

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

v.

Case No. _____

ORDER ON MOTION TO SEAL DOCUMENT

Now before the court is a motion (Doc. _____) to seal the document(s) provisionally filed under seal as document number(s) _____. *See Local Rule CV-5(a)(7).* The motion to seal is hereby:

- (1) DENIED on the ground(s) marked below. Each document subject to the motion to seal is therefore stricken. Local Rule CV-5(a)(7)(C) (“If the motion is denied, the document will be struck.”).
 - (a) A document provisionally filed under seal does not state “Filed Under Seal” at the top of the document, as required by Local Rule CV-5(a)(7)(A).
 - (b) A document sought to be sealed was not filed separately from the motion to seal and immediately after that motion. *See Local Rule CV-5(a)(7)(C)* (“A motion to file document(s) under seal must be filed separately and immediately before the document(s) sought to be sealed.”).
 - (c) Although the motion to seal was immediately followed by the provisionally sealed document, that document itself does not contain the required certification of a motion to seal. *See Local Rule CV-5(a)(7)(B)* (unless sealing is authorized by statute, rule, or court order, “a document in a civil case shall not be filed under seal unless it contains a statement by counsel following the certificate of service that certifies that . . . a motion to seal the document has been filed”).
 - (d) The movant did not cite authority on sealing documents in the judicial record, as opposed to the local rules’ broader definition of “confidential information” or the mere entry of a protective order for discovery purposes. *See Order Regulating Practice JCB-CV-5.1(a)(1); June Med. Servs., L.L.C. v. Phillips*, 22 F.4th 512, 521 (5th Cir. 2022) (“That a document qualifies for a protective order under Rule 26(c) for discovery says nothing about whether it should be sealed once it is placed in the *judicial record*.”).
 - (e) The movant sought to seal an entire document but did not specify why partial redactions are insufficient. *See Order Regulating Practice JCB-CV-5.1(a)(2).*
 - (f) The movant did not, within seven days of provisionally filing a document under seal, both publicly file a version of that document with proposed redactions, if required by Local Rule CV-5(a)(7)(E), and privately email to the undersigned a version of that document with the redacted material revealed and highlighted, if required by Order Regulating Practice JCB-CV-5.1(a)(3)(ii).
 - (g) The movant sought to seal a document to the extent of proposed redactions but did not explain why each individual redaction is justified, as opposed to addressing the document generally. *See Order Regulating Practice JCB-CV-5.1(a)(3)(i).*

- (h) Despite compliance with required procedures, movant fails to show that any material in the document(s) sought to be sealed justifies nondisclosure in light of the public's "common law right to inspect and copy judicial records." *Bradley ex rel. AJW v. Ackal*, 954 F.3d 216, 224 (5th Cir. 2020). The motion to seal is thus denied on substantive grounds.
- (2) GRANTED. Movant has complied with required procedures, including public filing of any redacted version of the document(s) sought to be sealed, and has shown that the public's right to inspect judicial records is outweighed by countervailing interests in nondisclosure that justify the exercise of this court's "discretion to seal the record of judicial proceedings" to the extent of the sealing proposed here. *Fed. Sav. & Loan Ins. Corp. v. Blain*, 808 F.2d 395, 399 (5th Cir. 1987).
- (3) GRANTED CONDITIONALLY. Upon review of movant's proposed redactions, some but not all of the redacted material justifies nondisclosure. The material highlighted for redaction in the version emailed to the undersigned, *see* Order Regulating Practice JCB-CV-5.1(a)(3)(ii), has been annotated with an "X" next to any material that does not meet the sealing standard. Those proposed redactions are hereby rejected.

The annotated version of that document with rejected redactions has been returned by reply email. The motion to seal is granted on the condition that the movant publicly files, within seven days of this order, an amended version of the returned document that omits all redactions rejected by the court.

If such an amended redacted version of the document is not publicly filed within seven days of this order, the motion to seal is denied and each document subject to the motion to seal is stricken. Local Rule CV-5(a)(7)(C) ("If the motion is denied, the document will be struck.").

SO ORDERED BY THE COURT.

Date

J. CAMPBELL BARKER
United States District Judge