

ECF TIP: AVOID INADVERTENT DISCLOSURE OF REDACTED MATERIAL BY USING PROPER REDACTION TECHNIQUES

The parties have an obligation to redact certain "personal identifiers" from both pleadings and court transcripts under Fed. R. Civ. P. 5.2 and Fed. R. Crim. P. 49.1. There are many different techniques attorneys may use to redact material in electronic documents filed with the court. Depending upon the redaction technique used, it is possible that the redacted information may appear to be hidden or blocked in the document but the underlying protected information may be accessed by the public.

For example, the highlight function in Adobe creates a black box over the data, but it merely hides the data. While the "redacted" information is unreadable, the metadata is still imbedded in the document. Anyone can copy the black box, paste it into a word-processing document, and the information under the black box appears. Changing the font color to white for the redacted information also is not effective. Again, the words in the document are not readable, but a user can highlight the blank-looking area, change the text color, and read the "redacted" information.

There are ways of eliminating this metadata from electronic documents. The simplest method is to omit the information from the original document. For example, a Social Security number can be included as XXX-XX-1234. Commercially-available software can be used to redact the sensitive information and not just hide it. While the court does not endorse any product, Redax from Appligent is one commercial product widely used by federal agencies. Adobe Acrobat 8.0 Professional is another commercial product having a redaction tool that scrubs the metadata and other information from the document.

Additionally, the Northern District of California has posted helpful information about redaction on its public website, which can be accessed at <https://ecf.cand.uscourts.gov/cand/faq/tips/redacting.htm>