

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

**STANDING ORDER REGARDING MOTIONS FOR LEAVE TO
FILE UNDER SEAL AND STIPULATED PROTECTIVE ORDERS**

LEVENSON, M.J.

Generally, the Court DENIES motions to seal memoranda and attachments in their entirety on the ground that a presumption of openness governs court filings. The Court is guided in this regard by First Circuit precedent and by Local Rules 7.2 and 83.6.11.¹ Because the public has a “presumptive” right of access to judicial documents, *United States v. Kravetz*, 706 F.3d 47, 59 (1st Cir. 2013), “only the most compelling reasons can justify non-disclosure of judicial records’ that come within the scope of the common-law right of access.” *Id.* (quoting *In re Providence Journal Co.*, 293 F.3d 1, 10 (1st Cir. 2002)).

For truly confidential matters, a party may request to file a document under seal and publicly file a redacted copy. A party seeking leave to file under seal has the burden to show that sealing is justified by “compelling reasons” that outweigh the public’s presumptive right of access. To justify sealing, a party must make a particular factual demonstration of potential harm. *See id.* at 60. Mere conclusory statements will not suffice. *See id.*

Any party that wishes for the Court to consider information without disclosing that information to the public shall publicly file a redacted version of the document as an attachment to a motion to file the unredacted document under seal. The motion to file under seal shall be supported by an affidavit explaining the need for the sealing. The affidavit shall identify each redaction by page number and set forth the justification for each redaction. The motion shall

¹ Although Local Rule 7.2 refers to a “motion to impound,” I will use the more common term and refer to a “motion to file under seal.”

comply with Local Rule 7.2 and shall describe generally (1) the material or information sought to be filed under seal (without disclosing the substance of the material in question); (2) the requested duration of the sealing; and (3) the legal grounds for the sealing and its duration. Any party or non-party may file an opposition to a motion to file under seal within seven days of the motion's filing. The result of the Court's decision on a motion to file under seal will be public. If the Court grants a motion to file under seal, the moving party shall, within seven days, (1) file the unredacted filing under seal, (2) file the redacted version on the public docket, and (3) serve a copy of the unredacted version upon all parties.²

A party seeking leave to file under seal has the burden to justify the sealing. Mere agreement of the parties to designate discovery materials as confidential is not, by itself, justification. Likewise, the mere entry of a discovery order limiting disclosure of discovery materials is not, by itself, justification. The attorney for the party seeking to file material under seal shall be responsible for ensuring that there are appropriate legal grounds for withholding such material from the public. When the party seeking protection is not the party filing the document, the parties shall – when feasible – confer prior to any party filing the document on the public docket.

In the event that the filing party has been unable to confer with opposing parties in a meaningful way before the filing of a document containing confidential information, or if the filing party and non-filing parties disagree as to whether a motion to file under seal is justified, the filing party should contact the Deputy Clerk. In most circumstances, the Court will set a conference with the parties to review the proposed redactions.

² If the Court denies a motion to file under seal, the next steps will be set forth in the Court's order.

At any time, on its own motion or upon motion of a party or non-party, the Court may require a party to show cause for continued sealing of material filed under seal.

SO ORDERED,

/s/ Paul G. Levenson
Paul G. Levenson
U.S. MAGISTRATE JUDGE

Dated: January 4, 2024