

WordPerfect Document Compare Summary

Original document: O:\everyone\Local Civil Rules WP\Redline Version\Reline Version CR 5.wpd

Revised document: @PFDesktop\.:MyComputer\O:\everyone\Local Civil Rules WP\Redline Version\Reline Version CR 5.wpd

Deletions are shown with the following attributes and color:

~~Strikeout~~, Blue RGB(0,0,255).

Deleted text is shown as full text.

Insertions are shown with the following attributes and color:

Double Underline, Redline, Red RGB(255,0,0).

The document was marked with 13 Deletions, 14 Insertions, 0 Moves.

CR 5. SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

(a) Service. Whenever the court has made an ex parte order, the party obtaining it shall serve a copy of the order, and of the papers upon which it was based, within two days after entry of the ex parte order, upon each party who has appeared in the cause; except that an order to show cause shall be served within the time fixed by the order.

~~(b) Reserved.~~ The court authorizes service under Fed. R. Civ. P. 5(b) by electronic means. A paper properly filed by electronic means in accordance with the court's Electronic Filing Procedures for Civil and Criminal Cases is service for purposes of Fed. R. Civ. P. 5(b). This provision does not alter Fed. R. Civ. P. 5(d); Rule 26 disclosures and discovery requests and responses must not be filed until they are used in the proceedings or the court orders filing. If the recipient is not a registered participant in the CM/ECF system, service of the underlying document must be made by the filer in paper form according to the Federal Rules of Civil Procedure.

(c) Reserved

(d) Reserved

(e) Place of Filing and Trial.

(1) In all civil cases in which all defendants reside, or in which the claim arose, in the counties of Clallam, Clark, Cowlitz, Grays Harbor, Jefferson, Kitsap, Lewis, Mason, Pacific, Pierce, Skamania, Thurston, and Wahkiakum, the case file will be maintained in Tacoma. The same criteria as set out above shall be used to determine the location of the file when cases are removed from state courts.

(2) In some circumstances, a judge of the court will order that a case which would otherwise be considered a Tacoma case under CR 5(e)(1) be assigned to a Seattle judge, and *vice versa*. When that happens, the files will be maintained in the city where the assigned judge maintains an office.

~~(3) If papers are filed in a city other than that where the assigned judge maintains an office, the judge may not receive the papers until the next day.~~

(f) Proof of Service. Proof of service of all papersfilings required or permitted to be served, other than those for which a method of proof is prescribed in the Federal Rules of Civil Procedure, shall be made by a certificate or acknowledgment of service on the document itself, or by a separate filing if necessary. Failure to make the proof of service required by this subdivision does not affect the validity of the service and the court may at any time allow the proof of service to be amended or supplied unless it clearly appears that to do so would result in material prejudice to any party.

(g) Sealing of Court Records.

~~(1) This rule sets forth a uniform procedure for sealing court files, cases, records, exhibits, specified documents, or materials in a court file or record. There is a strong presumption of public access to the court's files and records which may be overcome only on a compelling showing that the public's right of access is outweighed by the interests of the public and the parties in protecting files, records, or documents from public review. documents filed with the court. Nothing in this rule shall be construed to expand or restrict statutory provisions for the sealing of documents, court files records, or document, or cases.~~

~~(2) The court may order the sealing of any files and records on motion of any party, on stipulation and order, or on the court's own motion. If no defendant has appeared in the case, the motion to seal may be presented ex parte. The law requires, and the motion and the proposed order shall include, a clear statement of the facts justifying a seal and overcoming the strong presumption in favor of public access.~~

(2) There is a strong presumption of public access to the court's files. With regard to dispositive motions, this presumption may be overcome only on a compelling showing that the public's right of access is outweighed by the interests of the public and the parties in protecting the court's files from public review. With regard to nondispositive motions, this presumption may be overcome by a showing of good cause under Rule 26(c).

~~(3) Each document to be filed under seal must be submitted in a separate envelope, clearly identifying the enclosed document and stating that the document is "FILED UNDER SEAL." For example, if both the motion and the accompanying affidavit should be filed under seal, the two documents must be submitted in separate, clearly marked envelopes so that each may be entered on the docket. If only one exhibit or document needs to be filed under seal, only that exhibit or document should be submitted in an envelope.~~

~~(4) Sealed files and records, or any part thereof, shall remain sealed until the court orders unsealing on stipulation of the parties, motion by any party or intervenor, or the court's own motion. Any party opposing the unsealing must make a compelling showing that the interests of the parties in protecting files, records or documents from public review continue to outweigh the public's right of access.~~

(3) If a party seeks to have documents filed under seal and no prior order in the case or statute specifically permits it, the party must obtain authorization to do so by filing a motion to seal or a stipulation and proposed order requesting permission to file specific documents under seal. The court will allow parties to file entire memoranda under seal only in rare circumstances. A motion or stipulation to seal usually should not itself be filed under seal. A declaration or exhibit filed in support of the motion to seal may be filed under seal if necessary. If possible, a party should protect sensitive information by redacting documents rather than seeking to file them under seal. A motion or stipulation to seal should include an explanation of why redaction is not feasible.

~~(5) If the court orders the sealing of any files or documents pursuant to the above provisions, the clerk shall:~~

~~(A) file the order to seal;~~

~~(B) seal the file, record, or documents designated in the order to seal and secure it from public access;~~

~~(C) in civil actions in which only portions of the file have been placed under seal, return sealed documents to the submitting counsel or party after the case has concluded and the time for appeal has run;~~

~~(D) in civil actions in which the entire file has been placed under seal, destroy the sealed file after the case has concluded, the time for appeal has run, and the parties have been given sixty days' notice of the proposed destruction.~~

(4) A motion or stipulation to seal shall provide a specific description of particular documents or categories of documents a party seeks to protect and a clear statement of the facts justifying sealing and overcoming the strong presumption in favor of public access. The facts supporting any motion or stipulation to seal must be provided by declaration or affidavit.

(5) A motion or stipulation to seal may either be filed prior to or contemporaneously with a filing that relies on the documents sought to be filed under seal. If the court subsequently denies the motion to seal, the sealed document will be unsealed unless the court orders otherwise, or unless the party that is relying on the sealed document, after notifying the opposing party within 2 judicial days of the court's order, files a notice to withdraw the documents. If a party withdraws a document on this basis, the parties shall not refer to the withdrawn document in any pleadings, motions and other filings, and the court will not consider it. For this reason, parties are encouraged to seek a ruling on motions to seal well in advance of filing underlying motions relying on those documents.

(6) Files sealed based on a court order shall remain sealed until the court orders unsealing upon stipulation of the parties, motion by any party or intervenor, or by the court after notice to the parties. Any party opposing the unsealing must meet the required showing pursuant to 5(g)(2) that the interests of the parties in protecting files, records, or documents from public review continue to outweigh the public's right of access.

(7) For those parties (e.g., pro se) who are exempt from the otherwise mandatory electronic filing requirement, each document to be filed under seal must be submitted in hard copy and submitted in a separate envelope, clearly identifying the enclosed document and stating that the document is "FILED UNDER SEAL." For example, if both the motion and the accompanying affidavit should be filed under seal, the two documents must be submitted in separate, clearly marked envelopes so that each may be

entered on the docket. If only one exhibit or document needs to be filed under seal, only that exhibit or document should be submitted in an envelope.

Note: 5(g)(1) Some statutes may call for the sealing of a particular document, e.g. documents containing personal medical information. 5(g)(2) *Kamakana v. City and County of Honolulu* makes their distinction between dispositive and non-dispositive motions. 5(g)(5) The option to withdraw a pleading belongs to the proponent of the substantive motion. A party may file a motion to seal on a pro forma basis, i.e. because the party is required to do so by a stipulated protective order. Under this rule a party may not withdraw an opposing party's motion.

=