

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF KENTUCKY**

IN RE:)	
PROCEDURES FOR THE FILING,)	GENERAL ORDER
SERVICE, AND MANAGEMENT OF)	2021-1
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;

THE COURT FINDS that, pursuant to Bankruptcy Rule 5005(a)(2)(A), good cause exists to require all parties to file certain highly sensitive documents outside of the Court’s electronic filing system.

THEREFORE, IT IS HEREBY ORDERED that, effective as of the date of this order 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. This General Order supersedes any and all inconsistent provisions in this Court’s existing Local Rules or other General Orders.

1. Definition of Highly Sensitive Documents

The filing procedures set forth below apply to documents that contain highly sensitive information.

- a. **Highly Sensitive Documents.** The following types of documents are deemed Highly Sensitive Documents (HSDs): documents pertaining to matters of national security, foreign sovereign interests or cybersecurity; documents involving public officials or the reputation of the United States; documents regarding post-judgment search or seizure by the federal government in which advanced notice via electronic record to any extent may be damaging to the government’s objectives; and documents including intellectual property, trade secrets or other proprietary information that movant can demonstrate would promote unfair competition practices or endanger the possibility of debtor’s reorganization.

- b. **Documents Not Considered Highly Sensitive.** The following types of documents generally are not considered HSDs: bank records, Social Security records; other documents containing Social Security numbers or taxpayer identification numbers; health records; documents containing unredacted personal or business identifiers listed in Bankruptcy Rule 9037; and the majority of restricted or sealed filings in bankruptcy cases, miscellaneous cases, and adversary proceedings, for which filing

electronically under existing procedures provides sufficient security. As bankruptcy records generally are public records, all documents filed with the Court should be filed at the lowest level of restriction that protects personal, public and other security interests while concurrently providing public records access in compliance with federal rules and other requirements.

- c. Any dispute as to whether a document is an HSD shall be resolved by the Judge presiding over the case or, when no presiding judge is assigned, the Chief Judge.

2. Filing of Motions to Designate Documents Highly Sensitive

- a. **Represented parties.** A represented party shall file a motion to file a document under seal and designate said document as an HSD electronically, as required by Bankruptcy Rule 5005 and Local Rule 5005-1 except that a copy of the proposed HSD shall not be filed with the Court at that time. The motion and proposed order, if filed using the appropriate electronic case filing system event, will be restricted to Court staff only and shall remain so unless otherwise ordered by the Court. The pleading should include a description of the HSD sufficient for the Court to consider the motion and shall demonstrate clearly why movant believes said document to be highly sensitive. The proposed order should include no details of the alleged highly sensitive document and should reflect only that the motion to file a highly sensitive document under seal has been granted. If the Court requires a copy of the alleged HSD to rule on the motion, an Order will be entered to submit it to the Court in paper format or, if appropriate, other media as the Court may direct.
- b. **Unrepresented parties.** A party who is not represented by counsel shall file the motion and proposed order in paper format with the Clerk's Office in Louisville. Consistent with electronically-filed motions, the motion must contain an adequate description of the alleged HSD and why the document is highly sensitive pursuant to the requirements of this General Order; the proposed order should not include a description of the document but refer to the document only as an HSD, and a copy of the document should not be filed with the motion but shall be filed with the Court in paper format (or other format as the Court may direct) if so ordered by the Court.

3. Orders Authorizing HSDs and Filing of Authorized HSDs

- a. **Entry and Service of Order Granting the Motion.** If the Court grants the motion, the Clerk will include information in the "docket text" of the case record and/or the Order itself that directs the movant to file the HSD with the Court and how to file the HSD. This will generally be in paper format but depending on the size or type of document, the Court may direct filer to file the document in a different format or media.
 - i. As detailed above, proposed orders should not include any details regarding the HSD; however, if the Order entered by the Court contains any details of the HSD, the Order will not be uploaded to the electronic case filing system;

an entry will be docketed that the motion was granted (with no details as to the HSD) and the Order will be maintained securely in paper format or on a standalone computer not connected to any network.

- ii. If the Order contains details of the HSD or any other highly sensitive information and is not uploaded to the case record electronically, a paper copy will be mailed to the movant or movant's counsel.
- iii. Movant or movant's counsel is responsible for serving notice of the entry of the Order (or a copy of the Order) on all interested parties; the Clerk will mail a copy only to the movant or movant's counsel.

b. **Filing the Highly Sensitive Document.** A party filing an HSD pursuant to an Order of the Court shall file the following with the Clerk's Office in Louisville by mail or by in-person filing only: a copy of the Order allowing the filing of the HSD; the HSD in the format prescribed by the Court; and the certificate of service.

- i. The Court will not accept any HSD or any document containing details of an HSD by email or facsimile submission as allowed for other documents by this Court's Local Rules and previous General Orders.
- ii. Unless impractical due to the volume or format of the HSD, the required document, unfolded, shall be submitted to the Clerk's Office in a sealed envelope marked "HIGHLY SENSITIVE DOCUMENT." The outside of the envelope shall be affixed with a copy of the HSD's caption page (with confidential information redacted) and a copy of the Court's Order allowing the filing of the document as an HSD.
- iii. The Clerk's Office will docket an entry in the Court's electronic filing system indicating that the HSD was filed with the court (with no details of the HSD) and will maintain the HSD in a secure paper filing system or a secure standalone computer system that is not connected to any network.

4. Questions about HSD Filing Procedures

Any questions about how an HSD should be filed with the court pursuant to this General Order should be directed to the Clerk's Office at 502-627-5700.

IT IS SO ORDERED,

The Honorable Alan C. Stout
Chief United States Bankruptcy Judge
Western District of Kentucky