the court, at the time sensitive or confidential exhibits are submitted or filed, copies must be served upon:
 - a. All parties (if the case is an adversary proceeding),
 - b. All parties listed in the matrix (if the case is not an adversary proceeding), or
 - c. The smaller set of recipients that the movant described in the motion. (See paragraph A.1.b.).

C. *Submit a Proposed Order.* The movant must electronically upload a proposed order promptly after the objection deadline has expired (if no objections were filed) or after a hearing on any objection. See LBR 9004.1(c). In CM/ECF, go to:

Bankruptcy > Order Upload
or
Adversary > Order Upload.

D. *Actions to Take After Entry of the Order.*

1. If the court grants leave to file a document under seal that was previously submitted using the “Confidential Material Submitted Under Seal” event, the Clerk will add an annotation to the docket to indicate that the document was deemed filed under seal to the extent indicated in the court’s order.
2. If the court grants leave to file a non-document item under seal, the movant must physically deliver the non-document item to the Clerk’s Office.
3. If the court orders a document to be filed under seal before the document was electronically submitted in CM/ECF (e.g., if the court orders a party to file a document *sua sponte* or in response to an oral motion), then the person who was ordered to file the document under seal must use the “Confidential Material Submitted Under Seal” event to electronically file a copy of the document as a separate file. In CM/ECF go to:

Bankruptcy > Other > Confidential Material Submitted Under Seal
or
Adversary > Other > Confidential Material Submitted Under Seal.

The Clerk will add an annotation to the docket to indicate that the document was deemed filed under seal to the extent indicated in the court's order.

4. The movant must serve a copy of sealed documents consistent with the court's order, and must file a certificate of service so certifying.
5. The Clerk's Office will grant access to sealed documents and non-document items only to the extent permitted by court order.

E. *Paper Filings and Original Items.* The Clerk will scan and electronically file paper motions and submissions (by *pro se* filers and attorneys excused from electronic filing) consistent with the procedures outlined above. Paper originals and non-document items are returned or destroyed consistent with LBR 5003.2(b) (withdrawal and disposition of court records).