

Guidelines for Confidentiality Orders in Judge Scott L. Palk Cases

Parties contemplating a request for entry of a protective order directed to the confidentiality of documents produced in discovery should be mindful of the concerns noted in Coker v. Hartford Life Group Ins. Co., Case No. CIV-06-0911-HE (W.D. Okla. Feb. 21, 2007) (Doc. #22 - order denying joint motion for protective order).

In particular, requested orders:

1. Should demonstrate the parties' agreement to comply with *ECF Policies & Procedures Manual*, § III.A.ⁱ
2. Should define the information to be kept confidential as narrowly as reasonably practical in the circumstances of the case. Categories of information to be treated as confidential should be specifically stated, not described with phrases such as "including but not limited to" or "anything designated by a party in good faith."
3. Should minimize the nature and amount of information filed under seal. Where confidential information is mentioned in or attached to a pleading or brief, the confidential information should ordinarily be redacted from the filed pleading or brief and an unredacted copy of it filed under seal. See generally, *ECF Policies and Procedures Manual*, § II.H.
4. Should not attempt to control the use of confidential documents at court hearings or trial of the case. Decisions in that regard will be made by the court at the time.

ⁱ The following sample language is preferred: This Order shall extend Leave of Court to any party seeking to use any document or information that has been designated "Confidential" as an exhibit to any pleading, brief or other court filing to electronically file said exhibit that contains "Confidential" information under seal. Any such exhibit which is electronically filed under seal shall be electronically filed under seal in accordance with the Filing and Viewing Civil Sealed/Ex Parte Documents Submitted Sealed Proposed Orders instructions, effective May 1, 2015, located on the website for the United States District Court for the Western District of Oklahoma. Pursuant to Section III.A. of the United States District Court, Western District of Oklahoma, Electronic Filing Policies and Manual, only those portions of a document that must be filed under seal should be electronically filed under seal. If, however, a party files a brief, pleading or other court filing which contains substantial argument or information about that information which has been designated "Confidential," that party may either:

- a. Redact all such personal identifier information, "Confidential" information or reference to information which has been designated "Confidential," and file a separate, unredacted, version of the brief, pleading or other court filing in accordance with this Paragraph 6; Section III.A. of the United States District Court, Western District of Oklahoma, Electronic Filing Policies and Procedures Manual; and the Filing and Viewing Civil Sealed/Ex Parte Documents Submitting Sealed Proposed Orders instructions, effective May 1, 2015, located on the website for the United States District Court for the Western District of Oklahoma, or
- b. that party may, by separate motion, seek Leave of Court to file the entire brief, pleading or other court filing under seal.