

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

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, pursuant to Federal Rule of Civil Procedure 5(d)(3)(A) and Federal Rule of Criminal Procedure 49(b)(3)(A), good cause exists to require all parties to file sealed documents with certain highly sensitive information outside of the court’s electronic filing system (CM/ECF).

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 existing local rules or other general orders of this court.

1. Documents Subject to this Order

- a. The filing procedures set forth below apply to documents that contain highly sensitive information. The following types of documents are deemed highly sensitive documents (HSDs) without further court order and are automatically filed under seal:
 - i. Documents related to national security and terrorism investigations, including but not limited to search warrants and 2703(d) orders;
 - ii. *Ex parte* motions and orders for tax information; and
 - iii. Applications for electronic surveillance under 18 U.S.C. § 2518, including Title III Wiretap affidavits and orders.
- b. The following examples of types of documents generally not considered HSDs include but are not limited to:

- i. Presentence reports;
 - ii. Pretrial release reports;
 - iii. Pleadings related to cooperation in most criminal cases;
 - iv. Social security records;
 - v. Administrative immigration records; and
 - vi. Sealed filings in many civil or criminal cases that would have been filed under seal normally which are not listed in paragraph 1.a.
- c. Any document not deemed an HSD in paragraph 1.a that the filing party believes should be filed as an HSD must be pursued by motion under paragraph 3.

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 if required, 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. If service is required, the filing party shall serve the HSD on the other parties as follows:
 - i. Civil cases - by any manner specified in Federal Rule of Civil Procedure 5(b)(2) except for service via the court's electronic filing system; or
 - ii. Criminal cases - by any manner specified in Federal Rule of Criminal Procedure 49(a)(4).
- d. The clerk's office will make an informational docket entry in CM/ECF indicating that the HSD was filed with the court and will maintain the HSD in a secure paper filing system or a secure standalone computer system that is not connected to any network.

3. Filing of Motions to Treat a Document as an HSD Under Paragraph 1(c)

- a. Represented parties
 - i. If represented by counsel, a party shall file a motion to seal and to treat a document as an HSD via CM/ECF under existing procedures. **The copy of the proposed HSD shall not be filed electronically.** The motion requesting HSD designation shall explain why the proposed document constitutes an HSD or why it should otherwise be subject to the heightened protection for HSDs. The party shall email a proposed order to chambers.
 - 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, if required, and a copy of the filed motion and NEF

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 Court will make a determination as to whether any order granting or denying a motion to treat a document as an HSD should also be maintained in a secure paper filing system or a secure standalone computer system that is not connected to any network.
- v. 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.

b. Pro se parties

- i. If not represented by counsel, a party shall submit to the clerk's office for filing a motion to seal and to treat a document as an HSD, the HSD sought to be filed, and a certificate of service, if required, 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 Court will make a determination as to whether any order granting or denying a motion to treat a document as an HSD should also be maintained in a secure paper filing system or a secure standalone computer system that is not connected to any network.
- iv. 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.

4. Service of Highly Sensitive Court Orders

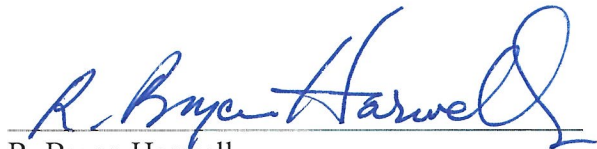
If the court determines that a court order contains highly sensitive information, the clerk's office will serve paper copies of the order on the parties via mail.

5. Existing Files in CM/ECF

- a. Upon motion of a party, the court may determine that a document that has been filed electronically is subject to treatment as an HSD and direct that the HSD (or the case as a whole, if the number of HSD filings make treating the entire case as an HSD more efficient) be removed from the CM/ECF and maintained by the Clerk's Office in a secure paper filing system or a secure standalone computer system that is not connected to any network.
- b. A party's motion to remove an HSD or highly sensitive case from CM/ECF shall explain why such document or case is highly sensitive under the criteria set out in

paragraph 3 or why it should otherwise be subject to the heightened protection for HSDs.

IT IS SO ORDERED, this 19 day of Jan., 2021.

A handwritten signature in blue ink, reading "R. Bryan Harwell", written over a horizontal line.

R. Bryan Harwell
Chief United States District Judge
District of South Carolina