

## **Guidelines for Motion Practice Before Judge Melgren**

These guidelines are intended to supplement the local rules, and may not be taken as replacing or superseding the local rules, which shall be complied with in all instances unless leave is otherwise granted.

**Filing Under Seal.** Documents will not be automatically approved for filing under seal merely because they were produced pursuant to a protective order, nor because both parties stipulate to filing under seal. The courts recognize a “common-law right of access to judicial records”, although the right is not absolute. *See, JetAway Aviation, LLC v Bd. of Cty. Comm’rs*, 754 F.3d 824, 826 (10th Cir. 2014) To overcome the presumption in favor of access, a party seeking to file under seal must articulate specific facts to establish a public or private harm from opening the documents to public view. *See, Helm v State of Kansas*, 656 F. 3d 1277, 1292 (10th Cir. 2011) When a party desires to attach to a pleading documents which were produced under a protective order, the party should first contact the opposing party to see if a redaction agreement can be reached which obviates the need for sealing. If not, the movant shall file a motion for leave to file under seal, with the proposed sealed pleadings and documents attached. Both in the motion, and in the response of the non-movant (who may claim the confidentiality of the documents), good cause must be shown to overcome the presumption of access. Frequently, the non-moving party has the interest in maintaining confidentiality, and therefore, should include more than conclusory statements in the response to overcome the presumption of access. If the Court is satisfied from the pleadings, it may issue an order; or, it may schedule a telephonic hearing on the motion for leave to file under seal. If the motion is granted, parties should then file the requested documents under seal; otherwise, the Court may permit the filing not under seal.

**Hearing on Motions.** If one or more of the parties believe oral argument would be helpful to the Court in deciding the issues, they should affirmably file a motion seeking oral argument. Oral argument should only be sought upon a showing of why it would assist the Court in resolving the issues. A request for oral argument is not a reason to not fully brief the matter in written submissions to the Court. The Court, at its discretion, may schedule oral argument without a request by the parties. The parties are welcomed and encouraged to attend oral argument.

**Communication with Chambers.** The Court will consider and rule on motions in the order in which they have been filed with respect to similar motions. The Court will prioritize discovery and non-dispositive motions for faster adjudication than dispositive motions. If counsel is concerned that it has not received a ruling on a ripe motion, they may feel free to contact the Court’s Courtroom Deputy, Cindy McKee, to ensure that a pending motion is in the queue. Staff will not make predictions as to the date an order may be issued. No attempt should be made in such inquiry to argue or discuss the merits of the motion.

**Filing of Motions.** All motions are to be filed using the court's electronic case filing (ECF) system. Motions may not be filed with the court during trial or hearing, or by fax or letter, in circumvention of ECF filing. Unless notified otherwise, the Court does not require hard copies delivered to chambers of any motion or attachments, but if the filing is unusually voluminous or cumbersome, counsel may provide such hard copies. The Court prefers use of proportional spaced fonts, with double-spacing and a font size of 12 in text, and single-spacing and a font size of 10 in footnotes, but will not reject briefs which are formatted otherwise. Statements of fact, where relevant, shall contain a citation to the record, with relevant copies attached or provided to the court if they are not already on file in the case. When attaching numerous exhibits in support of a motion, the Court prefers that the party files an exhibit list stating what exhibits are attached. Pleadings filed out of the time established by the local rules should be accompanied by a motion for leave to file out of time, with the proposed pleading attached to the motion. If the motion is granted, the attached pleading will not be automatically filed, but the party should then file the pleading. Response times will run from the date of the filing of the pleading.