

## **NEWS FROM U.S. DISTRICT COURT**

**February 8, 2019**

**Ordering Transcripts:** From time to time the Clerk's Office is contacted by attorneys with questions about how to order transcripts. If counsel is retained and a court reporter was present at the hearing in question, counsel should contact the court reporter to arrange for preparation of the transcript. If counsel was retained and a court reporter was not present, counsel should contact the Clerk's Office. The Clerk's Office will line up a court reporter to prepare a transcript from an electronic recording of the hearing. Under D.S.D. Crim. LR 57.2, electronic recordings are not released to the parties or the public. Retained counsel will be responsible for the costs of preparing such a transcript.

If counsel is court appointed, any transcript request must first be approved by the court through the submission of a CJA24 Authorization form in eVoucher. If counsel requests a transcript of voir dire, opening statements, jury instructions, or closing arguments, counsel must provide justification for those portions of the trial transcript in the notes section of the CJA24 Authorization form or by way of an attachment.

**Sealed v. Ex Parte Documents:** Perhaps no subject is more confusing than restricted documents. This month, we hope to offer some clarity on the subject. Sealed documents and ex parte documents are both restricted documents, but the restrictions differ.

### **1. Sealed Documents**

With some exceptions, you can tell from the public docket sheet that a sealed document has been filed but you cannot access the document. If a sealed document is filed on behalf of a party, that party is responsible for serving the document on opposing counsel. When a sealed order is entered, the Clerk's Office is responsible for providing copies of the order to the appropriate parties.

### **2. Ex Parte Documents**

Ex parte documents, by contrast, are documents to which only one side has access. Ex parte documents may only be filed when service of the document on another party is not required under the federal rules of procedure and the local rules of practice of this district court. An example in a criminal case would be an ex parte motion for new counsel. Unlike most sealed documents, you cannot tell from the public docket sheet that an ex parte document has been filed. Only the filer and court users can see ex parte documents.

For more information about sealed documents and ex parte documents, see the CM/ECF User Manual.