



Criminal Electronic Case Filing

Attorney Manual

SEALED DOCUMENT FILING PROCEDURES

AUGUST 2008

G. Sealed Documents

Unless otherwise ordered by the presiding judge, requests for Rule 17 subpoenas and supplements to plea agreements will be automatically sealed. If a party wants any other document to be sealed (including a notice of a court proceeding), he/she must file a motion to seal the document. The document shall be temporarily placed under seal until the court rules upon the motion to seal. Electronic access to sealed documents is limited to specific court users that have sealed access.

To file a sealed document that requires leave of court, you must have a motion to seal, a proposed order to seal, and the proposed sealed document.

A party filing a proposed sealed document must serve a paper copy of the document upon any other party who is entitled to receive it and should retain a copy for their own use.

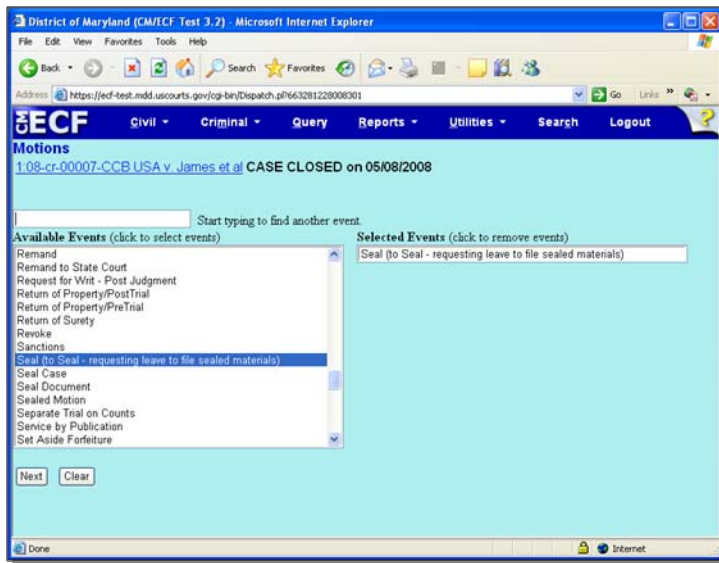
Attorneys can file the required documents through CM/ECF or, if preferred, may submit them to the Clerk's Office for filing. Regardless of whether you file your documents electronically or submit them to the Clerk's Office, the docket entry will appear on the public docket. You can choose whether the motion to seal itself can be viewable to the public (unsealed) or not (sealed).

To have the Clerk's Office file on your behalf, you must submit a cover letter detailing what is being filed under seal along with PDF versions of the required documents on a CD. Your cover letter must specify whether you want the motion to seal itself to be unsealed or sealed.

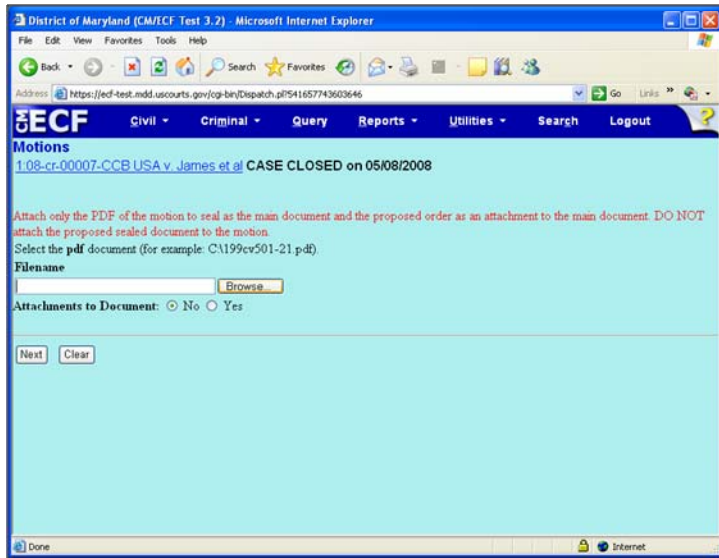
Once the court grants the motion to seal, Clerk's Office staff will modify the docket entry from "Proposed Sealed Document" to "Sealed Document". When this modification is made, the document is deemed filed. An NEF will not be generated for the sealed document modification. The docket entry is viewable. However, the document itself will not be accessible.

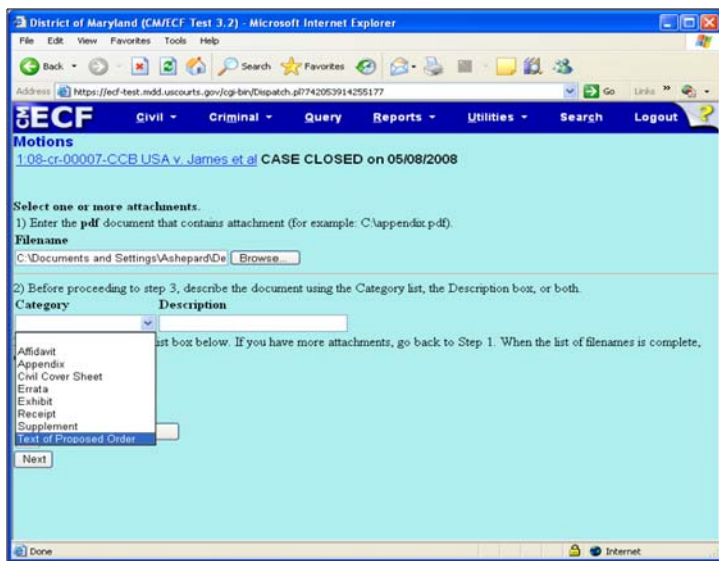
a. Filing your Motion to Seal

Step 1: If you are requesting leave of court to file a sealed document, Click Criminal, Motions, enter your case number and click Seal (to Seal – requesting leave to file sealed materials) from the Motions List.

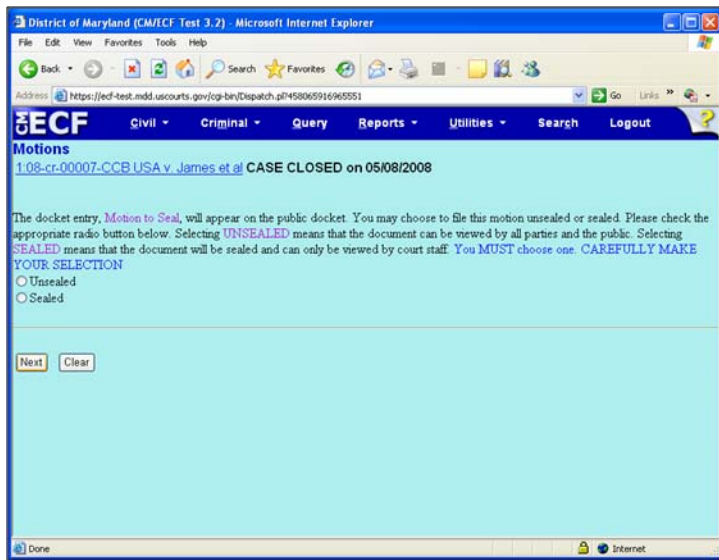


Step 2: Attach your Motion to Seal and add your proposed order as an attachment to your motion.





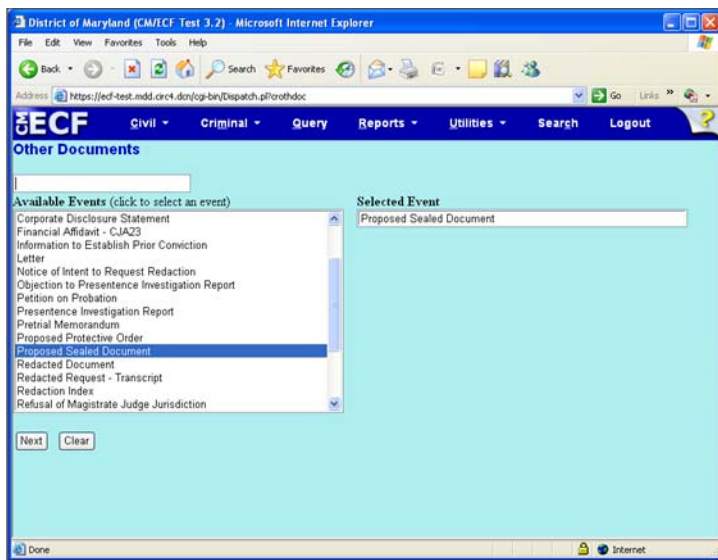
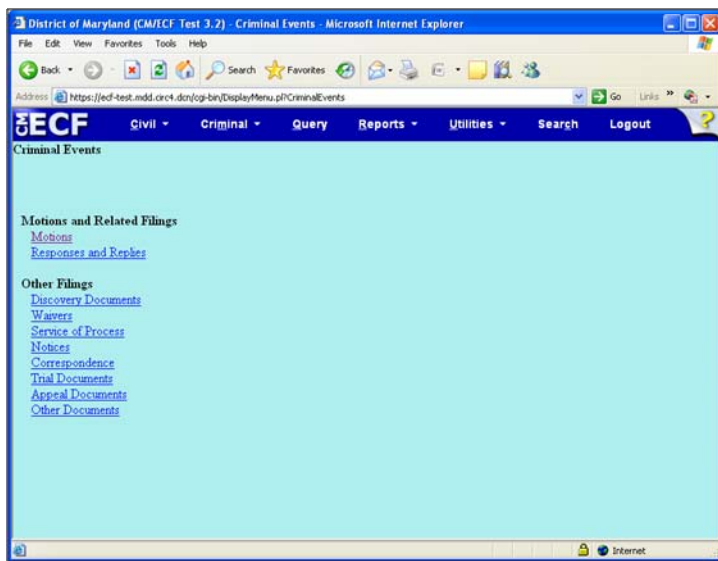
Your docket entry will appear on the public docket. You can choose if your motion to seal itself should be sealed or unsealed. Select the desired radio button.



If you select “Sealed” your motion to seal will appear on the public docket as “-SEALED-Motion to Seal”. If you select “Unsealed” your motion to seal will appear on the public docket as “Motion to Seal”.

Step 3: Now you must file your proposed sealed documents for the court’s review.

After you have completed filing your motion to seal, select the event PROPOSED Sealed Documents, from the drop down menu under Other Documents. Use this event to attach your proposed sealed documents.



This event is only to be used for submitting proposed sealed materials for review by the court in conjunction with a motion to seal. When your motion to seal is granted, the order will link to the underlying motion and the proposed sealed document. Clerk’s Office staff will modify the “Proposed-Sealed Document” entry to “Sealed Document,” the document will maintain the same sealed security and will be deemed filed.

NOTE: If your motion to seal is denied, you must electronically file your document within 24 hours if you wish it to be considered as part of the record.

H. Procedures Applicable to All Sealed Documents

a. Release of Sealed Information

If you want permission to release sealed information or to get copies of sealed documents, you must make a written request either in the motion to seal or by separate motion. Even if you represent the party who filed the sealed document,

you must have a court order to get a copy. For example, if the U.S. Attorney's Office wants a certified copy of a sealed indictment, either the order sealing the indictment or a separate order must give the Clerk's Office permission to provide them with a copy.

b. Unsealing Indictments

When a sealed indictment is filed, all documents in the case are sealed. **When the indictment is unsealed, all the documents in the case are unsealed unless otherwise ordered by the presiding judge.** Therefore, if the Government moves to unseal an indictment but wants certain other documents in the case to remain sealed, counsel must file a motion to unseal and counsel must specify the document(s) that are to remain under seal.

c. In-Court Proceedings

When scheduling a proceeding in court, you must advise chambers if the matter will be sealed. If you fail to do so, the proceeding will appear on the public calendar with the case number, case title, and type of proceeding.

Be specific about what you want sealed. If it is just the testimony of one witness, specify 'only the testimony of John Doe.'

If you want any documents produced at the hearing or as a result of the hearing, to be sealed (i.e., exhibits, the criminal memo, sentencing order, etc.) you must specify them. It is not sufficient to say 'all related documents.'

When in doubt, talk with the courtroom deputy before the proceeding.