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UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

MARIA R. HAMILTON
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JOHN JOSEPH MOAKLEY
UNITED STATES COURTHOUSE
1 COURTHOUSE WAY, SUITE 2500
BOSTON, MA 02210
(617) 748-9057

NOTICE OF PROPOSED AMENDMENT TO LOCAL RULE 11.0

The United States Court of Appeals for the First Circuit provides notice that it proposes the attached amendment to Local Rule 11.0. The amendment replaces the phrase "Statement of Facts" with "Statement of the Case" to match the language of Fed. R. App. P. 28 and corrects the format of an internal citation.

Additions are noted in *italic* print; deletions are noted in ~~strikeout~~ print.

The court hereby invites public comment on the amendment. Comments should be submitted by December 9, 2019 and addressed to:

Office of the Clerk
U.S. Court of Appeals for the First Circuit
United States Courthouse
1 Courthouse Way, Suite 2500
Boston, MA 02210

November 7, 2019

Maria R. Hamilton, Clerk

Local Rule 11.0. Transmission of the Record, Sealed Documents

(c) Sealed Materials.

- (2) **Motions to Seal in the Court of Appeals.** In order to seal in the court of appeals materials not already sealed in the district court or agency (e.g., a brief or unsealed portion of the record), a motion to seal must be filed in paper form in the court of appeals; parties cannot seal otherwise public documents merely by agreement or by labeling them “sealed.” A motion to seal, which should not itself be filed under seal, must explain the basis for sealing and specify the desired duration of the sealing order. If discussion of confidential material is necessary to support the motion to seal, that discussion shall be confined to an affidavit or declaration, which may be filed provisionally under seal. A motion to seal may be filed before the sealed material is submitted or, alternatively the item to be sealed (e.g., the brief) may be tendered with the motion and, upon request, will be accepted provisionally under seal, subject to the court’s subsequent ruling on the motion. Material submitted by a party under seal, provisionally or otherwise must be stamped or labeled by the party on the cover “FILED UNDER SEAL.” If the court of appeals denies the movant’s motion to seal, any materials tendered under provisional seal will be returned to the movant. Motions to seal or sealed documents should never be filed electronically. See ~~Loe~~ *1st Cir. R. 25.0*.

....

(d) References to Sealed Materials.

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- (2) In addressing material under seal in an unsealed brief or motion or oral argument counsel are expected not to disclose the substance of the sealed material and to apprise the court that the material in question is sealed. If the record contains sealed materials of a sensitive character, counsel would be well advised to alert the court to the existence of such materials and their location by a footnote appended to the “Statement of *the Case Facts*” caption in the opening or answering brief.