

Cal Rules of Court, Rule 2.551

This document reflects first and last orders received through May 29, 2020. Rules are current through May 29, 2020.

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Rule 2.551. Procedures for filing records under seal

(a) Court approval required A record must not be filed under seal without a court order. The court must not permit a record to be filed under seal based solely on the agreement or stipulation of the parties.

(Subd (a) amended effective January 1, 2007.)

(b) Motion or application to seal a record

(1) Motion or application required A party requesting that a record be filed under seal must file a motion or an application for an order sealing the record. The motion or application must be accompanied by a memorandum and a declaration containing facts sufficient to justify the sealing.

(2) Service of motion or application A copy of the motion or application must be served on all parties that have appeared in the case. Unless the court orders otherwise, any party that already has access to the records to be placed under seal must be served with a complete, unredacted version of all papers as well as a redacted version. Other parties must be served with only the public redacted version. If a party's attorney but not the party has access to the record, only the party's attorney may be served with the complete, unredacted version.

(3) Procedure for party not intending to file motion or application

(A) A party that files or intends to file with the court, for the purposes of adjudication or to use at trial, records produced in discovery that are subject to a confidentiality agreement or protective order, and does not intend to request to have the records sealed, must:

(i) Lodge the unredacted records subject to the confidentiality agreement or protective order and any pleadings, memorandums, declarations, and other documents that disclose the contents of the records, in the manner stated in (d);

(ii) File copies of the documents in (i) that are redacted so that they do not disclose the contents of the records that are subject to the confidentiality agreement or protective order; and

(iii) Give written notice to the party that produced the records that the records and the other documents lodged under (i) will be placed in the public court file unless that party files a timely motion or application to seal the records under this rule.

(B) If the party that produced the documents and was served with the notice under (A)(iii) fails to file a motion or an application to seal the records within 10 days or to obtain a court order extending the time to file such a motion or an application, the clerk must promptly transfer all

the documents in (A)(i) from the envelope, container, or secure electronic file to the public file. If the party files a motion or an application to seal within 10 days or such later time as the court has ordered, these documents are to remain conditionally under seal until the court rules on the motion or application and thereafter are to be filed as ordered by the court.

(4)Lodging of record pending determination of motion or application The party requesting that a record be filed under seal must lodge it with the court under (d) when the motion or application is made, unless good cause exists for not lodging it or the record has previously been lodged under (3)(A)(i). Pending the determination of the motion or application, the lodged record will be conditionally under seal.

(5)Redacted and unredacted versions If necessary to prevent disclosure, any motion or application, any opposition, and any supporting documents must be filed in a public redacted version and lodged in a complete, unredacted version conditionally under seal. The cover of the redacted version must identify it as "Public--Redacts materials from conditionally sealed record." The cover of the unredacted version must identify it as "May Not Be Examined Without Court Order--Contains material from conditionally sealed record."

(6)Return of lodged record If the court denies the motion or application to seal, the moving party may notify the court that the lodged record is to be filed unsealed. This notification must be received within 10 days of the order denying the motion or application to seal, unless otherwise ordered by the court. On receipt of this notification, the clerk must unseal and file the record. If the moving party does not notify the court within 10 days of the order, the clerk must (1) return the lodged record to the moving party if it is in paper form or (2) permanently delete the lodged record if it is in electronic form.

(c)References to nonpublic material in public records A record filed publicly in the court must not disclose material contained in a record that is sealed, conditionally under seal, or subject to a pending motion or an application to seal.

(Subd (c) amended effective January 1, 2004.)

(d)Procedure for lodging of records

(1)A record that may be filed under seal must be transmitted to the court in a secure manner that preserves the confidentiality of the records to be lodged. If the record is transmitted in paper form, it must be put in an envelope or other appropriate container, sealed in the envelope or container, and lodged with the court.

(2)The materials to be lodged under seal must be clearly identified as "CONDITIONALLY UNDER SEAL." If the materials are transmitted in paper form, the envelope or container lodged with the court must be labeled "CONDITIONALLY UNDER SEAL."

(3)The party submitting the lodged record must affix to the electronic transmission, the envelope, or the container a cover sheet that:

(A)Contains all the information required on a caption page under rule 2.111; and

(B)States that the enclosed record is subject to a motion or an application to file the record under seal.

(4) On receipt of a record lodged under this rule, the clerk must endorse the affixed cover sheet with the date of its receipt and must retain but not file the record unless the court orders it filed.

(Subd (d) amended effective January 1, 2016; previously amended effective January 1, 2004, and January 1, 2007.)

(e) Order

(1) If the court grants an order sealing a record and if the sealed record is in paper format, the clerk must substitute on the envelope or container for the label required by (d)(2) a label prominently stating "SEALED BY ORDER OF THE COURT ON (DATE)," and must replace the cover sheet required by (d)(3) with a filed-endorsed copy of the court's order. If the sealed record is in electronic form, the clerk must file the court's order, maintain the record ordered sealed in a secure manner, and clearly identify the record as sealed by court order on a specified date.

(2) The order must state whether--in addition to the sealed records --the order itself, the register of actions, any other court records, or any other records relating to the case are to be sealed.

(3) The order must state whether any person other than the court is authorized to inspect the sealed record.

(4) Unless the sealing order provides otherwise, it prohibits the parties from disclosing the contents of any materials that have been sealed in anything that is subsequently publicly filed.

(Subd (e) amended effective January 1, 2017; previously amended effective January 1, 2004, January 1, 2007, and January 1, 2016.)

(f) Custody of sealed records Sealed records must be securely filed and kept separate from the public file in the case. If the sealed records are in electronic form, appropriate access controls must be established to ensure that only authorized persons may access the sealed records.

(g) Custody of voluminous records If the records to be placed under seal are voluminous and are in the possession of a public agency, the court may by written order direct the agency instead of the clerk to maintain custody of the original records in a secure fashion. If the records are requested by a reviewing court, the trial court must order the public agency to deliver the records to the clerk for transmission to the reviewing court under these rules.

(h) Motion, application, or petition to unseal records

(1) A sealed record must not be unsealed except on order of the court.

(2) A party or member of the public may move, apply, or petition, or the court on its own motion may move, to unseal a record. Notice of any motion, application, or petition to unseal must be filed and served on all parties in the case. The motion, application, or petition and any opposition, reply, and supporting documents must be filed in a public redacted version and a sealed complete version if necessary to comply with (c).

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(3) If the court proposes to order a record unsealed on its own motion, the court must give notice to the parties stating the reason for unsealing the record. Unless otherwise ordered by the court, any party may serve and file an opposition within 10 days after the notice is provided and any other party may file a response within 5 days after the filing of an opposition.

(4) In determining whether to unseal a record, the court must consider the matters addressed in rule 2.550 (c)-(e).

(5) The order unsealing a record must state whether the record is unsealed entirely or in part. If the court's order unseals only part of the record or unseals the record only as to certain persons, the order must specify the particular records that are unsealed, the particular persons who may have access to the record, or both. If, in addition to the records in the envelope, container, or secure electronic file, the court has previously ordered the sealing order, the register of actions, or any other court records relating to the case to be sealed, the unsealing order must state whether these additional records are unsealed.

(Subd (h) amended effective January 1, 2016; previously amended effective January 1, 2004, and January 1, 2007.)

History

Rule 2.551 amended effective January 1, 2017; adopted as rule 243.2 effective January 1, 2001; previously amended and renumbered as rule 2.551 effective January 1, 2007; previously amended effective January 1, 2004, and January 1, 2016.

Deering's California Codes Annotated

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