

FILING UNDER SEAL

United States District Court
Western District of Michigan

The Western District of Michigan Local Civil Rules and Local Criminal Rules govern electronic filing and filing under seal. Parties should familiarize themselves with the pertinent Local Rules before proceeding, and may want to reference:

CIVIL

[Local Civ. R. 5.7](#), Filing and service by electronic means

[Local Civ. R. 10.6](#), Sealed documents

CRIMINAL

[Local Crim. R. 49.10](#), Filing and service by electronic means

[Local Crim. R. 49.8](#), Filing documents under seal

A motion for leave to file a document under seal is generally a public filing and will be accomplished by making an appropriate selection under *Civil/Criminal >> Motions and Related Filings*. If the motion seeking leave to seal contains confidential information, counsel should try to reword the motion to prevent disclosure of confidential information. If that is not possible, the motion may be filed using a Sealed Filings option under the *SEALED/RESTRICTED ACCESS Filings* menu.

The document proposed to be sealed, however, will be filed as a separate transaction on CM/ECF, under a new menu heading entitled **SEALED/RESTRICTED ACCESS Filings**. By making an appropriate selection from the new Sealed Filings menu, the document will be automatically sealed upon entry, however, keep in mind that the resulting text on the docket will be public, and the name of the pdf file you upload will appear on the Notice of Electronic Filing (NEF). The following will describe how to file a document under seal (or a document proposed to be sealed).

The document must be in pdf format to be filed (when naming the pdf file, keep in mind that the file name will be available to the public). Additionally, the document must be marked appropriately on its face as per Local Civil Rule 10.6/Local Criminal Rule 49.8.

For this example, we'll be filing in a criminal case. After gaining access to CM/ECF, click *Criminal* on the blue menu bar to proceed with electronic filing. Under the new **SEALED/RESTRICTED ACCESS Filings** heading, click [Sealed Filings](#).



A list of available events will appear. Click to select an appropriate event from the list. For this example, we have selected *Sealed Document*.

The screenshot shows the ECF Filings interface. At the top, there are navigation tabs for 'Civil', 'Criminal', 'Query', and 'Reports'. Below this, the text '**SEALED** Filings' is displayed. A search box is present. The main area is divided into two sections: 'Available Events (click to select an event)' and 'Selected Event'. The 'Available Events' dropdown menu is open, showing four options: 'Sealed Document', 'Sealed Motion', 'Sealed Reply to Response to Motion', and 'Sealed Response to Motion'. 'Sealed Document' is selected. The 'Selected Event' field also contains 'Sealed Document'. At the bottom of the dropdown menu, there are 'Next' and 'Clear' buttons.

The next screen will prompt for the case number. Select the case in which to file the sealed

document.

All defendants' cases →
Defendant O'Flage's case only →
Defendant Drab's case only →

The screenshot shows the 'Criminal Case Number' selection screen. It features a text input field containing '1:10-cr-999-1' and a 'Hide Case List' button. Below this, the text 'Select a case:' is followed by a list of three cases with checkboxes: '1:10-cr-00999 USA v. O'Flage et al', '1:10-cr-00999-1 Cam O'Flage' (which is checked), and '1:10-cr-00999-2 Olive Drab'.

For this example (above), we have selected defendant Cam O'Flage's case only.

The next screen prompts the user to upload the pdf document. Upload the sealed document.

The filer is asked to make a selection regarding authority to file the document under seal.

The screenshot shows the authority selection screen. It starts with the text '**SEALED** Filings' and a link to '1:10-cr-00999 USA v. O'Flage et al'. Below this, the text 'Select as appropriate:' is followed by three radio button options: 'A motion seeking leave to file this document under seal is filed contemporaneously. The sealing of this document is proposed.', 'The Court has previously entered an order authorizing the submission of this document under seal.' (which is selected), and 'A statute or court rule authorizes filing this document under seal without further leave of court.' At the bottom, there are 'Next' and 'Clear' buttons.

In this example, an order authorizing the submission of this document under seal was previously entered, so we'll make that selection.

Because a previously entered order allowed this filing to be submitted under seal, we must identify it. For this example, we know the document number is 18 for the order authorizing

this filing to be submitted under seal. Type *18* in the white box and click *Next*.

****SEALED** Filings**
[1:10-cr-00999 USA v. O'Flage et al](#)

Complete the requested information regarding the prior order in one of these formats:
15 dated 1/1/11
15
dated 1/1/11

Enter the document number and/or date of the order authorizing this document to be filed under seal:

Next, a message will be displayed to bring important information to the attention of the filer:

This entry on the docket will be accessible to the public - USE CAUTION when adding information to the docket text. Electronic notice of this filing will be sent to all counsel, however the document(s) will be SEALED upon filing and electronic access will only be available to the court. Any required service of the sealed document(s) must be accomplished by nonelectronic means.

Because we are filing a sealed document, an option to further describe it is presented. If further description will not compromise the sealed matter, make a selection from the list. If *Sealed Document* is enough description, accept the default and click *Next*. For this example, we'll select *Sealed Exhibit*.

ECF Civil Criminal Query Reports Utilities

****SEALED** Filings**
[1:10-cr-00999 USA v. O'Flage et al](#)

Click Next to accept the default, or make a selection which further describes the type of sealed document you are filing:

Sealed Document (default)
 Sealed Affidavit
 Sealed Exhibit

An opportunity is presented to the user to link the current filing back to another document in the case. For this example, the sealed document to be filed is an exhibit in support of a previously filed motion; we will check the box so we can link back to the previously-filed motion.

****SEALED** Filings**
[1:10-cr-00999 USA v. O'Flage et al](#)

Should the document you are filing link to another document in this case?

****SEALED** Filings**

[1:10-cr-00999 USA v. O'Flage et al](#)

Select the category to which your event relates.

discovery-cr
minutes
minutes-cr
misc
misc-cr
motion
notice
notice-cr
order
order-cr

Filed to

Documents to

Next Clear

When prompted to select the category to which your event relates, select *motion* and click *Next* to continue.

Note that at this prompt, all categories may be selected if the category is unknown. Click and hold the first-listed item; continue to hold down the mouse while dragging down. Or, to use the keyboard, click the first-listed item and hold down the Shift button while depressing the down arrow on the keyboard multiple times until all the items are selected.

Following our example, the previously-filed motion is presented for selection. It is checked by default because it is the only available selection. If a list were presented, we'd click to check the box next to the applicable motion. For this example, click *Next* to continue.

****SEALED** Filings**

[1:10-cr-00999 USA v. O'Flage et al](#)

Select the appropriate event(s) to which your event relates:

1:10-cr-00999 Cam O'Flage

11/07/2010 [19](#) MOTION to suppress by Cam O'Flage (D'Fence, Victor)

Next Clear

The docket text is presented:

****SEALED** Filings**

[1:10-cr-00999 USA v. O'Flage et al](#)

Docket Text: Modify as Appropriate.

SEALED EXHIBIT filed by Cam O'Flage re MOTION to suppress[19] ; filed under seal pursuant to order 18 (D'Fence, Victor)

Next Clear

FIRST
SECOND
THIRD
FOURTH
FIFTH
AMENDED
ANNUAL
CONSENT
CORRECTED
COUNTER
CROSS
EMERGENCY
FINAL
INTERIM
JOINT
MONTHLY
PRO SE
PROPOSED
QUARTERLY

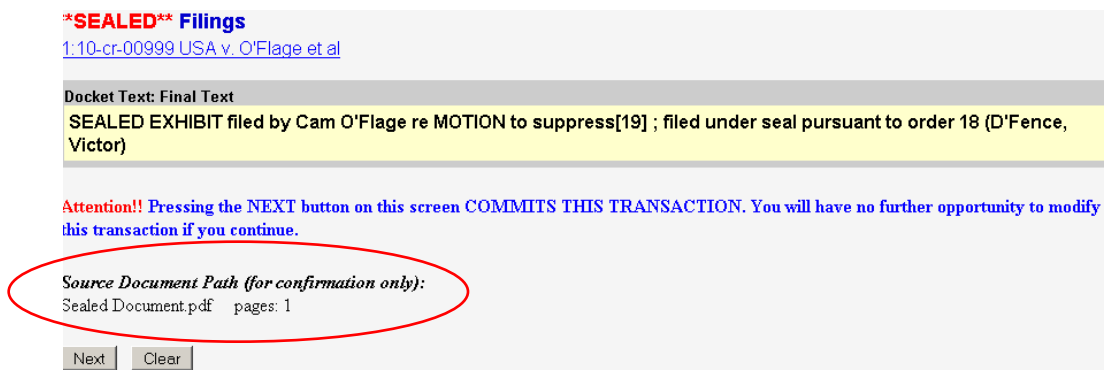
Additional Information

There are white boxes provided wherein the filer may, at their option, add additional pertinent information. The first white box is at the beginning of the entry. A drop-down list appears with pre-determined items that may be selected. Each item in the list *merely adds text to the resulting entry*; there are no functions tied to the words. For this example, we will not make a selection from the list.

The second (and third) white boxes are for free text. The filer can add any additional information they deem appropriate in these boxes. *Note that as previously cautioned, any information typed in the box will appear to the public on the docket report.*

For this example, no further information is necessary, so we will leave the boxes blank and click *Next*.

The final docket text is displayed:



The screenshot shows a web interface for filing documents. At the top, it says "*SEALED*" Filings. Below that is a link to the case: "1:10-cr-00999 USA v. O'Flage et al". A section titled "Docket Text: Final Text" contains the text: "SEALED EXHIBIT filed by Cam O'Flage re MOTION to suppress[19] ; filed under seal pursuant to order 18 (D'Fence, Victor)". Below this is a warning: "Attention!! Pressing the NEXT button on this screen COMMITS THIS TRANSACTION. You will have no further opportunity to modify this transaction if you continue." At the bottom, there is a section for "Source Document Path (for confirmation only):" which shows "Sealed Document.pdf pages: 1". This section is circled in red. At the very bottom are "Next" and "Clear" buttons.

Notice at the bottom of the screen, that the Source Document Path appears for confirmation. *This is a reminder to check the pdf file name, to ensure that it does not inadvertently disclose information or otherwise compromise the sealed matter.* Clicking the *Next* button on this screen commits the transaction. As with other filings, a Notice of Electronic Filing (NEF) will display as a confirmation of filing/receipt, and simultaneously, electronic notification of the filing will be sent. Recipients of the electronic notification will not have access to the sealed document(s). Any required service of the sealed document(s) must be accomplished by nonelectronic means.

SEALED FILINGS SUMMARY

Only documents properly filed under a **Sealed Filings** menu option under the **SEALED/RESTRICTED ACCESS Filings** menu heading are SEALED upon filing.

Once properly filed, access to sealed documents is only available to the judge and very limited court staff.

However, the DOCKET TEXT/ENTRY ON THE DOCKET, the NEF, and the PDF FILE NAME(S) are available to the public.