

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA
(3/2/2007)**

FILING DOCUMENTS UNDER SEAL

While the general rule is that documents filed in a bankruptcy case are public records open to examination, under Section 107 of the Bankruptcy Code and Bankruptcy Rule 9018, the court may order that certain documents be filed under seal. Documents filed under seal are not available for review by the public. Documents ordered to be filed under seal are therefore not to be electronically filed on the CM/ECF docket since such documents may be reviewed over the Internet by any member of the public with PACER access. Such documents must be filed on paper so that the document's access can be restricted to the bankruptcy judge and the judges' staff.

The following process is to be used to file a document under seal.

1. As stated above, a document can be filed under seal only pursuant to order of the bankruptcy judge. Therefore, before submitting any documents under seal, a motion to file the document(s) under seal should be electronically filed. The motion should explain why the document(s) need to be filed under seal without disclosing the information that is to be sealed since the motion itself will be electronically filed and will be available to the public. Such a motion can normally be granted without a hearing, so a proposed order should be uploaded after filing the motion.

There is a specific event to use when filing a Motion to File Under Seal under both the Bankruptcy Motions and Adversary Motions Menus.

FRBP 2004 Examination (Application for)
File Under Seal (Motion to)
Final Decree (Motion for)
Incur Debt (Motion to)
Intervene (Motion to)
Join (Motion to)
Joint Administration (Motion for)
Limit Notice (Motion to)

2. If the motion is granted, after the order is docketed, you will receive e-mail notification of the docketing of the order from the ECF System (if you have properly enabled e-mail notification in your ECF password account.)

3. The documents ordered to be filed under seal should then be submitted on paper to the bankruptcy court by placing the documents in a sealed envelope and attaching a copy of the order to the outside of the envelope. An extra copy of the sealed documents in a separate envelope should also be submitted for the judge.

4. In certain cases, it may be necessary to provide the sealed documents to the bankruptcy judge before an order sealing the documents is entered so that the judge is able to review the documents before ruling on the motion to file under seal. In such a circumstance, the motion to file under seal is to be filed electronically, and then a paper copy of the motion, the proposed order and the sealed documents (submitted in a sealed envelope with a copy of the motion and proposed order attached to the outside of the envelope) should be submitted to the bankruptcy judge.

5. In other rare cases, the nature of the matter/documents to be filed under seal are such that even filing a motion to file the documents under seal may itself defeat the purpose of filing under seal. In such a circumstance, the motion, proposed order and sealed documents should all be filed on paper with a cover letter to the bankruptcy judge explaining why it is necessary to keep the motion itself sealed.

DISPOSITION OF DOCUMENTS FILED UNDER SEAL

Documents that are filed under seal will be disposed of pursuant to Local Bankruptcy Rule 5005-1(c) which provides as follows.

(c) **Sealed Documents.** Documents ordered to be filed under seal shall be disposed of as follows:

(1) Returned to the party who filed the document if such party obtains a court order for its return.

(2) If not returned pursuant to court order, the clerk shall destroy the sealed documents upon the closing of the case.

If, in a particular case due to the nature of the sealed documents, they should not be returned to the filing party and should not be destroyed, then a motion and proposed court order that the court retain the sealed records needs to be filed.