



**4TH CIRCUIT COURT OF APPEAL'S
PRO SE HANDBOOK
VOL 1 CHP 4: SEALED & CONFIDENTIAL MATERIALS**

Volume 1 | Chapter 4
Sealed & Confidential Materials

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TABLE OF CONTENTS | VOLUME 1 CHAPTER 4 | SEALED & CONFIDENTIAL MATERIALS

#	Item	Title	Page
E01	1.4.01	Internet Availability of Docket & Documents	4
E02	1.4.02	Federal Rules of Procedure	5
E03	1.4.03	Judicial Conference Privacy Policy	6
E04	1.4.04	Local Rule 25(c)	7
E05	1.4.05	Sealed Volume of Appendix/Supplemental Appendix	8
E06	1.4.06	Sealed Version of Brief	9
E07	1.4.07	Sealed Version of Motions and Other Documents	10
E08	1.4.08	Motions to Seal	11
E09	1.4.09	Highly Sensitive Documents	12
-	n/a	Appendix	13



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VOLUME 1 GENERAL PROVISIONS

CHAPTER 4 SEALED & CONFIDENTIAL MATERIALS

ITEMS 1.4.01 through 1.4.09

DATE 12/1/2023



1.4.01 | INTERNET AVAILABILITY OF DOCKET & DOCUMENTS

Fourth Circuit case dockets and documents are available on the Internet via the Judiciary's PACER system (Public Access to Court Electronic Records). The Fourth Circuit docket is available on the Internet even if the district court docket was sealed. If a party's name was sealed in the district court, it should be replaced by "Under Seal" or a pseudonym on appeal.

Due to the electronic availability of court documents, the federal rules prohibit including certain personal data identifiers in court filings. In addition, parties should not include any data in their filings that they would not want on the Internet. Counsel should advise their clients on this subject so that an informed decision can be made. Responsibility rests with counsel and the parties, not with the clerk.

Documents filed by the parties in immigration, social security, and railroad retirement board cases are not accessible over the Internet to the public. Public Internet access is limited to the court's docket, orders, and opinions in these cases. Parties wishing to prevent their full names from appearing in court documents, including opinions available on the Internet, may file a motion to redact their name to use only their first name and last initial rather than their full name.

(4th Circuit Court of Appeals // December 2023)



1.4.02 | FEDERAL RULES OF PROCEDURE

The federal rules of procedure require filers to redact any of the following personal data identifiers (PDIs) if included in court filings:

- (1) social security and tax ID numbers must be limited to last four digits;
- (2) minor children must be identified by their initials only;
- (3) dates of birth must show the year only;
- (4) financial account numbers must be limited to the last four digits only; and
- (5) home addresses in criminal cases must be limited to city and state only.

The federal rules establish limited exceptions to these redaction requirements. See Fed. R. App. P. 25(a)(5); Fed. R. Civ. P. 5.2; Fed. R. Crim. P. 49.1; Fed. R. Bankr. P. 9037.

(4th Circuit Court of Appeals // December 2023)



1.4.03 | JUDICIAL CONFERENCE PRIVACY POLICY

In addition, the judiciary's Privacy Policy for Electronic Case Files prohibits filers from including any of the following criminal documents in the public file:

- (1) unexecuted summonses or warrants;
- (2) bail or presentence reports;
- (3) statement of reasons in judgment of conviction;
- (4) juvenile records;
- (5) identifying information about jurors or potential jurors;
- (6) CJA financial affidavits;
- (7) ex parte requests to authorize CJA services; and
- (8) any sealed documents, such as motions for downward departure for substantial assistance, plea agreements indicating cooperation, or victim statements.

Any reference to substantial assistance or cooperation with the government in criminal proceedings should be sealed in the parties' briefs.

(4th Circuit Court of Appeals // December 2023)



1.4.04 | LOCAL RULE 25 (C)

Local Rule 25(c) limits the sealing of documents by requiring that sealed record material be separated from unsealed material and placed in a sealed volume of the appendix and by requiring the filing of both sealed, highlighted versions and public, redacted versions of briefs and other documents.

Since the ECF events for sealed filings make the documents accessible only to the court, counsel must serve sealed documents on the other parties outside ECF.

(4th Circuit Court of Appeals // December 2023)



1.4.05 | SEALED VOLUME OF APPENDIX/SUPPLEMENTAL APPENDIX

If sealed record material needs to be included in the appendix, it must be placed in a separate, sealed volume of the appendix and filed with a certificate of confidentiality. In consolidated criminal cases in which presentence reports are being filed for multiple defendants, each presentence report must be placed in a separate, sealed volume served only on Government counsel and counsel for the defendant who is the subject of the report.

- Use ECF event-SEALED JOINT APPENDIX (court access) and SEALED SUPPLEMENTAL APPENDIX (court access) to file sealed electronic appendix volume(s). Cover of sealed appendix volume must be marked SEALED, and paper copies must be placed in envelopes marked SEALED. Sealed volume must be served on other parties outside ECF.
- Use ECF event-Certificate of confidentiality to identify authority for treating material as sealed and to identify who may have access to sealed material. A paper copy of the certificate of confidentiality must accompany the paper copy of the sealed appendix filed with the court.
- Use ECF event-JOINT APPENDIX and SUPPLEMENTAL APPENDIX to file public electronic appendix volumes(s).

(4th Circuit Court of Appeals // December 2023)



1.4.06 | SEALED VERSION OF BRIEF

If sealed material needs to be referenced in a brief, counsel must file both a sealed, highlighted version of the brief and a public, redacted version of the brief, as well as a certificate of confidentiality.

- Use ECF event-SEALED BRIEF (court access) (formal briefs under seal) to file sealed electronic version of brief in which sealed material has been highlighted. Cover of sealed brief must be marked SEALED, and paper copies must be placed in envelopes marked SEALED. Sealed version must be served on other parties outside ECF.
- Use ECF event-Certificate of confidentiality to identify authority for treating material as sealed and to identify who may have access to sealed material. A paper copy of the certificate of confidentiality must accompany the paper copy of the sealed brief filed with the court.
- Use ECF event-BRIEF (formal briefs not under seal) to file public electronic version of brief from which sealed material has been redacted.

(4th Circuit Court of Appeals // December 2023)



1.4.07 | SEALED VERSION OF MOTIONS AND OTHER DOCUMENTS

If sealed material needs to be referenced in a motion or other document, counsel must file both a sealed, highlighted version and a public, redacted version, as well as a certificate of confidentiality.

- Use ECF event-SEALED DOCUMENT to file sealed electronic version of document in which sealed material has been highlighted. First page of document must be marked SEALED. Sealed version must be served on other parties outside ECF.
- Use ECF event-Certificate of confidentiality to identify authority for treating material as sealed and to identify who may have access to sealed material.
- Use the appropriate ECF event (e.g., MOTION or RESPONSE/ANSWER) to file public electronic version of document from which sealed material has been redacted.

(4th Circuit Court of Appeals // December 2023)



1.4.08 | MOTIONS TO SEAL

A certificate of confidentiality may be used to request sealing of information protected by the Privacy Policy for Electronic Case Files, or by statute, rule, regulation, or order. To request sealing of other materials, or to request sealing of an entire brief or motion due to inability to create a public, redacted version, counsel must file a motion to seal.

The motion to seal must appear on the public docket for five days. The motion must identify the document or portions thereof for which sealing is requested, the reasons why sealing is necessary, the reasons a less drastic alternative will not afford adequate protection, and the period of time for which sealing is required. If it is necessary to reference sealed material in the motion, a sealed, highlighted version and a public, redacted version of the motion must be filed.

(4th Circuit Court of Appeals // December 2023)



1.4.09 | HIGHLY SENSITIVE DOCUMENTS

The court has adopted Standing Order 21-01 implementing procedures adopted by the Federal Judiciary for the filing of highly sensitive sealed documents in paper form, accompanied by a certificate (for material sealed by the district court or other tribunal) or motion (for requests to file material under seal in the first instance).

Forms:

Certificate of Confidentiality & Certificate for Highly Sensitive Document Protection

Instructions:

How do I redact items from pleadings? (Marking out text in a word processing document using a highlighter or box tool does not remove sensitive data from the document.)

(4th Circuit Court of Appeals // December 2023)



APPENDIX



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