

Rule 5005-4

SEALED PAPERS

(a) ***Rule Does Not Apply to In Camera Inspections.*** The provisions of this rule do not apply to *in camera* inspections by the Court. Papers (whether in paper or electronic format) that the Court has agreed to inspect *in camera* shall not be filed on the case docket and should be delivered to the assigned judge's chambers.

(b) ***Motion to File Paper Under Seal by Unrepresented Individual.*** An unrepresented individual who wishes to file a paper under seal (i.e., with viewing access restricted) and who is not a CM/ECF User (the "Moving Party") shall comply with the following procedures for filing a paper under seal. Other than as stated in this section, the other provisions of this rule apply.

(1) ***Separate Motion Required.*** Unless the paper to be sealed is of the type described in section (d), the Moving Party shall first file a motion that prominently states on its first page that the individual wishes to file a paper under seal and that includes contact information, such as a telephone number and an email address. The paper to be filed under seal shall not be attached to or submitted with the motion. The Moving Party will be informed by the Court of its ruling on the motion.

(2) ***Filing of Paper Under Seal.*** If the Moving Party is informed by the Court than it has entered an order granting the Moving Party's motion to file a paper under seal or if the sealed paper is of the type described in section (d), the Moving Party shall deliver to the Clerk's Office a sealed envelope containing the sealed paper for delivery to the assigned judge's chambers. The outside of the envelope shall state the case name and number and shall prominently state "Sealed Paper." The judge's staff will then arrange for the sealed paper to be docketed with the appropriate viewing restrictions.

(c) ***Motion to File Paper Under Seal by Represented Parties and Order on the Motion.*** Except as set forth in section (d), an order granting a motion to file paper under seal must be entered before the sealed paper is filed. A party who seeks to file a paper under seal ("moving party") shall file a motion via CM/ECF using the "Motion to File Paper under Seal" docket event and shall submit a proposed order using the order submission procedures posted on the Court's website, www.flmb.uscourts.gov. The paper to be filed under seal shall not be attached to or submitted with the motion to file paper under seal. During the docketing process, the moving party shall select whether the docket entry and image of the motion to file paper under seal will have unrestricted viewing access (i.e., accessible to anyone with a CM/ECF or PACER login) or whether viewing access will be restricted to the filer, the judge assigned to the case, such staff members (e.g., law clerk, judicial assistant) as the judge may designate, internal Clerk's Office staff, the U.S. Trustee, the trustee assigned to the case, and any auditor serving under 28 U.S.C. § 586(f). If access is restricted to the motion to file paper under seal, access shall also be limited to the resulting order on the motion. Upon entry of an order granting motion

to file paper under seal, the Court will notify the moving party, who may then file the sealed paper.

(d) ***Papers That May Be Filed Under Seal Without Prior Court Approval.*** The following types of papers do not require the entry of an order granting a motion to file paper under seal prior to the paper's being filed under seal:

- (1) motions for writ of garnishment, writ of attachment, or writ of execution;
- (2) adversary complaints seeking emergency injunctive relief;
- (3) trustees' motions to inspect or enter upon property without notice;
- (4) motions for temporary restraining orders that are requested to be entered without notice; and
- (5) papers relating to an individual's personal health information.

(e) ***Filing of Sealed Paper.*** Unless directed otherwise by the Court, a paper permitted to be filed under seal shall be filed via CM/ECF using the "Sealed Paper" docket event. The Clerk's Office will notify the staff of the judge assigned to the case when the sealed paper has been filed. Unless otherwise ordered by the Court, the docket entry and the image of the sealed paper will be viewable only by the moving party, the assigned judge and such staff members (e.g., law clerk, judicial assistant) as the judge may designate, the U.S. Trustee, the trustee assigned to the case, and any auditor serving under 28 U.S.C. § 586(f).

(f) ***Sealed Orders.*** If the sealed paper is a motion or application that seeks the entry of a sealed Court order, the proposed order may be submitted using the order submission procedures posted on the Court's website, www.flmb.uscourts.gov. The Court will notify the moving party of the entry of the sealed order. Unless otherwise ordered by the Court, the docket entry and image of the order will be viewable only by the moving party, the assigned judge and such staff members (e.g., law clerk, judicial assistant) as the judge may designate, the U.S. Trustee, and the trustee assigned to the case, and any auditor serving under 28 U.S.C. § 586(f).

(g) ***Access to Sealed Papers and Orders Shall Be Determined on a Case-by-Case Basis.*** Notwithstanding the foregoing, the Court will consider, on a case-by-case basis, the papers filed under seal and shall determine who may have access to the sealed paper and related orders and if and when restrictions on access should be terminated.

Notes of Advisory Committee

2019 Amendment

The amendment to section (b) provides procedures for *pro se* non-CM/ECF users to file papers under seal. Section (d) is amended to permit papers relating to an individual's personal health information to be filed under seal without first obtaining an order authorizing the filing under seal. This amendment to the rule is effective July 1, 2019.

2017 Amendment

This amendment revises the rule to clarify that it does not apply to documents provided to the Court for its *in camera* review and which are not filed on the docket. The rule also specifies the types of papers that may be filed under seal without prior court approval. This amendment to the rule is effective July 1, 2017.

2016 Amendment

This rule is amended to conform to current practice as set forth in the Procedure for Filing Papers under Seal adopted by the Court on June 11, 2015. Access to sealed papers is consistent with 11 U.S.C. § 107(c)(3). This amendment to the rule is effective July 1, 2016.

2004

This new rule sets out that sealed documents must remain in paper form and not made part of CM/ECF. It also instructs the Clerk on maintenance of sealed documents.