

Proposed Revisions to the Rules of Procedure, July 2003

RULE 23. ORDERS SEALING PORTIONS OF RECORD.

- (a) As used in this rule, the term “protected material” includes a hearing, testimony, exhibit, pleading or other document, which is part of the record in a public proceeding but has been ordered sealed under this rule.
- (b) A motion to seal protected material must be filed in the hearing department and, absent a showing of good cause for the delay, the motion may not be made for the first time on review.
- (c) A motion for an order sealing a portion of the record shall be supported by a showing of specific facts establishing that a statutory privilege or constitutionally protected interest of a party, non-party or witness outweighs the compelling public interest in the public nature of the proceeding. The relief sought shall be narrowly tailored to serve the specific interest sought to be protected. The motion may be filed under seal and if so filed shall be treated as protected material, until further order of the court.
- (d) Protected material shall be kept under seal by the Clerk, and shall be marked and maintained by other custodians in a manner calculated to prevent improper disclosure.
- (e) All persons to whom protected material is disclosed shall be given a copy of the applicable order sealing a portion of the record by the person making the disclosure.
- (f) Unless otherwise ordered, protected material may only be disclosed to:
 - (1) Parties to the proceeding and counsel;
 - (2) Personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and
 - (3) Personnel of the Probation Unit, ~~Office of the Chief Trial Counsel~~, when necessary for their official duties.
- (g) Orders of the Hearing Department under this rule shall be reviewable by the Review Department under rule 300. The hearing judge or the Presiding Judge may order that the materials be sealed pending further order of the Review Department or the Supreme Court.
- (h) Nothing in this rule shall prohibit a party from requesting that portions of evidence be redacted or from filing motions in limine.

Eff. January 1, 1995. Revised: January 1, 1996.

Source: New.