PROCEDURES FOR THE ELECTRONIC FILING OF PRESENTENCE INVESTIGATION REPORTS, MOTIONS FOR DEPARTURE AND/OR VARIANCE, SENTENCING MEMORANDUMS, AND OTHER SENTENCING DOCUMENTS BEFORE JUDGE R. STAN BAKER*

* updated September 22, 2020

The following procedures apply to filing of presentence investigation reports, motions for variance and downward departure, sentencing memorandums, and other sentencing documents in cases before Judge R. Stan Baker. Counsel are directed to read these instructions carefully upon the setting of any sentencing hearing before Judge Baker. Please contact Judge Baker's courtroom deputy clerk, Pam Hammock, pam_hammock@gas.uscourts.gov, (912) 650-4081, with any questions regarding these instructions. For questions regarding filing in CM/ECF, please contact the Help Desk at (912) 650-4010.

Please note that the procedures set forth below pertain to cases before Judge Baker ONLY. DO NOT electronically file presentence documents in any other criminal cases without prior approval. For information regarding the procedure for submission of presentence documents in cases other than Judge Baker's criminal cases, please contact the United States Probation Office.

I. Presentence Investigation Reports and Responses

Presentence investigation reports and any response, objections, and addendums to such reports as well as any sentencing recommendations and other documents pertaining to any sentencing hearing must be submitted to the Court using the Court's Case Management and Electronic Case Filing system ("CM/ECF"). Due to the nature of the information contained in these filings and their purpose to the Court, presentence investigation reports and any related filings are CONFIDENTIAL and should only be made accessible to the Court, the United States Attorney's Office and the defendant who is the subject of the presentence investigation report. No person shall otherwise disclose, copy, reproduce, deface, delete from or add to any presentence investigation report.

The United States Probation Office will timely file all initial and final presentence investigation reports, along with any addendums to the report and sentencing recommendations. They Probation Office **will not** provide a physical paper copy of any presentence investigation report to counsel. It will be the responsibility of the United States Attorney's Office and counsel for the defendant to timely file any response to the presentence investigation report. Instructions for filing responses using the Court's CM/ECF system are listed below. PLEASE FOLLOW THESE INSTRUCTIONS CAREFULLY. Improper filings will be stricken from the record.

A. ORDER DIRECTING THE PREPARATION OF THE PRESENTENCE INVESTIGATION REPORT

Upon entry of a conviction by guilty plea or verdict, Judge Baker will issue the following order on the record directing that a presentence investigation report be prepared in anticipation of sentencing:

ORAL ORDER The Court ORDERS the United States Probation Office to file the Initial Presentence Investigation Report as to _____. on or before _____. Counsel will only receive Presentence Investigation Reports electronically via CM/ECF and will not receive a paper copy of any report. The Court ORDERS counsel and the parties to maintain the confidentiality of the Presentence Investigation Report and any objections and addendums thereto. The

Presentence Investigation Report and any objections and addendums thereto should only be disclosed to and reviewed by Defendant, counsel for Defendant (to include any investigator, expert or other assistant hired by counsel), the United States Attorney's Office, the United States Probation Office, and the Court. If Defendant is detained, defense counsel may print a copy of the Presentence Investigation Report and any addendums thereto to review with Defendant. However, counsel shall not leave a copy of the Presentence Investigation Report and any addendums thereto with a detained defendant. Should counsel desire to leave the Presentence Investigation Report or a portion thereof with a detained defendant, counsel must file a motion with the Court. The Court ORDERS counsel for each party to state in writing within 14 days after receiving the Initial Presentence Investigation Report, and file on the record in a restricted manner any objections to the Report, including objections to material information, sentencing guideline ranges, and policy statements contained in or omitted from the Report. If any party has no objections, the party shall file a written statement of no objections on the record in a restricted manner within 14 days of receiving the Initial Report. **To be clear, within 14 days of receiving the Initial Report, counsel must state in writing and file on the record in a restricted manner whether the party has objections or does not have objections to the Report.** Counsel shall file any sentencing memorandums, victim impact statements, letters, and similar sentencing materials on or before _____. It is further ORDERED that all sentencing materials including memorandums, motions, and other documents may be filed on the record in a restricted manner in which only counsel for the Defendant, the United States, and the Court have access to the materials. This Court will hold a Sentencing Hearing in this case on _____.

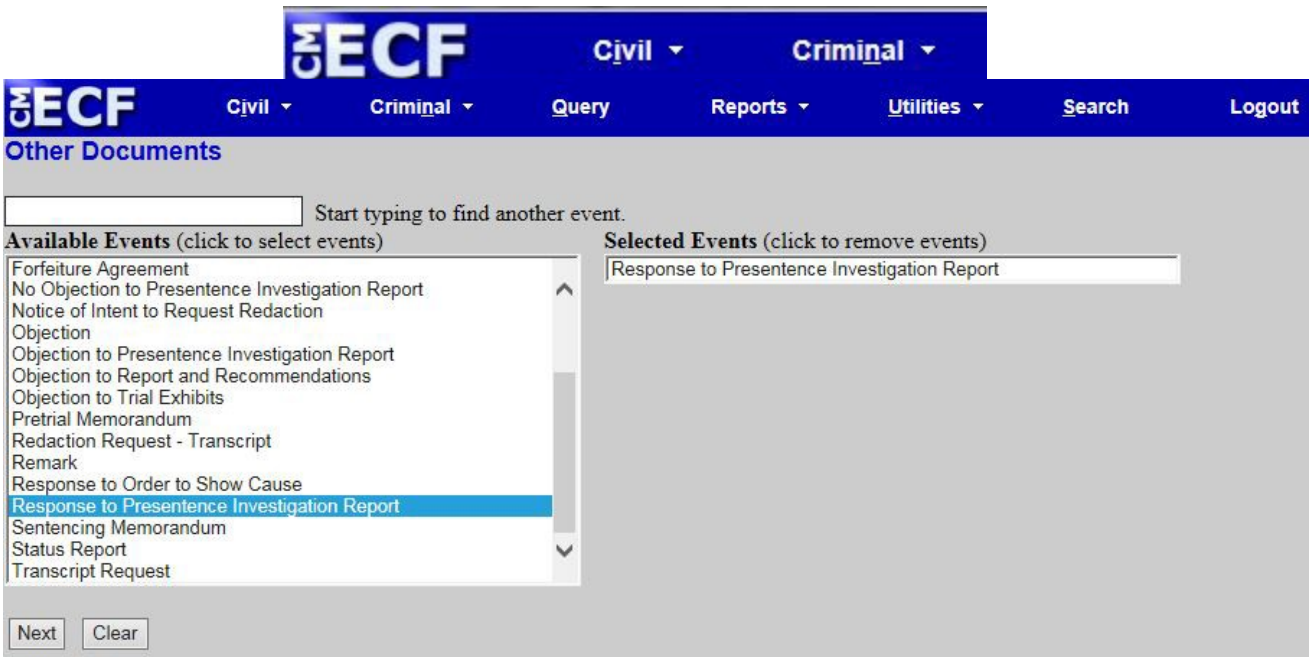
NOTICE TO COUNSEL: Important Information regarding the Presentence Investigation Report and filing requirements. CLICK HERE TO READ.

This information can also be accessed on the Court's website under the "Forms" tab and is labeled "Judge Baker - Instructions and Forms." Entered by District Judge R. Stan Baker on _____.

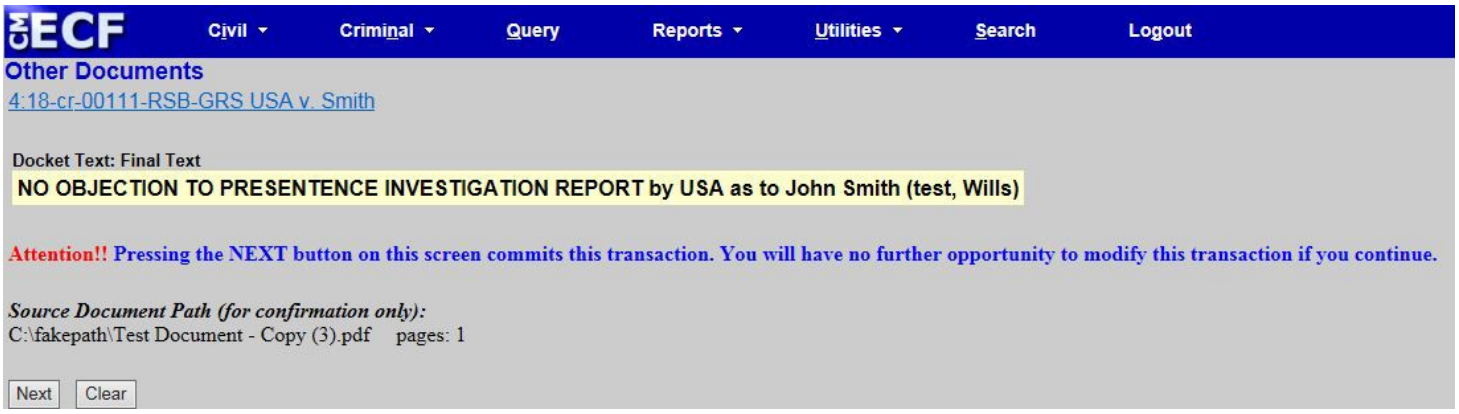
B. RESPONSE TO PRESENTENCE INVESTIGATION REPORT

1. Counsel for the United States and the defendant **MUST** each file a response to the initial presentence investigation report in CM/ECF using the Criminal Event, "Response to Presentence Investigation Report." This event is located under Criminal → Other Filings → Other Documents → Response to Presentence Investigation Report (*pictured below). Even when a party does not have an objection to the presentence investigation report, the party must file a statement of no objections on the record.

2. When filing a response in CM/ECF, counsel will have the option to file either: Objections to the Presentence Investigation Report; No Objections to the Presentence Investigation Report; or Comments (no objection) to the Presentence Investigation Report.

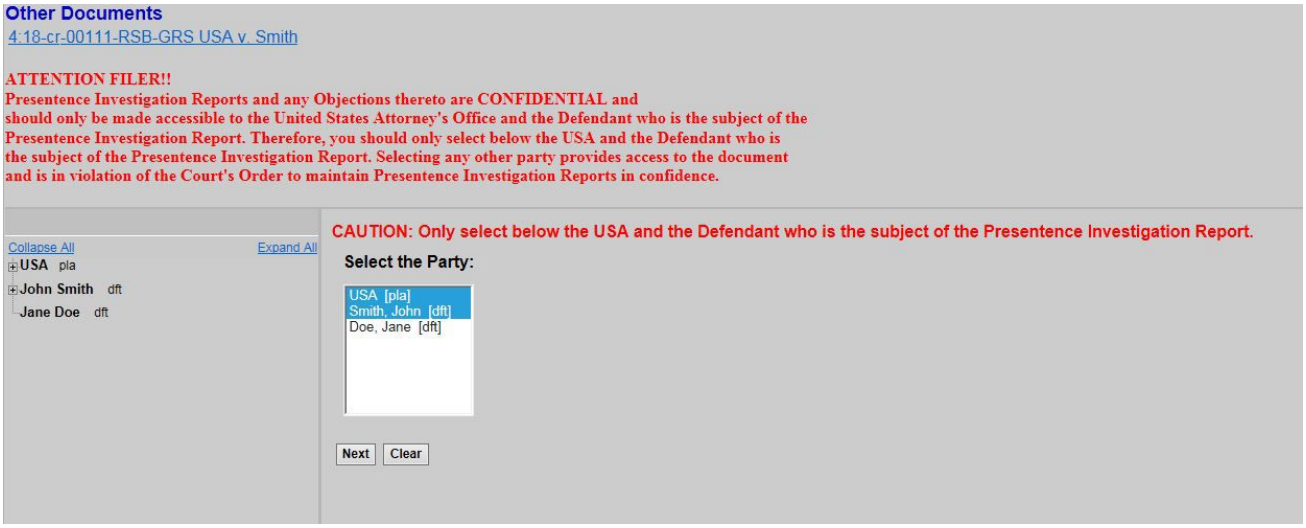


3. After selecting your response type, you will be prompted to enter who is filing the response. As the filer, you should enter either "USA" or "Defendant" in the text box provided.



4. When prompted, please make sure to **ONLY** select the applicable parties who should have access to the filed document. To select both the USA and the Defendant, press the Ctrl key while selecting ("left-clicking on") each party who should have access.

(REMEMBER: presentence investigation reports and any related documents are CONFIDENTIAL and should only be made accessible to the United States Attorney's Office and the defendant who is the subject of the presentence investigation report. **Therefore, you should only select the USA and the Defendant who is the subject of the presentence investigation report.** Selecting any other party provides access to the document and is in violation of the Court's Order to maintain presentence investigation reports in confidence.)



5. Confirm that the "Docket Text: Final Text" is correct. If it is not correct, go back through the event using your browser's back arrow to ensure you have properly selected the correct information on each screen.

II. <u>PLEADINGS PERTAINING TO A DEFENDANT'S COOPERATION INCLUDING MOTIONS FOR DOWNWARD DEPARTURE PURSUANT TO U.S.S.G. § 5K1.1, MOTIONS FOR VARIANCE PURSUANT TO 18 U.S.C. § 3553(e), and MOTIONS FOR SENTENCE REDUCTION PURSUANT TO FED. R. CRIM. P. 35</u>

1. Pursuant to Judge Baker's Oral Order regarding the filing of sentencing materials in a restricted manner, the parties **MUST** file any motions or other pleadings that pertain to a defendant's cooperation and/or substantial assistance in a manner that only counsel for the defendant who is the subject of the motion or other pleading, the United States Attorney's

Office, the United States Probation Office, and the Court receive notice of the filing, are able to view the docket entry regarding the filing, and have access to the filing. Such pleadings that must be filed in a restricted manner include the following: motions for downward departure filed pursuant to U.S.S.G. § 5K1; motions for variance pursuant to 18 U.S.C. § 3553(e); and motions for sentence reduction pursuant to Federal Rule of Criminal Procedure 35. The parties may automatically file these pleadings under seal, and they should NOT submit a motion for leave to file such a pleading under seal pursuant to the Court's Local Rule 79.7 (Sealed Documents).

2. A defendant must file any motion for downward departure and/or variance pertaining to the Defendant's cooperation in CM/ECF using the Criminal Event, "Motion for Downward Departure – Restricted." This event is located under Criminal Events → Motions → Downward Departure (Restricted Document). Using the event will automatically restrict notice of and access to the filing to the Court, the United States Attorney's Office, and counsel for the Defendant who is the subject of the motion. Please note that this event is only available for use in Judge Baker's cases. A filer will automatically be barred from using this event in any other judges' criminal cases.

3. The United States must file any motion for downward departure and/or variance in CM/ECF using the Criminal Event, "Motion for Downward Departure Pursuant to USSG § 5K1.1." This event is located under Criminal Events → Motions → Downward Departure pursuant to 5K1.1 (Restricted Document). Using the event will automatically restrict notice of and access to the filing to the Court, the United States Attorney's Office, and counsel for the Defendant who is the subject of the motion. Please note that this event is only available for use in Judge Baker's cases. A filer will automatically be barred from using this event in any other judges' criminal cases.

4. Likewise, the United States must file motions for sentence reduction in CM/ECF using the Criminal Event, "Motion for Sentence Reduction Pursuant to Fed.R.Crim.P. 35." This event is located under Criminal Events → Motions → Reduce Sentence – Rule 35 (Restricted Document). Using the event will automatically restrict notice of and access to the filing to the Court, the United States Attorney's Office, and counsel for the Defendant who is the subject of the Motion. Please note that this event is only available for use in Judge Baker's cases. A filer will automatically be barred from using this event in any other judges' criminal cases.

III. SENTENCING MEMORANDUMS AND OTHER SENTENCING RELATED DOCUMENTS [1]

1. Pursuant to Judge Baker's Oral Order regarding the filing of sentencing materials in a restricted manner on the docket and record of the case, parties may choose to file a sentencing memorandum and other sentencing related documents in a restricted manner such that only the relevant defendant, the United States Attorney's Office, the United States

[1] These instructions regarding sentencing memorandums also pertain to other any sentencing-related documents such as victim impact statements, character letters, and bench briefs.

Probation Office, and the Court have access to the filing. Additionally, if the memorandum or other sentencing related document mentions a defendant's cooperation, the pleading **MUST** be filed under seal. The parties may automatically file sentencing memorandum and other sentencing related documents under seal, and they should NOT submit a motion for leave to file such a pleading under seal pursuant to the Court's Local Rule 79.7 (Sealed Documents).

2. Parties may file sentencing memorandums and similar sentencing materials in a restricted manner on the record of the case in CM/ECF using the Criminal Event, "Sealed Sentencing Memorandum." This event can be located under Criminal Events → Other Filings → Other Documents → Sentencing Memorandum (Restricted Document). This filing will only be viewable by the Court, the United States Attorney's Office, and counsel for the defendant who is the subject of the sentencing memorandum. Please note that this event is only available for use in Judge Baker's cases. A filer will automatically be barred from using this event in any other judges' criminal cases.

3. Should a party determine that sentencing materials need not be filed in a restricted manner on the record of the case in CM/ECF and that the materials should be available for access on the Court's public record, the party should use the Criminal Event, "Sentencing Memorandum." This event is located under Criminal Events → Other Filings → Other Documents → Sentencing Memorandum and is currently available for use in any criminal case.