

Rule 40 - 2.08 Assignments of Actions and Matters.

(A) Assignment of Civil Actions.

Unless otherwise ordered by the Court, the Clerk will assign each civil action to a district judge or a magistrate judge by automated random selection, except that when preliminary injunctive relief is requested by motion, the Clerk will assign the action to a district judge. In the event the action is assigned to a magistrate judge, each party must execute and file within 21 days of its appearance either a written consent to the exercise of authority by the magistrate judge under 28 U.S.C. § 636(c), or a written election to have the action reassigned to a district judge. Each party must indicate its consent or election on a form provided by the Court, which must be submitted in the manner directed by the Court. Consent to a magistrate judge's authority does not constitute a waiver of any jurisdictional defense unrelated to the grant of authority under 28 U.S.C. § 636(c).

(B) Assignment of Criminal Actions.

Unless otherwise ordered by the Court, the Clerk will assign each grand jury indictment and each felony information to a district judge by automated random selection. Each case proceeding by felony indictment will be referred to a magistrate judge by automated random selection for a ruling or recommendation on all pretrial motions. Unless otherwise ordered by the Court, the Clerk initially will assign each misdemeanor information to a magistrate judge by automated random selection.

(C) Assignment of Miscellaneous Matters.

Unless otherwise ordered by the Court, miscellaneous matters will be assigned to a district judge or a magistrate judge by automated random selection, except that, as appropriate, miscellaneous matters brought by the government for expedited ex parte consideration will be presented to the district judge or magistrate judge to whom miscellaneous duty is then assigned.

(D) Judge's Initials to Appear in Cause Number.

The cause number for each case will include the initials of the assigned judge. In the event a case is reassigned to a different judge, the cause number will be modified to include the new judge's initials.

(E) Clerk to Enter Magistrate Judge Referrals and Designations on the Record.

In each civil action, criminal action, miscellaneous matter or other matter assigned to a magistrate judge pursuant to this rule, the Clerk is directed to enter on the public record of the action, case, or matter a designation by the Court stating that the assigned or referred magistrate judge is authorized to exercise, as appropriate, full authority under 28 U.S.C. § 636 and 18 U.S.C. § 3401.

(Amended July 10, 2006, effective August 28, 2006; Amended November 21, 2008 by adding paragraph (E), effective January 1, 2009; Amended September 8, 2009, effective December 1, 2009; Amended November 30, 2016, effective February 1, 2017)

Rule 54 - 8.03 Bill of Costs.

(A) District Court Costs.

(1) Unless otherwise ordered by the Court, a party seeking an award of costs must file a verified bill of costs, in the form prescribed by the Clerk, no later than twenty-one (21) days after entry of final judgment by the District Court pursuant to Fed.R.Civ.P. 58.

(2) Failure to file a bill of costs within the time provided may constitute a waiver of taxable costs.

(3) Each party objecting to a bill of costs must file, within fourteen (14) days of being served, a memorandum stating specific objections. Within seven (7) days after being served with the memorandum, the moving party may file a reply memorandum. The Clerk will tax costs as claimed in the bill if no timely objection is filed.

(4) Costs will be paid directly to counsel of record and execution may be had therefor.

(5) The filing of a bill of costs in no way affects the finality and appealability of the final judgment previously entered.

(B) Costs on Appeal Taxable in the District Court. Costs allowable pursuant to Fed.R.App.P. 39(e) will be taxed in accordance with section (A) of this rule, provided a bill of costs is filed within twenty-one (21) days of the issuance of the mandate or other order terminating the action by the Court of Appeals.

(Amended July 10, 2006; effective August 28, 2006; Amended September 8, 2009, effective December 1, 2009; Amended November 30, 2016, effective February 1, 2017)

Rule 83- 13.05 Pleadings and Documents Filed Under Seal.

(A) Pleadings and Documents in Civil Cases.

(1) Upon a showing of good cause the Court may order that documents filed in a civil case be received and maintained by the Clerk under seal. The Clerk of Court will restrict access to such documents so that they are not in the file to which the public has access. Unless the docket reflects prior entry of an order to file under seal or the party offering a pleading or document presents the clerk with an order of the Court authorizing a filing under seal or a motion for such order, all pleadings and documents received in the office of the clerk will be filed in the public record of a civil case, except as otherwise required by law. For instructions on seeking leave to file sealed motions or sealed documents in CM/ECF, see the Sealed and Ex Parte Documents section of the Court's Administrative Procedures for Case Management/Electronic Case Filing at <http://www.moed.uscourts.gov/administrative-procedures>.

(2) Not less than 30 days after a final order or other disposition has been issued in a civil action in the District Court, or 30 days after the receipt of a mandate from the Court of Appeals in a case in which an appeal has been taken, a motion may be filed with the Court requesting that documents previously filed under seal be unsealed and made part of the public record. Unless otherwise ordered by the Court, all documents previously sealed in a civil action will remain sealed by the Clerk of Court.

(B) Pleadings and Documents in Criminal Cases.

(1) All applications for pen registers, trap and trace devices, wire taps, records of electronic communications, and IRS search warrants and tax return orders will be filed and maintained by the Clerk under seal unless otherwise ordered by the Court. Documents, pleadings, and other materials filed under seal pursuant to this paragraph will be maintained by

the Clerk in original form for not less than five (5) years from the date of filing. All such original sealed documents will be scanned into electronic digital images, indexed, and permanently stored under seal in such electronic format in lieu of maintaining the original paper copies after the required period of five (5) years. When an electronic digital image or copy of any original document, pleading, or other material filed with the Court under seal is created pursuant to this paragraph, the electronic version will be the permanent and official court record. From time to time, the Clerk may petition the Court for leave to destroy original documents and materials filed under seal pursuant to this paragraph for which electronic digital images have been made.

(2) All presentence investigation reports and such other materials regarding any guilty plea or sentencing which the Court orders filed under seal, including but not limited to any plea agreement supplement, sentencing statement, plea transcript supplement, or sentencing transcript supplement, will be filed and maintained by the Clerk under seal. The U.S. Attorney's Office must file a sealed statement in all criminal cases in which a defendant enters a guilty plea that will either explain the terms of a defendant's cooperation or state that a defendant did not cooperate with the government. Nothing in the Court's public record will allow anyone to be able to determine whether a defendant did or did not cooperate with the government. The Court may issue administrative orders and procedures further specifying processes necessary to preserve the confidentiality of the documents and proceedings described in this paragraph.

(3) Applications for search warrants, warrants and similar orders issued pursuant to Rule 41 upon application of the government for the acquisition of information or evidence in connection with a criminal investigation, and returns made pursuant to Fed.R.Crim.P. 41(f), will each be received by the Court under temporary seal. Within fourteen (14) days from the date of receipt by the Court of any such document, the government or any

other person or entity having a sufficient privacy interest in the search warrant information, or the property or evidence that is the object of acquisition by the government, may file an ex parte motion seeking an order to file under seal. The motion to seal will set out the date on which the sealing order will expire without further order of the court. The moving party will have the burden of establishing a compelling interest necessitating a restriction on public access. When such a motion is pending, the subject material will remain sealed but the Court must rule on the motion promptly. If the motion is granted, the Court will direct the Clerk to file the relevant documents under seal. The maximum period of time for which the motion may be granted is six (6) months. If, after six months, a party seeks continued sealing of the file, the party must submit a motion to that effect demonstrating a continuing compelling interest necessitating restriction on public access. If the motion to seal or for continued sealing is denied in whole or in part, or if no motion is timely filed, the Court will order the Clerk to unseal and file unrestricted material in the public record unless the Court determines otherwise.

(4) Except as otherwise provided in this paragraph, any written communication regarding any defendant by persons other than court-related personnel working on the case, the defendant, or counsel, submitted at any point before the defendant has been sentenced, will be made available for viewing at the public terminal in the clerk's office. Any written communication received in paper form will be scanned and filed electronically in the appropriate case. Any party may file a motion, either at or after the time any written communication is submitted, stating the particular reasons as to why it should not be made available at the public terminal. A judge, either on the judge's own motion or on the motion of any party, may order all or any portion of any written communication to be removed from the public terminal at any time. Any written communication that has been redacted will be filed

under seal in a non-redacted form. The clerk's office will publish a notice to the bar and include a permanent notice on its website restating this paragraph. This notice will also state the types of personally identifying information that must not be included on any written communication submitted to this Court, consistent with Fed. R. Crim. P 49.1 and any order of this Court regarding prohibited information on any such written communication.

(5) All pleadings and documents relating to grand jury proceedings will be filed and maintained by the Clerk under seal.

(6) Any material or item ordered sealed by the Court will be filed and maintained by the Clerk under seal.

(New rule added April 3, 1998, effective July 1, 1998; Paragraph B amended February 4, 2000, effective March 8, 2000; Paragraph B amended April 5, 2002, effective June 1, 2002; Amended July 10, 2006, effective August 28, 2006; Amended January 9, 2009, effective February 16, 2009; Amended September 8, 2009, effective December 1, 2009; Amended November 4, 2015, effective January 1, 2016; Amended November 30, 2016, effective February 1, 2017.)