

FILING RESTRICTED  
AND SEALED DOCUMENTS



EASTERN DISTRICT OF WISCONSIN

March, 2015

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## **CIVIL - INTRODUCTION**

Beginning March 1, 2015, attorneys will be allowed to electronically file restricted and sealed documents into civil cases. Sealed cases will continue to be filed in paper format along with a PDF version of the documents.

The Eastern District of Wisconsin allows the filer to choose between restricting the document to case participants or completely sealing the document so that it is available only to the judge. Filers will also be given the ability to restrict or seal all or select attachments to the main document. **Filers should closely follow the instructions to ensure their documents are properly filed.**

### **1. DECIDE THE LEVEL OF RESTRICTION**

Prior to filing, the level of restriction should be determined for each document and attachment being filed. The options are:

- No restriction. The document is available to the public via PACER.
- Restricted to case participants. This option allows all attorneys of record to view the document, but not the general public. A notice of electronic filing will be generated from which each attorney can view the document using their **e-filing** log-in and password. Although not sealed, this type of restriction still requires that a motion to restrict/seal be filed prior to the filing of any restricted documents.
- Sealed. Documents which are designated as sealed are viewable only by the judge. No attorney of record, not even the filing attorney, will be able to view this document unless given permission by the court. Although a notice of electronic filing will be generated, no attorney will be able to access the document and the filing attorney must serve opposing counsel in paper format. A motion to restrict/seal must be filed prior to filing any document designated as sealed.

### **2. FILE A MOTION TO SEAL/RESTRICT**

General Local Rule 79(d) states that the Court will consider all documents to be filed publicly unless they are accompanied by a **separate motion** to seal/restrict the document or portion thereof. The motion to seal/restrict should be filed PRIOR to the filing of any sealed/restricted documents. Documents electronically filed as sealed or restricted which do not have an accompanying motion to seal/restrict will be made publicly available.

### **3. FILE THE DOCUMENT AND ANY ATTACHMENTS**

#### a. CHOOSE THE APPROPRIATE EVENT

The Eastern District of Wisconsin does not have separate events for restricted or sealed civil documents. The filer should choose the event that most closely matches the document they are filing.

b. DESIGNATE THE LEVEL OF RESTRICTION

During the filing of every document, the filer will be presented with the following screen:

**Other Documents**  
[2:08-cv-00005-JPS Hooks v. Jerry's Enterprises CASE](#)  
CLOSED on 09/26/2008

CLOSED

This screen allows you to designate your filing, or portions thereof, as either restricted to case participants or sealed and viewable only by the judge.

If your document requires no restrictions, simply click the Next button.

If you choose to designate any portion of your filing as restricted or sealed, be advised that pursuant to General Local Rule 79(d), you are required to file a motion to seal or restrict PRIOR to this filing. If no motion has been filed, your document/s will be considered publicly filed no matter what selection you make below.

Although documents may be restricted or sealed, please note that the *docket text* will always be publicly viewable.

Should the main document or *any attachment* be:

Not restricted or sealed in any way  
 Restricted to case participants  
 Sealed and viewable only by the judge

Next Clear

Note the designation pertains not just to the main document, but to any attachments as well. An unrestricted main document being filed with two exhibits that need to be restricted to case participants would require the filer to select “Restricted to case participants” as some portion of the filing is being restricted. Although documents may be restricted or sealed, the docket text will always be publicly viewable.

If “not restricted or sealed in any way” is selected, filing will continue as normal. If restricted or sealed is selected, the following screen will be displayed:

**Other Documents**  
[2:08-cv-00005-JPS Hooks v. Jerry's Enterprises CASE](#)  
CLOSED on 09/26/2008

CLOSED

Select either Case Participants OR Sealed below.

DO NOT make any other selection or your documents will be publicly filed.

On the next screen Deselect all the documents which have no restrictions. The only documents checked should be those that you are requesting be restricted.

Please pick which restrictions these documents should have, if any.

sealed  
 private  
 ex parte  
 applicable party  
 transcript  
 case participants  
 case participants and public terminals  
 other

Next Clear

Although there are multiple possible selections on this screen, the filer should only select between “sealed” and “case participants.” Any other selection will result in the document being publicly filed.

c. DESELECT UNRESTRICTED DOCUMENTS

By default, all documents are checked for restriction.

**Other Documents**  
[2:08-cv-00005-JPS Hooks v. Jerry's Enterprises](#) **CASE**  
**CLOSED on 09/26/2008**

CLOSED

The checked documents will be restricted. Deselect any documents that should not be restricted.

File	Type	Description	Restrictions
Document1.pdf	Main Document		<input checked="" type="checkbox"/> case participants
Exhibit A.pdf		Exhibit A	<input checked="" type="checkbox"/> case participants
Exhibit B.pdf		Exhibit B	<input checked="" type="checkbox"/> case participants
Exhibit C.pdf		Exhibit C	<input checked="" type="checkbox"/> case participants

The filer should DESELECT any documents that do not require restriction or sealing.

**Other Documents**  
[2:08-cv-00005-JPS Hooks v. Jerry's Enterprises](#) **CASE**  
**CLOSED on 09/26/2008**

CLOSED

The checked documents will be restricted. Deselect any documents that should not be restricted.

File	Type	Description	Restrictions
Document1.pdf	Main Document		<input type="checkbox"/> case participants
Exhibit A.pdf		Exhibit A	<input type="checkbox"/> case participants
Exhibit B.pdf		Exhibit B	<input checked="" type="checkbox"/> case participants
Exhibit C.pdf		Exhibit C	<input type="checkbox"/> case participants

In this example, only Exhibit B will be restricted to the case participants. The Main Document, as well as Exhibits A and C will be publicly available.

#### 4. SPECIFIC SITUATIONS

- a. FILING A REDACTED AND SEALED/RESTRICTED VERSION OF THE SAME DOCUMENT

General Local Rule 79(d) encourages the limited sealing and restriction of documents. The committee comment states, “the fact that a single page or paragraph of a document contains confidential information generally will not support a motion to seal the entire document. Counsel may, and in most circumstances should, submit a redacted version of the document, with a separate request to seal the portions containing confidential material.”

In this situation, the filer should first file a motion to seal or restrict and then file the redacted version of the document with no restriction and the unredacted version as a sealed or restricted attachment.

**Other Documents**  
[2:08-cv-00005-JPS Hooks v. Jerry's Enterprises CASE](#)  
**CLOSED on 09/26/2008**

CLOSED

The checked documents will be restricted. Deselect any documents that should not be restricted.

File	Type	Description	Restrictions
Document1.pdf	Main Document		<input type="checkbox"/> case participants
Un-redacted Restricted Affidavit.pdf		Restricted Affidavit of John Brown	<input checked="" type="checkbox"/> case participants

A notation should be made in the docket text that a redacted document is being filed.

**Other Documents**  
[2:08-cv-00005-JPS Hooks v. Jerry's Enterprises CASE](#)  
**CLOSED on 09/26/2008**

CLOSED

Docket Text: Modify as Appropriate.

REDACTED AFFIDAVIT of John Brown . (Attachments: # (1) Restricted Affidavit of John Brown) **This document and/or certain attachments are restricted to case participants and attorneys of record should use their e filing login and password to view this document (Three, Attorney)**

The final docket text should appear similar to this:

**REDACTED AFFIDAVIT of John Brown . (Attachments: # [1](#) Restricted Affidavit of John Brown) This document and/or certain attachments are restricted to case participants and attorneys of record should use their e-filing login and password to view this document(Three, Attorney)**

b. **FILING INTO CASES WITH PROTECTIVE ORDERS**

In general, a protective order does not relieve the parties from complying with General Local Rule 79(d). Filers should carefully read the protective order to make certain what requirements are set forth within the order. If the order allows for the filing of sealed or restricted documents without a separate motion to seal/restrict, a cover letter should be filed as an attachment to the document referencing that provision within the protective order.

c. **FILING IN SOCIAL SECURITY APPEAL CASES AND IMMIGRATION CASES**

Social Security appeals and Immigration cases automatically restrict all filed documents to case participants and the public computer terminals located in the Clerk's Office lobby. Therefore, only choose a further restriction if the document should not be available at the public terminals or should be viewable by the judge only. If either option is selected, pursuant to General Local Rule 79(d), the filer must first file a motion to seal or restrict.

d. **FILING SEALED CASES OR FILING DOCUMENTS IN SEALED CASES**

Sealed cases and documents to be filed in sealed cases are not eligible for electronic filing and should be submitted in paper format together with a CD containing a PDF copy of the documents.

## **5. VIEWING RESTRICTED DOCUMENTS**

Attorneys of record are allowed to view restricted documents. All attorneys who are registered for electronic filing will receive a Notice of Electronic Filing (NEF) after each document is filed. Restricted documents contain docket text indicating that the entire document and/or certain attachments are restricted and thus, the attorney must use their **e-filing** login and password to view the document.

### **Notice of Electronic Filing**

The following transaction was entered by [atty3](#), on 11/06/2014 at 07:44:08 AM CST and filed on 11/06/2014

Case Name: [Hooks v. Jerry's Enterprises](#)

Case Number: [2:08-cv-00005-JPS](#)

Filer:

WARNING: CASE CLOSED on 09/26/2008

Document Number: [19](#)

### **Docket Text:**

**AFFIDAVIT of Jerry Jones . (Attachments: # [\(1\)](#) Restricted Exhibit 1, # [\(2\)](#) Exhibit 2) This document and/or certain attachments are restricted to case participants and attorneys of record should use their e-filing login and password to view this document (atty3, )**

From the NEF, the attorney of record should click on the document number hyperlink. Depending on the number of documents filed in that entry and any restriction levels, the system will either display

the document, display a screen showing the main document and attachments, or take the user to the CM/ECF Filer or PACER login screen.

#### Document Selection Menu

#### Multiple Documents

To view the main document and its attachments without incurring a PACER fee, click on the hyperlinks displayed on this menu. You may incur a PACER fee to view CM/ECF documents from hyperlinks within the documents.

Select the document you wish to view.

Document Number: [19](#) 1 page 12 kb

Attachment	Description		
<a href="#">1</a>	*Restricted*		0 kb
<a href="#">2</a>	Exhibit 2	1 page	12 kb

Clicking on a non-restricted document will cause the document to display. Clicking on a restricted document hyperlink will bring up the CM/ECF Filer or PACER login screen. When this screen appears, the user should enter their **e-filing login and password and NOT their PACER login.**

#### CM/ECF Filer or PACER Login

##### Notice

This is a **Restricted Web Site** for Official Court Business only. Unauthorized entry is prohibited and subject to prosecution under Title 18 of the U.S. Code. All activities and access attempts are logged.

##### Instructions for filing:

Enter your CM/ECF filer login and password if you are electronically filing something with the court.

##### If you received this login page as a result of a link from a Notice of Electronic Filing email:

Enter your CM/ECF filer login and password. The system prompts customers for a CM/ECF login and password when attempting to view certain types of documents.

##### If you have trouble viewing a document:

After successful entry of your CM/ECF login, you should be able to view the document. If you receive the message "You do not have permission to view this document," viewing the document is restricted to attorneys of record in the case and the system does not recognize you as such. If the login prompt appears again, after you have entered your CM/ECF login and password, it means that the "free look" link has expired. You will need to enter your PACER login and password to view the document.

##### Instructions for viewing filed documents and case information:

If you do not need filing capabilities, enter your PACER login and password. If you do not have a PACER login, you may register online at <http://www.pacer.gov>.

##### Authentication

Login:

Password:

client code:

Login Reset

**IMPORTANT NOTICE OF REDACTION RESPONSIBILITY:** All filers must redact: Social Security or taxpayer-identification numbers; dates of birth; names of minor children; financial account numbers; and, in criminal cases, home addresses, in compliance with [Fed. R. Civ. P. 5.2](#) or [Fed. R. Crim. P. 49.1](#). This requirement applies to all documents, including attachments.

I understand that, if I file, I must comply with the redaction rules. I have read this notice.

##### Notice

An access fee of TBD per page or \$2.40 per document with an audio attachment, as approved by the Judicial Conference of the United States, will be assessed for access to this service. For more information about CM/ECF, [click here](#) or contact the PACER Service Center at (800) 676-6856.

Once the e-filing login and password have been entered, the system will verify that the user is one of the attorneys of record in the case and will then display a warning regarding the document's restriction.

**Warning!**

**This document is restricted to court users and case participants.**

View Document

Clicking on the "View Document" button will display the document.



a. TROUBLESHOOTING

If you are having trouble viewing a restricted document, first, check to be certain you are entitled to view it. You must be an attorney of record to view restricted documents. Sealed documents are viewable only by the judge.

If you mistakenly logged in using your PACER login, you may need to clear your computer's cache before the document will display properly. Clear your cache, return to the NEF, click on the document hyperlink again, and then when prompted, enter your e-filing login and password.

Viewing documents from the NEF is the best practice. Once displayed, the document should be saved and/or printed by the user. Each NEF generates one free look at the document. Returning to the NEF a second time will result in being charged a PACER fee, as will using the document hyperlink found on the docket in PACER.

## **CRIMINAL – INTRODUCTION**

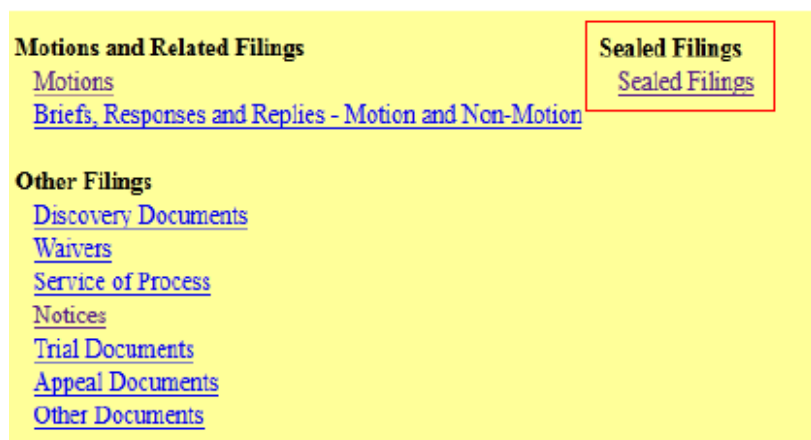
Beginning March 1, 2015, attorneys will be allowed to electronically file sealed documents into criminal cases. Sealed criminal documents will be viewable by the judge only and will still need to be served in paper on opposing counsel. **Filers should closely follow the instructions to ensure their documents are properly filed.**

### **1. FILE A MOTION TO SEAL**

General Local Rule 79(d) states that the Court will consider all documents to be filed publicly unless they are accompanied by a separate motion to seal the document or portion thereof. The motion to seal should be filed PRIOR to the filing of any sealed documents. Documents electronically filed as sealed will be made publicly available if they do not have an accompanying motion to seal.

### **2. FILE THE DOCUMENT AND ANY ATTACHMENTS**

To file a sealed document, the filer must select one of the events found under the heading “Sealed Filings.” Any event selected from a different heading will result in the document NOT being filed under seal.



The image shows a screenshot of a PACER filing menu. The menu is divided into two main sections: "Motions and Related Filings" and "Other Filings". Under "Motions and Related Filings", there are links for "Motions", "Briefs, Responses and Replies - Motion and Non-Motion", and "Sealed Filings". The "Sealed Filings" link is highlighted with a red rectangular box. Under "Other Filings", there are links for "Discovery Documents", "Waivers", "Service of Process", "Notices", "Trial Documents", "Appeal Documents", and "Other Documents".

**Sealed Filings**

Start typing to find an event.

**Available Events** (click to select an event)

- Sealed Brief/Reply
- Sealed Document
- Sealed Motion

**The main document, plus any attachments, will be filed under seal and will be viewable only by the judge. The filer and opposing counsel will not be able to view sealed documents via PACER. Filing parties are required to serve opposing counsel with a paper copy of their filing.**

No matter which sealed event is selected, the final docket text is the same for all sealed filings. The docket text will always read “SEALED DOCUMENT.”

SEALED DOCUMENT **This document is not available electronically and must be served in paper format upon opposing counsel.**