

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

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FEDERAL COURTS, DISTRICT OF SOUTH CAROLINA, SC

2006 MAY 16 P 4: 14

IN RE:

) Misc. No. 3:06-MC-5010-JFA

LIMITED ELECTRONIC ACCESS TO COURT FILES

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ORDER

The court has determined that automatic protection from remote electronic access by non-parties (“Limited Electronic Access”) should be provided for the two categories of document specified below. *Infra* § A. Protected Documents. The protection to be provided is limited and responsibility remains with the parties and counsel to determine if greater protection is needed. *Infra* § B. Scope of Protection. Absent conflict with any subsequently adopted Federal Rule of Civil Procedure, statute, or Judicial Conference policy, these protections shall remain in effect. *Infra* § C. Continuing Effect.

The protections afforded herein are found to be appropriate in light of: the ease with which electronically filed documents may be accessed; the significant privacy issues which arise routinely in the specified categories of document; and in the interests of judicial economy. These protections are supplementary to any other protections afforded by statute, federal or local rule, Judicial Conference policy, or court order.

A. Protected Documents.

The two categories of document specified below shall be designated for Limited Electronic Access, providing the protections from remote electronic access specified in Section B below.

- 1. Evidentiary Appendix to the Joint Stipulation filed in actions for medical or disability benefits pursued under the Employee Retirement Income and Security Act of 1976,**

29 U.S.C. § 1001 (“ERISA”). The protection of the evidentiary appendix reflects the procedures followed by most judges in this district for handling ERISA benefits cases and the similarity of the evidentiary appendix to similar documents protected by the United States Judicial Conference Privacy Policy on Public Access to Electronic Case Files (“Judicial Conference ECF Privacy Policy–Civil”).¹

2. Application to Proceed Without Payment of Fees and Affidavit filed in civil cases. The protection of this document reflects the similarity to documents protected by the Judicial Conference Policy on Privacy and Public Access to Electronic Criminal Case Files (“Judicial Conference ECF Privacy Policy–Criminal”).²

B. Scope of Protection.

The above documents shall be designated as Limited Electronic Access documents. Remote (internet) access to any documents so designated shall be restricted to counsel of record. If it becomes technically feasible and is not inconsistent with other rules of this court, the Clerk of Court

¹ Most judges in this district follow a procedure which requires the parties in an ERISA benefits action to file an appendix containing the full record compiled during exhaustion of plan remedies. This appendix routinely contains extensive medical records and other personal or sensitive information. Similar records are protected by the Judicial Conference ECF Privacy Policy–Civil which limits remote electronic access to cases that request review of appeals from the denial of benefits under the Social Security Act, 42 U.S.C. §§ 405(g) and 1383(c)(3) (“Social Security Appeals”) due to the prevalence of sensitive information, such as individual medical records, and the volume of filings.

² The Judicial Conference ECF Privacy Policy–Criminal excludes from public access the “[f]inancial affidavits filed in connection with the seeking of representation under the Criminal Justice Act” based on the personal individual financial information provided on the form. This Judicial Conference policy is implemented by separate local operating order *See In re: Implementation of the Judicial Conference Policy on Privacy and Public Access to Electronic Criminal Case Files*, 3:04-5009 [Revised Feb. 24, 2005].

may, but is not required, to extend to *pro se* litigants and represented parties remote access to Limited Electronic Access documents.


Limited Electronic Access does not protect documents from all disclosure. Documents may still be viewed at the courthouse, either electronically (using the court's public terminals) or in paper form.³ Counsel or parties desiring greater protection should, therefore, either redact the documents or file a motion to seal pursuant to Local Civil Rule 5.03.

C. Continuing Effect. The protections provided by this Order are intended to be consistent with and supplementary to proposed changes to the Federal Rules of Civil Procedure including proposed Rule 5.2. Subpart (e) of that proposed rule allows a court to issue a protective order for documents that are not otherwise protected by the rule. The protections herein shall, therefore, remain in effect unless in conflict with any subsequently adopted Federal Rule of Civil Procedure, statute, or Judicial Conference policy. Any protections provided by this order are, however, subject to modification by order of the judge to whom an action is assigned.

This order will be effective as of the date it is filed.

IT IS SO ORDERED.

FOR THE COURT:



Joseph F. Anderson, Jr.

Chief Judge

May 16, 2006
Columbia, South Carolina

³ This limitation on the scope of protection is consistent with the limited protections provided by Judicial Conference ECF Privacy Policy–Civil.