

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MAINE**

IN RE:)
PROCEDURES FOR THE FILING,) STANDING ORDER
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;

THE COURT FINDS that good cause exists to require all parties to file certain highly sensitive documents¹ (“HSD”) 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 documents a party believes to be an HSD shall be subject to the procedures and requirements set forth below. This order supersedes any and all inconsistent provisions in existing local rules or other orders of this Court, including but not limited to the November 7, 2003 Standing Order Regarding the Electronic Filing of Pleadings and Papers in the District of Maine.

1. Filing of Motions to Treat a Document as an HSD.

- a. Parties represented by an attorney.
 - i. A party represented by an attorney shall file a motion to treat a document as an HSD and a proposed order electronically under Fed. R. Bankr. P. 9018, except that the proposed HSD shall not be filed electronically. The motion shall explain why the proposed document should be subject to the heightened protection for HSDs. Not all documents that meet the criteria for filing under seal will qualify for treatment as an HSD.

¹ As of the date of this order, the Administrative Office of the United States Courts has provided certain guidance regarding HSDs indicating that the following types of documents would be deemed to be HSDs: documents relating to 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. However, HSDs do not include documents to which public access is routinely restricted to protect privacy and prevent identity theft and include bank records, social security records, health records, unclaimed fund applications, and income tax returns. These documents and other sealed filings in many bankruptcy cases and adversary proceedings that are not sufficiently sensitive to require HSD treatment will continue to be sealed in CM/ECF as necessary.

- ii. As soon as practicable after the motion is filed, the filing party shall deliver the proposed HSD to the Clerk's office along with a certificate of service. These documents must be submitted as specified in paragraph 2.b.
 - iii. The filing party shall serve the proposed HSD on the other parties as specified in paragraph 2.c.
 - iv. The Court will issue an order on the motion and, if granted, an informational entry will be made on the case 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.
- b. Parties appearing without an attorney ("pro se parties").
- i. Pro se parties shall file the following with the Clerk's office:
 - o a motion to treat a document as an HSD,
 - o a copy of the HSD, and
 - o a certificate of service indicating the date that the documents were filed at the Clerk's office.

These documents must be submitted as specified in paragraph 2.b. The motion shall explain why the proposed document should be subject to the heightened protection for HSDs. Not all documents that meet the criteria for filing under seal will qualify for treatment as an HSD.

- ii. The filing party shall serve the proposed HSD on the other parties as specified in paragraph 2.c.
- iii. The Court will issue an order on the motion and, if granted, an informational entry will be made on the case 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.

2. Filing of Authorized HSDs.

- a. A party filing an HSD pursuant to a court order or applicable law shall submit to the Clerk's office the HSD, the certificate of service, and, if applicable, a copy of the order authorizing the treatment of that document as highly sensitive.

- b. The required documents, 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 any confidential information redacted).
- c. The filing party shall serve the HSD on the other parties in accordance with Fed R. Bankr. P. 2002, Fed. R. Bankr. P. 7004, D. Me. LBR 2002-1 or D. Me. LBR 2002-2, as applicable.
- d. The Clerk's Office will make an informational docket entry in the Court's electronic filing system indicating that the HSD was filed with the Court and will maintain the HSD in a secure paper filing system.

3. Service of Highly Sensitive Court Orders.

If the Court determines that one of its orders contains highly sensitive information, the Clerk's Office will file and maintain the order in a secure paper filing system and will serve paper copies of the order on the parties via U.S. mail.

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

- a. Upon motion of a party or upon its own motion, the Court may determine that a document, case, or any portion of it, 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's office in a secure paper filing system.
- b. A party's motion to remove an HSD or highly sensitive case from the Court's electronic filing system shall explain why such document should be subject to the heightened protection for HSDs.

5. 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 appropriate case administrator. Contact information can be found at <https://www.meb.uscourts.gov/case-administration>.

IT IS SO ORDERED, this 14th day of January, 2021.

/s/ Peter G. Cary
Peter G. Cary, Chief Judge
United States Bankruptcy Court
District of Maine

/s/ Michael A. Fagone
Michael A. Fagone, Judge
United States Bankruptcy Court
District of Maine