

**UNITED STATES BANKRUPTCY COURT
FOR THE
NORTHERN DISTRICT OF NEW YORK**

ADMINISTRATIVE ORDER 21-01

**PROCEDURES FOR THE FILING, SERVICE AND MANAGEMENT
OF HIGHLY SENSITIVE DOCUMENTS**

WHEREAS, in response to recent disclosures of wide-spread breaches of both private sector and government computer systems, federal courts are immediately adding new security procedures to protect highly sensitive documents filed with the courts; and

WHEREAS, the court finds that good cause exists to require all parties to file certain highly sensitive documents outside of the court's electronic filing system;

NOW, THEREFORE, effective immediately and until such time as the court orders otherwise, the filing of certain highly sensitive documents shall be subject to the procedures and requirements set forth below.¹ This Administrative Order supersedes any and all inconsistent provisions in existing local rules or other administrative orders of this court.

1. Documents Subject to this Order

Highly Sensitive Document. Subject to approval by the court in accordance with the procedures set forth below, a document may be deemed a highly sensitive document ("HSD") if it contains sensitive, non-public information that, if obtained without authorization and improperly released, could cause harm to the United States, the Federal Judiciary, litigants, and others.

- a. Factors.** Factors that the Court may consider in determining if a document is an HSD include whether the case involves matters of national security, foreign sovereign interests, or cybersecurity; the extent of domestic or international interests; the involvement of public officials; intellectual property or trade secrets; or the reputational interests of the United States.
- b. Non-HSDs.** The following types of documents are generally not considered HSDs: social security records and sealed filings in many civil cases.

2. Motion to Treat a Document as an HSD

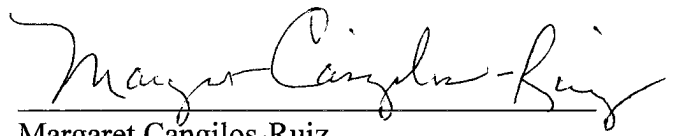
¹ Parties should continue to follow the procedures set forth in Federal Rule of Bankruptcy Procedure 9018 and Local Bankruptcy Rule 9018-1 (Filing Under Seal) for non-highly sensitive documents that merit protection under 11 U.S.C. § 107(b) or (c).

- a. **Filing of the Motion.** A party seeking to treat a document as an HSD shall file a motion with the court with notice to the other parties, unless the court orders otherwise. The motion may be filed electronically or in paper format, **except that the proposed HSD shall NOT be filed electronically.** The motion shall explain why the proposed document constitutes an HSD under the criteria set out in paragraph 1 above or why it should otherwise be subject to the heightened protection for HSDs. Care should be given to not disclose in the motion the highly sensitive information. A document that meets the criteria for filing under seal will rarely meet the elevated criteria for filing an HSD.
- b. **Delivery of Proposed HSD to the Court.** As soon as practicable after the motion is filed, the filing party shall deliver to the Clerk's Office in the division where the assigned judge sits, an original plus one copy of the proposed HSD, unfolded, in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT." The outside of the envelope shall be affixed with the caption of the case (case name, case number and adversary number, if applicable).
- c. **Service of an HSD.** The movant shall serve the proposed HSD on the other parties by any manner specified in Federal Rules of Bankruptcy Procedure 7004 and 7005, except for service via the court's electronic filing system.
- d. **Disposition of Motion.** If the motion is granted, an informational entry will be made on the docket indicating that the HSD has been filed with the court. The Clerk's Office will maintain the HSD in a secure, paper-filing system or a secure, standalone computer system that is not connected to any network.

3. Removal of Existing HSDs or Highly Sensitive Cases from the Court's Electronic Filing System

- a. **Motion to Remove an HSD or case.** Upon motion of a party or acting *sua sponte*, the court may determine that a document, case, or any portion thereof that has been filed electronically is highly sensitive and direct that the HSD or case be removed from the court's electronic filing system and maintained by the Clerk in a secure, paper-filing system or a secure, standalone computer system that is not connected to any network.
- b. **Content of Motion.** A party's motion to remove an HSD or highly sensitive case from the court's electronic filing system shall explain why such document or case is highly sensitive under the criteria set out in paragraph 1 above or why it should otherwise be subject to the heightened protection for HSDs.

SO ORDERED this 14th day of January, 2021.


Margaret Cangilos-Ruiz
Chief United States Bankruptcy Judge