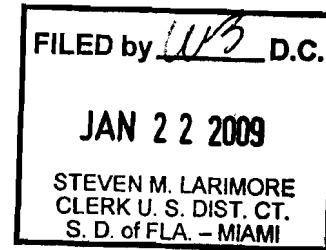


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2009-2

**IN RE: REMOTE ELECTRONIC ACCESS
TO PLEA AGREEMENTS**



On January 15, 2009, the Court conducted an *en banc* hearing on proposed amendments to this Court's Local Rules. The Report of the Ad Hoc Committee on Rules and Procedures prepared for that hearing contained a Subcommittee Report on the topic of Public Electronic Access to Unsealed Plea Agreements. The topic of remote access to plea agreements has been the subject of extensive national debate. Instead of adopting a national policy, the Judicial Conference of the United States Courts, through its Committee on Court Administration and Case Management, asked "each court to consider adopting a local policy that protects information about cooperation in law enforcement activities but that also recognizes the need to preserve legitimate public access to court files."

This Court currently has a policy in place granting limited remote access to plea agreements to the parties of a case, with only the paper copies of plea agreements available for public viewing at the courthouse. This policy was implemented as an interim measure after the Court initiated its new CM/ECF electronic case management and docketing system. Consistent with the Judicial Conference's admonitions, this Court's Ad Hoc Committee on Rules and Procedures was asked to make recommendations for updating or changing that interim policy if necessary. The Subcommittee that considered the issue in this District was comprised of equal representation of both the prosecution and the defense bars. After consideration of all relevant issues, both the Subcommittee and the Ad Hoc Committee as a whole were unable to make a consensus recommendation to this Court as to changes to make in the existing interim policy.

The Court heard oral argument at the *en banc* hearing from representatives of both the U.S. Attorney's Office and the defense bar. After the hearing, a substantial majority of the District Judges voted to rescind the interim policy and to provide complete remote electronic access to plea agreements. The sense of the Court is that the public's interest in access must prevail in this instance and that restricting access to all plea agreements is overly broad. Other means are available to the prosecution and defense to insure that the public record does not contain information about cooperation arrangements in those instances where the interests of safety or other considerations require different treatment. This applies to plea agreements that are NOT sealed. Each district judge may, in accordance with the law, order specific plea agreements sealed and those sealed plea agreements will not be accessible electronically. Accordingly, it is

ORDERED AND ADJUDGED that as of February 20, 2009, the Southern District of Florida's current policy of providing limited electronic access to plea agreements is rescinded. All plea agreements filed on or after February 20, 2009 will be public documents, with full remote access available to all members of the public and the bar, unless the Court has entered an Order in advance directing the sealing or otherwise restricting a plea agreement;

IT IS FURTHER ORDERED that as to plea agreements filed prior to February 20, 2009, the Court's prior policy shall remain in full force and effect, and those plea agreements will not be available to the public for remote electronic viewing but will remain available for viewing in paper format at the courthouse where filed.

DONE AND ORDERED in Chambers at Miami, Miami-Dade County Florida, this 22nd day of January, 2009.


FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

c: The Honorable J. L. Edmondson, Chief Judge, Eleventh Circuit
All Southern District and Magistrate Judges
R. Alexander Acosta, United States Attorney
Kathleen Williams, Federal Public Defender
Steven M. Larimore, Court Administrator • Clerk of Court
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