

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA

IN RE:)
)
Procedures for the Filing, Service, and) Administrative Order No. 2021-2
Management of Highly Sensitive Documents)
)

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

In response to recent disclosures of wide-spread breaches of both private sector and government computer systems, federal courts are adding new security procedures to protect highly sensitive documents filed with the courts. The court finds that, pursuant to Bankruptcy Rules 5005(a) and 7005, good cause exists to require all parties to file certain highly sensitive documents (“HSDs”) 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.

1. Documents Subject to this Order

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

- a. Documents relating to the following subjects are deemed HSDs: 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 of interest to foreign actors; or the reputational interests of the United States.
- b. The following types of documents generally are not considered HSDs: bank records; Social Security records; personal identification information; health records; and sealed filings in many bankruptcy cases and adversary proceedings that are not sufficiently sensitive to require HSD treatment and that may continue to be sealed in CM/ECF as necessary.
- c. Any dispute as to whether a document is an HSD shall be resolved by the presiding judge or, when no presiding judge is assigned, the chief judge.

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 court order authorizing the treatment of that document as highly sensitive in the form of two paper copies.
- 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 confidential information redacted).
- c. The filing party shall serve the HSD on the other parties by any manner specified in FRCP 5(b)(2), except for service via the court's electronic filing system.
- 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. Filing of Motions to Treat a Document as an HSD

- a. Represented parties
 - i. A represented party shall file a motion to treat a document as an HSD and a proposed order electronically except that a copy of 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.b. above or why it should otherwise be subject to the heightened protection for HSDs.
 - ii. As soon as practicable after the motion is filed, the filing party shall deliver to the clerk's office the HSD sought to be filed along with a certificate of service in the form of two paper copies. These documents should be packaged 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. Pro se parties

- i. Pro se parties shall submit to the clerk's office for filing a motion to treat a document as an HSD, the HSD sought to be filed, and a certificate of service in the form of two paper copies. These documents should be packaged as specified in paragraph 2.b.
- 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.

4. Service of Highly Sensitive Court Orders

If the court determines that a court order 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 mail.

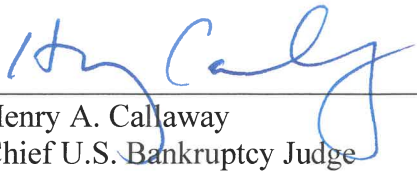
5. Removal of Existing HSDs or Highly Sensitive Cases from the Court's Electronic Filing System

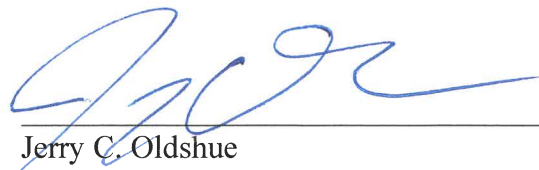
- a. Upon motion of a party or upon its own motion, the court may determine that a document, case, or any portion of it, that has been filed electronically is highly sensitive and direct that the HSD or case be removed from the court's electronic filing system and maintained by the clerk's office in 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 or case is highly sensitive under the criteria set out in paragraph 1.b. above or why it should otherwise be subject to the heightened protection for HSDs.

6. Questions about HSD Filing Procedures

Any questions about how an HSD should be filed with the court pursuant to this administrative order should be directed to the clerk of court at (251) 441-5391.

Dated: 1/12/2021


Henry A. Callaway
Chief U.S. Bankruptcy Judge


Jerry C. Oldshue
U.S. Bankruptcy Judge