

# United States Bankruptcy Court Northern District of Florida

## **Frequently Asked Questions: Fee for Filing a Motion to Redact**

### **1. What is the new fee amount, and what is it for?**

The new fee is described on the Bankruptcy Court Miscellaneous Fee Schedule as “Motion to make redactions to previously filed records in a case.” The fee is \$25 per affected case.

### **2. Where is the Bankruptcy Court Miscellaneous Fee Schedule located?**

The fee schedule may be accessed on the Florida Northern Bankruptcy Court internet site at [http://www.flnb.uscourts.gov/sites/default/files/filing\\_fees/filing\\_fees.pdf](http://www.flnb.uscourts.gov/sites/default/files/filing_fees/filing_fees.pdf).

### **3. What are the appropriate circumstances under which this fee can be waived?**

The decision whether to waive the fee is a judicial determination. The judge would need to decide if a waiver was warranted based on the individual facts of the case.

### **4. If a creditor is requesting to redact information in a large number of cases, and the court decides to open a miscellaneous proceeding to handle the motion to redact, what fee or fees would be charged?**

The court would charge the required fee for filing a miscellaneous proceeding. In addition, the court would charge the fee for filing the motion to redact. The amount to be charged for filing the motion to redact would be determined by multiplying \$25 by the number of cases in which information is to be redacted.

### **5. A motion to redact is filed and the appropriate fee is paid. Later, the same party files an amended motion to redact. Is a new fee charged or is it considered paid with the first motion?**

If the party files an amended motion to redact, no fee is charged, **so long as** the amended motion is clarifying some information contained in the first motion and does NOT

include additional records to be redacted. If additional records need to be redacted (i.e., records that were not identified in the first motion to redact), then a new motion to redact should be filed and the appropriate fee paid based on the number of cases affected.

**6. Does the \$25 fee for filing a motion to redact apply to motions to redact information other than the personal identifiers listed in Rule 9037?**

This fee is for “filing a motion to redact”. The payment of the fee is not dependent on the type of information to be redacted and could address other information beyond what is referenced in Rule 9037.

**7. Can a court defer the new fee for filing a motion to redact?**

Courts may waive this fee under appropriate circumstances. There is no language authorizing the court to defer this fee.

**8. Does the fee apply if the motion is denied?**

Yes. The fee is for filing the motion to redact. Thus, the fee is collected at the time the motion is filed. The ruling on the motion does not impact the collection of the fee.

**9. How is a motion to seal different from a motion to redact?**

While the dockets of a bankruptcy court are public records, the Bankruptcy Code permits a court to seal a case for various reasons either by motion or on its own initiative. See [11 U.S.C. § 107](#); [Fed. R. Bankr. P. 9018, 9037](#). The court may seal a document, either on motion of a party or *sua sponte*. The order from the court will define what information is under seal, and that information will not be accessible to the public.

A motion to redact will identify information that was improperly included in a filing with the court. Unlike when a document has been sealed, the redacted version of the document will be a public record and available for review by anyone.

**10. Is a motion to restrict access the same thing as a motion to redact?**

Some courts use a motion to restrict access event for requests to redact. Motions to restrict access are essentially motions to redact, and the fee will be charged in appropriate circumstances.

**11. A creditor files a motion to redact information from an attachment to a proof of claim and pays the fee. Later, the same creditor files another motion in the same**

**case to redact information listed on another proof of claim attachment. Is the fee due for the second motion even though a motion has already been filed in that case and paid for by the same entity for a different record?**

Yes. If the second motion involves records that were not addressed in the original motion, then the fee will be charged.

**12. A creditor files a motion to redact information and pays the fee. Later, a different creditor files a motion to redact information in the same case. Is the \$25 fee due?**

Yes. The fee for filing a motion to redact is incurred each time a motion to redact is filed. If multiple parties file separate motion to redact in the same case, a fee will be charged for the filing of each motion. Each filer would pay the fee for its individual motion.

**13. A creditor files a motion to redact information and pays the fee. Later, another entity related to the first creditor (for example, a subsidiary of the initial creditor) files another motion in the same case to redact information. Is the fee due for the second motion?**

The fee for filing a motion to redact is incurred each time a motion to redact is filed. If two entities (subsidiary or otherwise) file separate motion to redact in the same case, a fee will be charged upon the filing of each motion. Each filer would pay the fee for its individual motion.

**14. Will the court charge the reopening fee if there is a motion to redact filed in a closed case?**

No. The Judicial Conference approved an amendment to the language of the reopening fee which provides that the reopening fee must not be charged if the case is being reopened “to redact a record already filed in a case, pursuant to Fed. R. Bankr. P. 9037, if redaction is the only reason for reopening.” Therefore, if the case is reopened for the sole purpose of redacting information under Rule 9037, no reopening fee should be charged. The only fee charged would be the fee for filing the motion to redact.

**15. How are fees charged when a miscellaneous case is opened where a motion to redact is filed pertaining to a large volume of affected cases?**

For large-scale motions to redact, the court may permit a single miscellaneous proceeding that would identify all the affected cases filed in the district and note payment of the \$25 fee for each affected case.

**16. Does the fee for filing a motion to redact apply to transcripts?**

The Judicial Conference set forth a detailed process for redacting transcripts requiring attorneys to file a Notice of Intent to Redact in order to redact information that is included in a transcript ordered by any entity. The Notice of Intent to Redact does not require any fee.

Following the Notice of Intent to Redact, the attorney has 21 days to request redaction. This request within the 21 day limit does not require payment of the fee for filing a motion to redact.

If at some later point, an attorney or any other entity, files a motion to redact information included in the transcript, the fee for filing a motion to redact would be charged unless a request to waive the fee is also filed, and the judge determines that waiver of the fee is appropriate under the particular circumstances of the case.

**17. Trustees often find information that needs to be redacted and contact the court to redact it. The guidance says that any party that requests the redaction should serve proper notice and pay the fee. Is the trustee required to do all these things?**

The trustee should file and serve the motion to redact, and as noted above, the court may waive the fee if it determines this to be an in appropriate circumstance.

**18. Who is responsible for making redactions?**

The court or clerk's office will not make the redaction upon the affected record. It is the responsibility of the filer to make the redaction.

**19. If there are multiple documents that need to be redacted in a single case, what fee amount is paid?**

The fee is for filing a motion to redact, *per affected case*. Thus, if a motion to redact identifies multiple documents that include information that needs to be redacted in a single case, the fee would be \$25.

(Conversely, if the motion references documents requiring redaction in several cases, then a \$25 fee will be charged *per affected case*.)