**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN**

**SOUTHERN DIVISION**

|  |  |
| --- | --- |
| [Plaintiff(s)],  Plaintiff(s),  v.  [Defendant(s)],  Defendant(s).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/ | Case No. [insert]  F. Kay Behm  United States District Judge  Mag. Judge [insert] |

**[PARTY’S] MOTION TO SEAL**

[Insert the content of the party’s motion here.]

[Include a statement about seeking concurrence pursuant to Eastern District of Michigan Local Rule 7.1(a).]

[Insert Date/Signatures]

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| [Plaintiff(s)],  Plaintiff(s),  v.  [Defendant(s)],  Defendant(s).  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_/ | Case No. [insert]  F. Kay Behm  United States District Judge  Mag. Judge [insert] |

**BRIEF IN SUPPORT OF [PARTY’S] MOTION TO SEAL**

[Party] seek[s] an order to seal [in its entirety/in part] [title of filing to be sealed]. [Party] ask[s] the Court to shield [this filing/portions of this filing] from public disclosure, because [it/they] include[s] [description of type of information to be sealed].

**LEGAL STANDARD**

Courts “have always been afforded the power to seal their records” under certain circumstances. *In re Knoxville News-Sentinel Co., Inc.*, 723 F.2d 470, 474 (6th Cir. 1983) (collecting cases); *see also* *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978) (holding that courts maintain “supervisory power over [their] own records and files”). This power is reflected in the Federal Rules of Civil Procedure and the Eastern District of Michigan’s Local Rules. *See* Fed. R. Civ. P. 5.2(d) (“The court may order that a filing be made under seal without redaction.”); E.D. Mich. LR 5.3(b). Local Rule 5.3(b)(3)(A) outlines the steps that a party must take to request authorization to file materials under seal. E.D. Mich. LR 5.3(b)(3)(A). Local Rule 5.3 applies in criminal cases. *See* E.D. Mich. LCrR 1.1; E.D. Mich. LR 1.1(c).

In the Sixth Circuit, there is a strong presumption that records filed with the court must be open. *See Shane Grp., Inc. v. Blue Cross Blue Shield of Mich.*, 825 F.3d 299, 305 (6th Cir. 2016). “The burden of overcoming that presumption is borne by the party that seeks to seal them.” *Id.* The presumption can be overcome if a party shows “a compelling reason why certain documents or portions thereof should be sealed [and that] the seal itself [is] narrowly tailored to serve that reason.” *Id.* “The proponent of sealing . . . must analyze in detail, document by document, the propriety of secrecy, providing reasons and legal citations.” *Id.* at 305–06 (internal citation and quotation marks omitted). “Only the most compelling reasons can justify non-disclosure of judicial records.” *Id.* at 305 (quoting *In re Knoxville News–Sentinel Co.*, 723 F.2d at 476).

“[A] district court that chooses to seal court records must set forth specific findings and conclusions ‘which justify nondisclosure to the public.’” *Id.* at 306 (quoting *Brown & Williamson Tobacco Corp. v. F.T.C.*, 710 F.2d 1165, 1176 (6th Cir. 1983)). “[A] court’s obligation to explain the basis for sealing court records is independent of whether anyone objects to it.” *Id.* “And a court’s failure to set forth those reasons—as to why the interests in support of nondisclosure are compelling, why the interests supporting access are less so, and why the seal itself is no broader than necessary—is itself grounds to vacate an order to seal.” *Id.*

**ARGUMENT**

[Pursuant to Eastern District of Michigan Local Rule 5.3(b)(3)(A), this section must include:

(i) an index of documents which are proposed for sealing and, as to each document, whether any other party objects;

(ii) a description of any non-party or third-party privacy interests that may be affected if the documents or portions thereof to be sealed were publicly disclosed on the court record;

(iii) whether the proposed sealed material was designated as “confidential” under a protective order and by whom; [and]

(iv) for each proposed sealed exhibit or document, a detailed analysis, with supporting evidence and legal citations, demonstrating that the request to seal satisfies controlling legal authority . . . .

E.D. Mich. LR 5.3(b)(3)(A)(i)–(iv).

In addition, the Sixth Circuit instructs that “[t]he proponent of sealing must provide compelling reasons to seal the documents and demonstrate that the sealing is narrowly tailored to those reasons—specifically, by ‘analyz[ing] in detail, document by document, the propriety of secrecy, providing reasons and legal citations.’” *Beauchamp v. Fed. Home Loan Mortg. Corp.*, 658 F. App’x 202, 207 (6th Cir. 2016) (quoting *Shane Group, Inc.*, 825 F.3d at 306).

As noted in Local Rule 5.3’s “Comments to 2018 Revisions,”

[f]or further guidance on the legal standards governing filing under seal, *see Shane Group, Inc. v. Blue Cross Blue Shield of Michigan*, 825 F.3d 299 (6th Cir. 2016), *Beauchamp v. Fed. Home Loan Mortgage Corp.*, 658 Fed. App’x 202 (6th Cir. 2016), and *Rudd Equipment Co. v. John Deere Const. & Forestry Co.*, 834 F.3d 589 (6th Cir. 2016).]

**CONCLUSION**

For these reasons, [Party] ask[s] the Court to grant the motion to seal and permit [Party] to [redact/seal] the items listed herein.

[Insert Date/Signatures]