

Signed...Sealed...Delivered

By Audrey Priolo, Litigation Review Attorney

In light of the rapidly changing paperless court environment, the significance of redacting documents and filing documents under seal has increased. While the public could access documents before, the process was more tedious, and documents were much less accessible. Los Angeles County courts are now on a paperless eFiling system, except for complex matters. Accordingly, it is much easier for the court to make all documents available online. The easier it becomes for the public to access court documents, the heavier the burden to protect private information becomes. Accordingly, it is important for attorneys to know the rules and deadlines for filing and keeping documents out of the public view.

When filing confidential documents, the path of least resistance is simply redacting the confidential information and filing the document normally. Often attorneys overlook this option assuming the confidential information is critical when in fact, it is not. Not only is this easier for counsel, it is less burdensome for the court. If a private document must be filed without redaction, in California, a party must obtain a court order. California courts do not allow parties to stipulate to the sealing of documents. CRC 2.551.

To obtain a court order, a party must file a motion including declarations and the documents at issue in both redacted and unredacted form. The unredacted documents may be filed in paper form in a separate envelope sealed and labeled "Conditionally Under Seal" or electronically with a suitable coversheet. If the court denies the motion to seal, the moving party must notify the court within 10 days that the documents may be filed unsealed, otherwise the clerk must return or destroy the documents. If the court grants the motion, the documents will remain under seal until further order of the court. Further, a party must not publicly file the documents before the court's order, otherwise a party will waive its right to a motion for sealing. See e.g., *Savaglio v. Wal-Mart Stores, Inc.* (2007) 149 Cal.App.4th 588.

If a party wishes to file a document in the public record that is subject to a protective order or confidentiality agreement, the filing party must first give proper notice of its intent to file the unredacted documents. Any objecting party may file a motion to seal or request an extension of time to file a motion to seal within 10 days after service of the notice of intent to file in the public record.

Protecting confidential information is more important than ever due to the rapidly advancing technology by the courts. Practitioners have the duty to protect clients' confidential information and must be aware of each court's rules and requirements. As always, it is also important to check each local and courtroom rule to ensure full compliance.

Audrey L. Priolo is a licensed California attorney with over 13 years of litigation and trial experience, who now works at American LegalNet as a Litigation Review Attorney. Questions may be directed to apriolo@alncorp.com