

**HON. JOEL M. COHEN**

**PART 3 – SEALING PRACTICES AND PROCEDURES**

**Supreme Court of the State of New York  
Commercial Division  
60 Centre Street, Courtroom 208  
New York, NY 10007**

**Part Clerk/Courtroom Phone: 646-386-3275  
Chambers Room: 646-386-4927**

**1. Process**

- a. Motions to seal and/or redact may be made by Order to Show Cause. The movant must indicate whether the motion is opposed or unopposed.
- b. Provisional sealing of documents pending the hearing on the Order to Show Cause:
  - i. Unredacted versions of putatively confidential documents may be filed by counsel on NYSCEF for the Court's consideration in reviewing the Order to Show Cause. When filing the unredacted document on NYSCEF, choose the "Request to Seal" option when selecting the "Document Type." The provisional sealing expires, absent court order, after five days.
  - ii. To extend the period of provisional sealing beyond five days, the Order to Show Cause should include a request for interim relief using language such as the following:

**“It is further ORDERED that pending the hearing on this Order to Show Cause, NYSCEF Doc. No. [Insert Document Number(s)] will remain temporarily under seal, accessible only to the parties, their counsel, and court personnel.”**
- c. The papers in support of the motion should include the following materials:
  - i. Memorandum of Law: The movant's memorandum shall set forth the factual and legal basis for sealing or redacting each document or each piece of information, citing applicable law and supporting authority.
  - ii. Affidavit Based on Personal Knowledge: The movant shall include an affidavit based on personal knowledge (*i.e.*, not an attorney affidavit based on information and belief) attesting to the factual bases for sealing or

redaction. The documents for which sealing is required should be attached as Exhibits to the affidavit.

iii. Sealing/Redaction Spreadsheet: The movant shall include a spreadsheet or chart that clearly and specifically identifies:

1. Each unredacted document by NYSCEF number and Exhibit number.
2. The good-faith basis for each proposed redaction. Generalized statements such as “confidential business information” are not sufficient.

iv. Exhibits:

1. Unredacted Documents: Each document sought to be sealed or redacted must be filed as an Exhibit on NYSCEF in unredacted form, with all proposed redactions highlighted, corresponding with the spreadsheet or chart. This Part will not accept unredacted documents by hard copy or by email absent special circumstances communicated to the Court in advance.
2. Redacted Documents: For each unredacted document, the movant must file a corresponding public copy of the document as an Exhibit on NYSCEF reflecting the proposed redactions. If the motion proposes sealing the entire document, a slip sheet should be included to indicate that fact.
3. Exhibit Numbering: The Exhibit Numbers for redacted documents should correspond to the unredacted documents: If the Unredacted Document is Exhibit 1, the Redacted Document should be Exhibit 1R, and so on.

## **2. Substance**

- a. General assertions that information contained in documents is “confidential” are not sufficient. Under applicable law, “the party seeking to seal court records has the burden to demonstrate compelling circumstances to justify restricting public access” (*Maxim, Inc. v Feifer*, 145 AD3d 516, 517 [1st Dept 2016] [internal citations and quotations marks omitted]).
- b. The fact that the parties have a confidentiality agreement or otherwise stipulate to sealing is not sufficient to warrant sealing or redaction of specific documents. The Court has an independent obligation to determine whether sealing is appropriate (*see e.g., Maxim*, 145 AD3d at 518; *Gryphon Dom. VI, LLC v APP Intern. Fin. Co., B.V.*, 28 AD3d 322, 324 [1st Dept 2006]).

- c. Narrowly targeted redactions are more likely to be permitted than sealing of an entire document or court file (*Danco Labs., Ltd. v Chemical Works of Gedeon Richter, Ltd.*, 274 AD2d 1, 6 [1st Dept 2000]).
- 3. Assistance:** For assistance with procedural e-filing issues, including the procedure for filing documents under provisional seal, please contact the County Clerk's Office E-File Department, Room 141 B, 646-386-3737, or the General Clerk's Office, Room 119, 646-386-3030.