

**NEWS FROM U.S. DISTRICT COURT**  
**May 11, 2018**

**SEALED DOCKET ENTRIES vs. SEALED DOCUMENTS:** Sealed *docket entries* are *not* visible on the public docket sheet. Since sealed docket entries are not visible on the public docket sheet, the documents and information associated with sealed docket entries are not visible or accessible by attorneys, pro se parties, or other public user. In contrast, sealed *documents* are visible on the public docket sheet, but the actual sealed documents are not accessible by any public users, including the filing attorney. Attorneys can e-file several types of plea and sentencing related documents in criminal cases in CM/ECF that will either be sealed or will result in sealed docket entries. For more information about sealed documents and sealed docket entries, see the CM/ECF User Manual.

**CERTIFICATES OF SERVICE:** Unless a document is electronically served via CM/ECF, a certificate of service must be attached to the document identifying the persons served and the manner in which manual service was accomplished. See D.S.D. Civ. LR 5.1.B.3 and D.S.D. Crim. LR 49.1.B.3. All sealed documents and documents that result in a sealed docket entry *must be manually served*. In addition, a certificate of service *must be attached* to the document. Filers are cautioned *not* to file a separate certificate of service using the Certificate of Service event. A separately filed certificate of service will be visible on the public docket sheet and accessible by all public users.

**NOTICES OF ELECTRONIC FILING (a/k/a NEFs):** Electronic transmission of a document to CM/ECF together with transmission of a Notice of Electronic Filing (NEF) constitutes filing of a document. See D.S.D. Civ. LR 5.1.B.1 and D.S.D. Crim. LR 49.1.B.1. Each time a document is e-filed in CM/ECF, CM/ECF immediately transmits an NEF *receipt* back to the filer's computer. This NEF receipt contains information about the document that was filed, including the document's number. The NEF receipt screen can be printed or saved. When most documents are e-filed in CM/ECF, an NEF *e-mail* is also transmitted via e-mail to the appropriate case participants. This NEF e-mail contains the same information as the NEF receipt, plus an active document number hyperlink for accessing the document. However, when a document is e-filed in CM/ECF that results in a sealed docket entry, an NEF e-mail is *not* generated. Whenever a document is e-filed in CM/ECF that results in a sealed docket entry and an NEF e-mail is not generated, the filer *must* print a copy of the NEF receipt screen and include it when the document is manually served on the appropriate case participants. Although an NEF e-mail is sent to the appropriate case participants when a sealed document is e-filed in CM/ECF, for tracking purposes a copy of the NEF receipt screen should always be included when a document is manually served.

**NEW CRIMINAL CASE EVENTS MENU – Sealed Plea & Sentencing Related Documents:** All of the criminal case events that allow attorneys to file sealed plea and sentencing related documents in CM/ECF have been gathered together and are now available on one new events menu called Sealed Plea & Sentencing Related Documents. When a document is e-filed using some of the events on this menu, the *document* is sealed. When a document is e-filed using other events on this menu, the *docket entry* is sealed. The events that result in a sealed docket entry are identified with the – SEALED DOCKET ENTRY appendage. The following 15 events are currently available on this menu:

- Sealed Allocution Statement
- Sealed Evaluation
- Sealed Letter(s) of Support
- Sealed Motion for Departure – SEALED DOCKET ENTRY

- Sealed Motion for Variance – SEALED DOCKET ENTRY
- Sealed Notice of Intent to Seek Departure or Variance – SEALED DOCKET ENTRY
- Sealed Objections to Presentence Report (PSR)
- Sealed Objections to Sentencing Document (not PSR) – SEALED DOCKET ENTRY
- Sealed Plea Agreement Supplement
- Sealed Response to Sealed Objections to Presentence Report (PSR)
- Sealed Response to Sealed Sentencing Document (not PSR) – SEALED DOCKET ENTRY
- Sealed Sentencing Memorandum – SEALED DOCKET ENTRY
- Sealed Statement of Factual Basis
- Sealed Supporting Document(s) Related to Sentencing
- Sealed Victim Impact Statement(s)

A certificate of service should be attached to *all* documents e-filed using these events. *All* documents e-filed using these events *must* be manually served on the appropriate case participants. A copy of the NEF receipt screen should always be included with each document that is manually served.