

### **Rule 5-III. Sealed or Confidential Documents**

#### **(a) SEALING.**

(1) *In General.* Absent statutory authority, no case or document may be sealed without a written court order. Any document filed with the intention of being sealed must be accompanied by a motion to seal or an existing written order. The document will be treated as sealed, pending the ruling on the motion.

(2) *Electronically-Filed Cases.* For cases that are electronically filed, the motion to seal must be electronically filed and redacted as necessary for the public record. If the motion to seal is granted, an unredacted motion to seal with the materials sought to be placed under seal must be delivered in paper form to the clerk's office for filing. Any subsequent documents allowed to be filed under seal must be filed in paper with the clerk's office.

#### **(3) Failure to Comply With This Rule.**

(A) *Failure to File Motion to Seal.* Failure to file a motion to seal will result in the pleading or document being placed in the public record.

(B) *Failure to Redact Electronically Filed Documents.* Filing an unredacted document electronically before or after a motion to seal is granted will result in the document being placed in the public record.

#### **(b) IN CAMERA INSPECTION.**

(1) *Submission.* Unless otherwise ordered or provided in these rules, all documents submitted for a confidential in camera inspection by the court must be submitted to the clerk securely sealed if they are:

(A) the subject of a protective order;

(B) subject to an existing written order that they be sealed; or

(C) the subject of a motion requesting that they be sealed.

(2) *Required Notation.* The envelope or box containing documents being submitted for in camera inspection must contain a conspicuous notation such as "DOCUMENT UNDER SEAL" or "DOCUMENTS SUBJECT TO PROTECTIVE ORDER" or something equivalent.

(c) **OTHER FILING REQUIREMENTS.** The face of the envelope or box must also contain the case number, the title of the court, a descriptive title of the document and the case caption unless such information is to be, or has been, included among the information ordered sealed. The face of the envelope or box must also contain the date of any written order or the reference to any statute permitting the item to be sealed.

(d) **HOW TO SUBMIT SEALED MATERIALS.** Sealed materials must be filed in the clerk's office during regular business hours. Filing of sealed materials at the security desk is prohibited.

### **COMMENT TO 2018 AMENDMENTS**

Rule 5-III is new. It is based on the corresponding Superior Court Rule of Civil Procedure. Rule 5-III(a)(3) does not prohibit the court, in the appropriate exercise of its discretion, from sealing documents already in the public record on motion of a party or on its own initiative.