

CM/ECF VERSION 5.X HIGHLIGHTS AND RESTRICTED DOCUMENTS

Attorneys

November 2011
Jack Yee



PRESENTATION OBJECTIVES

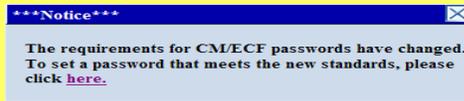
1. Password Security
2. Multiple login attempts
3. Lost/Forgotten passwords
4. Restricted Documents
 - Sealed v Restricted
 - Local rule changes
 - 7.2 Public Access to Documents and Proceedings (civil)
 - 6.1 Grand Jury (criminal)
 - 32.1 Sentencing documents (criminal)
 - 47.1 Public Access to Documents and Proceedings (criminal)
 - Filing in CM/ECF
 - Disbursement of Registry Funds (Rule 67.2.D -civil, Rule 46.1.D - criminal)
5. PDF/A
6. Questions

PASSWORD SECURITY

- Effective with Version 5.x of CM/ECF, passwords should meet new requirements.
 - Minimum of eight characters
 - One or more upper case letters
 - One digit or special character (0 - 9, @, #, \$, %, *, +)
- When do the new password requirements become effective?
 - Immediately upon the implementation of Version 5.x to the Live DB environment.

PASSWORD SECURITY

- When do I have to change the password?
 - After Version 5.x is installed and the attorney logs on. CM/ECF will check the existing password to the new criteria.
 - If the existing password **DOES NOT** meet the new criteria, a display box is presented to allow the password to be changed.



PASSWORD SECURITY



1. Click on the "here" link and change the password.
2. Click on the "x" to close the box. (Existing password is not changed. The dialog box will pop up each time the attorney logs in.)
3. You click on "here" and a security violation message is displayed. (Call the CM/ECF Helpdesk)

Security violation: You do not have access rights to this program (my_acct.pl). Please contact the Systems Administrator if you feel this is an error. This access attempt has been logged.

MULTIPLE LOGIN ATTEMPTS

Effective with Version 5.x of CM/ECF, login attempts are tracked as to the number .

- ✘ After five invalid login attempts, the user's account will be "locked" for five minutes and the following error message will appear:

"Your account is temporarily disabled because an incorrect password was given 5 times. If you do not know who entered the incorrect passwords, or if you need to have your password changed, please contact the System Administrator. Otherwise, please try again in approximately 5 minutes."
- ✘ After the initial five minute timeout period has expired, the next failed login attempt will increase the timeout period to six minutes in the future. After the new six minute timeout period has expired, the next failed attempt will increase the timeout period to seven minutes in the future, and so on.

PASSWORD SECURITY AND MULTIPLE LOGIN ATTEMPTS

What it means for Password Security -

1. If you forgot your password, the court can no longer tell you what your password is.
2. If you do call the court, we will reset your password to a new password after the attorney has answered the security questions.

What it means for Multiple Login attempts -

1. Hurry up and wait...

But.....

FORGOTTEN LOST PASSWORD RESET

✘ The District of Colorado will also implement a feature allowing attorneys to reset a lost or forgotten password.

(Note: This password reset feature is NOT part of the national Version 5.x rollout.)

- ✘ **Rules:**
 - + 1. Works ONLY for ECF logins (NOT PACER Logins)
 - + 2. The attorney MUST know the ECF Login
 - + 3. After submitting the request, a reset e-mail link is sent ONLY to the PRIMARY e-mail address for the attorney
 - + 4. The reset link is valid for 24 hours

FORGOTTEN LOST PASSWORD RESET

CM/ECF Filer or PACER Login

Notice
This is a Restricted Web Site for Official Court Business only. Unauthorized entry is prohibited and subject to prosecution under Title 18 of the U.S. Code. All activities and access attempts are logged.

Instructions for filing:
Enter your CM/ECF filer login and password if you are electronically filing something with the court.

If you received this login page as a result of a link from a Notice of Electronic Filing email:
Enter your CM/ECF filer login and password. The system prompts customers for a CM/ECF login and password when attempting to view certain types of documents.

If you have trouble viewing a document:
After successful entry of your CM/ECF login, you should be able to view the document. If you receive the message "You do not have permission to view this document," viewing the document is restricted to attorneys of record in the case and the system does not recognize you as such. If the login prompt appears again, after you have entered your CM/ECF login and password, it means that the "two look" link has expired. You will need to enter your PACER login and password to view the document.

Instructions for viewing filed documents and case information:
If you do not need filing capabilities, enter your PACER login and password. If you do not have a PACER login, you may register online at <http://pacer.psc.uscourts.gov>.

Authentication

IMPORTANT NOTICE OF REDACTION RESPONSIBILITY: All filers must redact Social Security or taxpayer identification numbers, dates of birth, names of minor children, financial account numbers, and, in criminal cases, home addresses, in compliance with [Fed. R. Civ. P. 6.2](#) or [Fed. R. Crim. P. 41.1](#). This requirement applies to all documents, including attachments.

I understand that I must comply with the redaction rules. I have read this notice.

Login

Password

help

SEALED VS. RESTRICTED

- Effective with these Local Rule changes, the court is shifting terminology from the use of “sealed” document to using “restricted” document as CM/ECF technology allows differing levels of electronic access.

RESTRICTED DOCUMENT LEVELS

- × Civil
 - Restricted Doc. - Level 1 - Viewable by Case Participants & Court
 - Restricted Doc. - Level 2 - Viewable by Filer & Court
 - Restricted Doc. - Level 3 - Viewable by Court Only
- × Criminal
 - Restricted Doc. - Level 1 - Viewable by Case Participants & Court
 - Restricted Doc. - Level 2 - Viewable by Selected Parties & Court
 - Restricted Doc. - Level 3 - Viewable by Filer & Court
 - Restricted Doc. - Level 4 - Viewable by Court Only

ELECTRONIC ACCESS & MAILING BENEFITS

<ul style="list-style-type: none"> × Civil and Criminal <ul style="list-style-type: none"> + For Restricted Documents <ul style="list-style-type: none"> × Civil Level 1, and 2 × Criminal Levels 1, 2, and 3 + Appropriate parties will receive NEFs and will be able to access the document electronically, when properly accessed. × Filing parties will no longer need to mail a copy of the restricted document to opposing parties 	<ul style="list-style-type: none"> × Civil and Criminal <ul style="list-style-type: none"> + For Restricted Documents <ul style="list-style-type: none"> × Civil Level 3 × Criminal Level 4 + All parties will receive NEFs but will NOT be able to access the document electronically. × If parties need to be served with the document, another restriction level should be considered. × If you choose to file a document at one of these levels, You must serve opposing parties by mail or other means. Parties WILL NOT be able to access the document via the NEF.
--	--

LOCAL RULE CHANGES

× D.C.COLO.LCivR 7.2 PUBLIC ACCESS TO DOCUMENTS AND PROCEEDINGS

Rule D.C.COLO.LCivR 7.2 has four sections, A through D.

- A. Policy
 - **B. Motion to Restrict Access**
 - C. Public Notice of Motions to Restrict Access; Objections
 - D. Filing Restricted Documents
- Attorneys should review **ALL** sections of the rule. Section B.5 is a **new** specific requirement for attorneys when filing the motion to restrict.

LOCAL RULE CHANGES (CIVIL)

× **7.2.B. Motions to Restrict Access.** Any motion to restrict public access will be **open to public inspection and must:**

- × 1. Identify the document or the proceeding for which restriction is sought;
- × 2. Address the interest to be protected and why such interest outweighs the presumption of public access (stipulations between the parties or stipulated protective orders with regard to discovery, alone, are insufficient to justify restricted access);
- × 3. Identify a clearly defined and serious injury that would result if access is not restricted;
- × 4. Explain why no alternative to restricted access is practicable or why only restricted access will adequately protect the interest in question (e.g., redaction, summarization, restricted access to exhibits or portions of exhibits); and
- × 5. Identify the restriction level sought (i.e., Level 1 = access limited to the parties and the court; Level 2 = access limited to the filing party and the court; Level 3 = access limited to the court).

LOCAL RULE CHANGES

× D.C.COLO.LCivR 7.2.B .5 requires attorneys to

× Identify the restriction level sought (i.e., **Level 1** = access limited to the parties and the court; **Level 2** = access limited to the filing party and the court; **Level 3** = access limited to the court).

- Level 1. Parties (case participants including material witnesses, interested parties, etc.) and court.
- Level 2. Filing party and court.
- Level 3. Court only.

NOTE1: For Levels 1 and 2, appropriate parties will be able to retrieve the document from the NEF, when properly accessed.

NOTE2: The public **WILL NOT BE ABLE TO ACCESS** the restricted document, at any of the restriction levels.

FILING STEPS FOR CIVIL

1. File a motion (**public**) with any attachments and proposed order, if necessary.

- > **Select "Motions"**
- > Select **Leave to Restrict**
 - > Attach motion(main document)and any other attachments to the filing
 - > Complete filing transaction

NOTE: Do NOT attach the restricted document to the motion filing!!!

16

FILING STEPS FOR CIVIL

2. After filing the motion, file the restricted document(s)

Select "Other Documents"

- Select:**
- Restricted Doc. - Level 1 - Viewable by Case Participants & Court
 - Restricted Doc. - Level 2 - Viewable by Filer & Court
 - Restricted Doc. - Level 3 - Viewable by Court Only

Attach other documents that will also be at the same restriction level of the "main document"

Complete filing transaction

NOTE: The public will NOT be able to access any level of restricted document. Only the appropriate parties will be able to access the restricted document.

FILING SUMMARY.....

- The motion you filed should have the appropriate captioning (i.e. Motion to Restrict...) and information you wish to convey to the court.
- **Your motion shall state the restriction level you want for your restricted document.**
- Any **proposed order** submitted should also indicate the **restriction level** you want granted.

- NEFs (Notice of Electronic Filing) are distributed by e-mail. **All** recipients and the public can access the Motion for Leave to Restrict and any attachments to the filing of the public motion.
- Notice of motion filing is posted on the court's web site.
- Three day objection period.
- Motion follows normal court process and appropriate local rule.

16

FILING SUMMARY.....

- The “**Restricted Doc – Level ?**” you filed must be the same as you stated in your motion.
- The “**Restricted Doc – Level ?**” and **all** attachments to the filing are at the same restriction level of the “main document.”

- NEFs (Notices of Electronic Filing) are distributed by e-mail to **All** participants in the case.
- **Only appropriate participants (based upon the restriction level you selected for filing) will be able to access the document(s).**
- The **public will not** be able to access any restricted document(s).

LOCAL RULE CHANGES

- × **D.C.COLO.LCrR 6.1 Grand Jury**
Rule D.C.COLO.LCrR 6.1 has one section.
- × Grand jury supervision shall be assigned equally among the active district judges. Access to an **indictment shall be restricted at Level 3 without the written order of a judicial officer.** Unless otherwise ordered by the court, the indictment shall be publicly available upon the first defendant’s arrest or initial appearance.

LOCAL RULE CHANGES

- × **D.C.COLO.LCrR 32.1 SENTENCING DOCUMENTS**
Rule D.C.COLO.LCrR 32.1 has four sections, A through D.
 - A. Sentencing Statements
 - B. Objections to Presentence Report
 - C. Motions for Departure or Variance
 - **D. Restricted Access**

A motion for a sentence departure or a motion for a sentence variance may not be filed as a restricted document without leave of the sentencing court.
- Attorneys should review **ALL** sections of the rule. Section D does not allow for filing a motion for departure or a motion for sentence variance as a restricted document, without leave of the court.

LOCAL RULE CHANGES

✘ D.C.COLO.LCrR 47.1 PUBLIC ACCESS TO DOCUMENTS AND PROCEEDINGS

Rule D.C.COLO.LCrR 47.1 has five sections, A through E.

- > A. Policy
 - > **B. Motion to Restrict Access**
 - > C. Public Notice of Motions to Restrict Access; Objections
 - > D. Filing Restricted Documents
 - > E. Presumptive Restriction
- > Attorneys should review **ALL** sections of the rule. Section B.4 is a **new** specific requirement for attorneys when filing the motion to restrict.

LOCAL RULE CHANGES (CRIMINAL)

✘ **47.1.B Motions to Restrict Access.** Any motion to restrict public access will be open to public inspection or as otherwise ordered. It shall identify the document or the proceeding for which restriction is sought. **It shall be accompanied by a brief that will be filed as a restricted document (Level 1 or 2).** The brief must:

- ✘ 1. Address the interest to be protected and why such interest outweighs the presumption of public access (stipulations between the parties or stipulated protective orders with regard to discovery, alone, are insufficient to justify restricted access);
- ✘ 2. Identify a clearly defined and serious injury that would result if access is not restricted;
- ✘ 3. Explain why no alternative to restricted access is practicable or why only restricted access will adequately protect the interest in question (e.g., redaction, summarization, restricted access to exhibits or portions of exhibits); and
- ✘ 4. Identify the restriction level sought (i.e., Level 1 = access limited to the parties and the court; Level 2 = applicable parties; Level 3 = access limited to the filing party and the court; Level 4 = access limited to the court).

LOCAL RULE CHANGES

✘ D.C.COLO.LCrR 47.1.B .4 requires attorneys to

✘ Identify the restriction level sought (i.e., **Level 1** = access limited to the parties and the court; **Level 2** = applicable part(ies) and the court ; **Level 3** = access limited to the filing party and the court; **Level 4** = access limited to the court).

- > Level 1. Parties (case participants including material witnesses, interested parties, etc.) and court.
- > Level 2 = applicable part(ies) and the court (**access is determined by the filer selecting parties who will have electronic access**)
- > Level 3. Filing party and court.
- > Level 4. Court only.

NOTE1: For Levels 1, 2, and 3 appropriate parties will be able to retrieve the document from the NEF, when properly accessed.

NOTE2: The public **WILL NOT BE ABLE TO ACCESS** the restricted document, at any of the restriction levels.

FILING STEPS FOR CRIMINAL

1. File a motion (**public**) with any attachments and proposed order, if necessary.

- > **Select "Motions"**
- > Select **Leave to Restrict**
 - > Attach motion(main document)and any other attachments to the filing
 - > Complete filing transaction

NOTE: Do NOT attach the restricted document to the motion filing!!!

25

FILING STEPS FOR CRIMINAL

2. File a "**restricted**" brief with any attachments

- > **Select "Other Documents"**
- > **Select:**
 - Restricted Doc. - Level 1 - Viewable by Case Participants & Court
 - Restricted Doc. - Level 2 - Viewable by Selected Parties & Court
- > Attach brief (main document)and any other attachments to the filing
- > Complete filing transaction

FILING STEPS FOR CRIMINAL

3. File the restricted document(s) referred to by the public motion.

- Select "Other Documents"**
- Select:**
 - Restricted Doc. - Level 1 - Viewable by Case Participants & Court
 - Restricted Doc. - Level 2 - Viewable by Selected Parties & Court
 - Restricted Doc. - Level 3 - Viewable by Filer & Court
 - Restricted Doc. - Level 4 - Viewable by Court Only

Attach other documents, that will also be at the same restriction level of the "main document"

Complete filing transaction

NOTE: The public will NOT be able to access any level of restricted document. Only the appropriate parties will be able to access the restricted document.

FILING SUMMARY.....

- The motion you filed should have the appropriate captioning (i.e. Motion to Restrict...) and information you wish to convey to the court.
- Any **proposed order** submitted should also indicate the **restriction level** you want granted.

- NEFs (Notices of Electronic Filing) are distributed by e-mail. **All** recipients and the public can access the [Motion for Leave to Restrict and the attachments.](#)
- Notice of motion filing is posted on the court's web site.
- Three day objection period.
- Motion follows normal court process and appropriate local rule.

FILING SUMMARY.....

- The **"Brief"** you filed should have been filed using the "Restricted doc -Level 1" or "Restricted doc - Level 2" event.
- **Your brief shall state the restriction level you want for your restricted document .**
- Any attachments to the "Brief" is at the same restriction level.

- NEFs (Notices of Electronic Filing) are distributed by e-mail to **All** participants in the case.
- **Only appropriate participants (based upon the restriction level you select for filing) will be able to access the document(s).**
- The **public will not** be able to access any restricted document(s).

FILING SUMMARY.....

- The **"Restricted Doc - Level ?"** you filed must be the same as you stated in your motion.
- The **"Restricted Doc - Level ?"** and **all** attachments to the filing is at the same restriction level of the "main document."

- NEFs (Notices of Electronic Filing) are distributed by e-mail to **All** participants in the case.
- **Only appropriate participants (based upon the restriction level you select for filing) will be able to access the document(s).**
- The **public will not** be able to access any restricted document(s).

EVENTS TO BE REMOVED

Effective December 3, 2011, the following events will no longer be available (Civil and Criminal)

- Sealed Document Motion to Seal Case
- ExParte Document Motion to Seal
- ExParte Motion

Access Equivalents	
Restricted Document Level 3 (civil) Restricted Document Level 4 (criminal)	Sealed Document
Restricted Document Level 2 (civil) Restricted Document Level 3 (criminal)	ExParte Document

31

LOCAL RULE CHANGES

- × **D.C.COLO.LCivR 67.2 COURT REGISTRY (civil) and**
- × **D.C.COLO.LCrR 46.1 COURT REGISTRY (criminal)**

Rules D.C.COLO.LCivR 67.2 and D.C.COLO.LCrR46.1 each have four sections, A through D.

- > A. Deposit of Funds in Registry
- > B. Investment of Registry Funds
- > C. Registry Fee
- > **D. Disbursement of Registry Funds**

> Attorneys should review **ALL** sections of the rule. Section D is a **new** specific requirement for attorneys to attach a completed W-9 Form (IRS) when requesting disbursement and the interest is more than \$10.00.

LOCAL RULE CHANGES

Rule 67.2.D –civil/Rule 46.1.D –criminal

+ No funds in the registry shall be disbursed except by order of court. Any proposed court order to disburse funds must include the payee's full name, complete address and amount to be disbursed to that payee. If more than \$10.00 of interest is to be disbursed, the proposed order must be accompanied by a **completed IRS Form W-9 (which shall be filed subject to restricted access)**. For disbursement of funds, the clerk must be provided in writing the order authorizing disbursement by the relevant docket entry in the court's Electronic Case Filing system.

FILING STEPS FOR CIVIL OR CRIMINAL

1. File a motion (**public**) with any public attachments and proposed order, if necessary.

Select "Motions" (Civil and Criminal)

Select Release of Funds

Upload motion (main document) and any other attachments to the filing

Complete filing transaction

NOTE: Do NOT attach the restricted W-9 document to the motion filing!!!

FILING STEPS FOR CIVIL OR CRIMINAL

2. File the completed W-9 Form (IRS) as a restricted document.

Select "Other documents" (Civil)

Select Restricted Doc - Level 2 - Viewable by Filer & Court

Upload motion (main document) and any other attachments to the filing

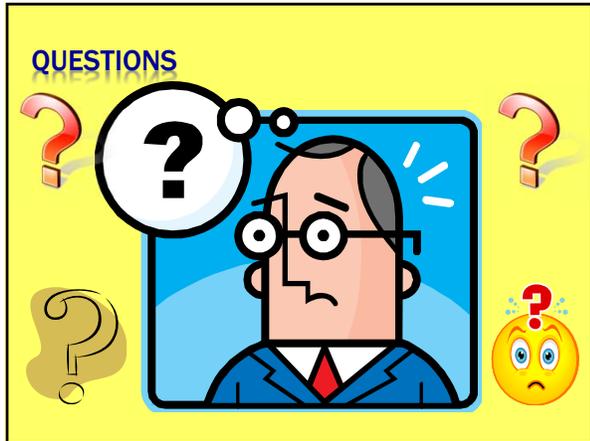
Select "Other documents" (Criminal)

Select Restricted Doc - Level 3 - Viewable by Filer & Court

Upload motion (main document) and any other attachments to the filing

PDF/A

- PDF/A is a standard document format that allows for the long-term archiving of electronic documents, assuring that documents will be accessible in the future.
- Currently, CM/ECF accepts both PDF and PDF/A documents.
- Courts can begin to move toward accepting only PDF/A documents.
- Users will need to modify certain settings in the program(s) used to create and view PDFs, such as WordPerfect and Word.
- Document scanners must have the ability to save PDF/A documents.
- The District of Colorado will continue to accept both PDF and PDF/A documents in the near term.
- The court will probably require PDF/A documents sometime in 2012.



CONTACT INFORMATION

> Court Helpdesk	> CM/ECF Technical
303-335-2050	> Kathleen Weckwerth
cod_cmech@cod.uscourts.gov	303-335-2042
	kathleen_weckwerth@cod.uscourts.gov
	> Jack Yee
	303-335-2041
	jack_yee@cod.uscourts.gov
