

INSTRUCTIONS TO ATTORNEYS
PROCEDURES FOR FILING UNDER SEAL DOCUMENTS IN
CRIMINAL CASES

REQUEST TO SEAL DOCUMENT(S) ONLY, NOT THE APPLICATION AND ORDER

Electronically file the application to seal and/or declaration giving notice or proof of service. During the electronic filing process, attach the proposed order to the application. (Standard procedure for filing any application with a proposed order).

Proposed order shall have an alternative signature line in case it's denied:

1. Counsel shall publically file the document(s), if the party wants the Court to consider the document(s);

(Add an option below for return of documents)

2. Attorney shall retrieve the chambers copy of the document(s); or,

3. Clerk destroys the chambers copy of the document(s).

After electronically filing the application and proof of service, send an e-mail to the chambers generic e-mail at AB_Chambers@cacd.uscourts.gov, containing an Adobe PDF version of the application to seal, declaration giving notice or a proof of service, Word version of the proposed order (with the proposed denied instructions) and an Adobe PDF of the document(s) to be filed under seal with a caption page clearly marked "UNDER SEAL." The subject line of the e-mail should have the case number, plus the words "UNDER SEAL REQUEST".

A mandatory paper chambers copy, tabbed (if appropriate), of the document listed above (together in one envelope) must be delivered to Judge Birotte's courtesy box, located outside of the Clerk's office, on the 4th floor, by 12:00 p.m. (noon) on the day after submission.

REQUEST TO SEAL THE APPLICATION, ORDER AND DOCUMENT(S)

Electronically file a NOTICE OF MANUAL FILING indicating that an application to seal, declaration giving notice or a proof of service, proposed order sealing and under seal documents have been submitted to the Court.

Send an e-mail to the chambers e-mail at AB_Chambers@cacd.uscourts.gov, containing an Adobe PDF version of the application to seal, declaration giving notice or a proof of service, Word version of the proposed order (with the proposed denied instructions as stated above) and an Adobe PDF of the document(s) to be filed under seal with a caption page, clearly marked "UNDER SEAL." The subject line of the e-mail should have the case number, plus the words "UNDER SEAL REQUEST".

A mandatory paper chambers copy, tabbed (if appropriate), of the document listed above (together in one envelope) must be delivered to Judge Birotte's courtesy box, located outside of the Clerk's office, on the 4th floor, by 12:00 p.m. (noon) on the day after submission.

Please note: The title of the pleading will be placed on the public docket entry. For example: "Declaration of John Doe, Exhibit A." If approved, the document itself will be sealed and not viewable by the public, but the entry (title) will be viewable.

An application to file documents under seal must meet the requirements of Local Rule 79-5. Documents that are not confidential or privileged in their entirety should not be filed under seal if the confidential portions can be redacted and filed separately with reasonable amount of effort. The parties should file both documents; complete versions of the pleadings and documents under seal, and a redacted version for public viewing, omitting only such portions as the Court has ordered may be filed under seal. *****On the un-redacted copies (sent via email and the chambers' copy, the parties ARE ORDERED to place in brackets and highlight the portion[s] of the document text and/or exhibits that have been redacted.*****

There is a strong presumption of access in civil cases. Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d 1122, 1135 (9th Cir. 2003). For each document or other type of information sought to be filed under seal, the party seeking protection must identify and discuss the factual or legal justification for the Court to find “good cause” or “compelling reasons,” as appropriate, that such document or type of information should be protected. Kamakana v. City and County of Honolulu, 447 F.3d 1172, 1179-80 (9th Cir. 2006).

Sealing must be justified for each individual item to be sealed or redacted; blanket claims of confidentiality are not allowed and will result in a denial of the application to seal. Counsel is strongly encouraged to consider carefully whether sealing or redaction is required for a given piece of evidence or argument. The inclusion of clearly meritless requests to seal or redact documents may result in the complete rejection of an application to seal.