

*Instructions for Filing Highly Sensitive Documents (HSDs) Under LBR 5005.1 Appendix 1-01, Section XII.C and Standing Order 21-1.*

## **Introduction and Summary of the Process**

These instructions explain how to file a motion that asks the court to treat documents as “highly sensitive documents” (“HSDs”) and how to submit copies of HSDs to the court in a secure manner. They serve as “the procedures and requirements published on the court’s website” that are described in Standing Order 21-1 and meet the requirements referenced in Section XII.C of the Administrative Procedures for Filing, Signing, and Verifying Pleadings and Documents by Electronic Means, LBR 5005.1, Appendix 1-01.

A person who wants to have documents treated as HSDs must obtain a court order stating that the documents are HSDs. To do this, a person must file a motion asking the court to treat the documents as HSDs. The motion must explain why the documents are HSDs. The person who files the motion (“movant”) must submit a copy of the proposed HSDs to the court in packaging that is secure and clearly marked. The movant must file a Certificate of Service demonstrating that they served the motion and a copy of the HSDs on other interested parties in the case, and submit a draft order for the court to review and sign. The procedure is somewhat different for parties who file documents in CM/ECF electronically and people who do not file electronically. Those procedures are summarized separately, below.

To avoid disclosing sensitive or confidential information, please follow these instructions carefully. If you have any questions or problems while filing you may contact the Clerk’s Office for assistance.

To file a document *under seal that does not contain highly sensitive information*, please see the *Instructions for Electronically Filing Sealed Documents Under LBR 5005.1, Appendix 1-01, Section VI*, which are also published on the court’s website.

### **1. Definition of Highly Sensitive Documents (HSDs)**

- a. Highly sensitive documents (HSDs) contain information that is so sensitive and confidential that additional precautions beyond sealing the document from public access in the court’s Electronic Filing System (currently CM/ECF) are required. Examples of HSDs include, but may not necessarily be limited to trade secrets, and information classified by the federal government.
- b. The following types of documents generally are not considered HSDs:  
Declaration Re: Electronic Filing, Statement About Your Social Security Number, social security records and other documents containing Social Security numbers (SSNs), taxpayer identification numbers, birth dates, business records, financial records including financial account numbers, bank records, tax records, records containing administrative immigration records, settlement agreements, information about minors, sealed filings in civil and administrative cases, DeBN Request Forms, expenses under section 302 of the Family Violence Protection and Services Act, and documents that originally contained highly sensitive

information but can still fulfill their purpose after highly sensitive information has been redacted.

## 2. Who Decides Whether Documents Are HSDs

- a. Any dispute as to whether a document is an HSD will be resolved by the presiding judge or, when no presiding judge is assigned, the chief judge.

## 3. Treatment of HSDs

- a. A person who wants to have documents treated as HSDs must obtain a court order stating that the documents are HSDs.
- b. The court may on its own motion order documents to be treated as HSDs.
- c. The Clerk's Office will make an informational docket entry in the court's electronic filing system indicating when HSDs are filed with the court.
- d. The Clerk's Office will maintain the HSD in a secure filing system or a secure standalone computer system that is not connected to any network.

## 4. Filing Motions to Treat a Document as an HSD

- a. Parties Who File Electronically
  - i. *How to File a Motion and Exhibits That Do Not Contain Sensitive or Confidential Materials.* Unless the court has ordered otherwise or the exception in subsection I.C of LBR 5005.1, Appendix 1-01, applies (excusing pro se parties or attorneys from electronically filing), a represented party must electronically file a motion to treat documents as HSD in CM/ECF using one of the following events:  
Bankruptcy > Motions/Applications > File Under Seal  
or  
Adversary > Motions > File Under Seal.
  - ii. *Motion Contents.* The motion must explain why the documents should be deemed HSDs under the criteria in paragraph 1 or why they should otherwise be subject to the heightened protection for HSDs.
  - iii. *The Movant Must Not* attach to the motion a copy of documents that the movant asks the court to treat as HSDs, and the motion itself must not disclose the substance of the sensitive or confidential information.
  - iv. *Serve the Motion with a Copy of the HSDs or Ask the Court to Restrict Service.* Service may be made by any manner specified in Fed. R. [Civ. P. 5\(b\)\(2\)](#), *except that* service may not be made via the court's electronic filing system. Unless otherwise ordered by the court, the movant must serve the motion, a copy of the HSDs, a notice with an opportunity to object, and a certificate of service upon:
    1. All parties (if the case is an adversary proceeding),
    2. All parties listed in the matrix (if the case is not an adversary proceeding), or
    3. The smaller set of recipients that the movant described in the motion. If the movant seeks leave to serve the motion and/or the

HSDs on a restricted number of recipients, the motion must explain the reasons why service should be restricted.

- v. *Hearing.* The motion need not be set for hearing unless a timely objection is filed or the court instructs otherwise.
- vi. *Physically Submit Copies of the HSDs to the Court.* As soon as practicable after the motion is electronically filed, or when ordered by the court to file the HSDs, the filing party must deliver to the Clerk's Office two copies of the HSDs in the form of either two paper copies or two electronic copies on two separate thumb drives (or other electronic devices specifically allowed by a court order that authorized the treatment of the materials as highly sensitive), together with a paper copy of a certificate of service stating how the HSDs were served on other parties. Paper documents should not be folded. All paper HSDs and/or all thumb drives or other electronic devices containing HSDs must be submitted to the Clerk's Office in a sealed envelope clearly marked "HIGHLY SENSITIVE DOCUMENT." The outside of the sealed envelope must be clearly marked with the caption of the case (the name of the court, the case name and case number) in which the HSDs are submitted.
- vii. *Submit a Proposed Order.* The movant must electronically upload a proposed order promptly after the objection deadline has expired (if no objections were filed) or after a hearing on any objection. *See* LBR 9004.1(c). To submit the order in CM/ECF, go to:  
Bankruptcy > Order Upload  
or  
Adversary > Order Upload.

b. Pro se Parties

- i. *How to File a Motion and Exhibits That Do Not Contain Sensitive or Confidential Materials.* Pro se parties, and any other parties who have been excused from filing electronically pursuant to subsection I.C of LBR 5005.1, Appendix 1-01, must physically file with the Clerk's Office a paper motion to treat documents as HSDs, two copies of the HSDs (in a format described in paragraph 4.b.v, below), a paper copy of a notice with an opportunity to object, and a paper copy of the certificate of service demonstrating how the motion and HSDs were served on other parties.
- ii. *Motion Contents.* The motion must explain why the documents should be deemed HSDs under the criteria in paragraph 1 or why they should otherwise be subject to the heightened protection for HSDs.
- iii. ***The motion itself must not*** contain or disclose the substance of the sensitive or confidential information.
- iv. *Serve the Motion with a Copy of the HSDs or Ask the Court to Restrict Service.* Service may be made by any manner specified in Fed. R. [Civ. P. 5\(b\)\(2\)](#), *except that* service may not be made via the court's electronic filing system. Unless otherwise ordered by the court, the movant must

serve the motion, a copy of the HSDs, the notice with an opportunity to object, and the certificate of service upon:

1. All parties (if the case is an adversary proceeding),
  2. All parties listed in the matrix (if the case is not an adversary proceeding), or
  3. The smaller set of recipients that the movant described in the motion. If the movant seeks leave to serve the motion and/or the HSDs on a restricted number of recipients, the motion must explain the reasons why service should be restricted.
- v. *Hearing.* The motion need not be set for hearing unless a timely objection is filed or the court instructs otherwise.
- vi. *Physically Submit Copies of the HSDs to the Court.* When filing a motion to treat documents as HSDs, or when ordered by the court to file the HSDs, the filing party must deliver to the Clerk's Office two copies of the HSDs in the form of either two paper copies or two electronic copies on two separate thumb drives (or other electronic devices specifically allowed by a court order that authorized the treatment of the materials as highly sensitive), together with a paper copy of a certificate of service stating how the HSDs were served on other parties. Paper documents should not be folded. All paper HSDs and/or all thumb drives or other electronic devices containing HSDs must be submitted to the Clerk's Office in a sealed envelope clearly marked "HIGHLY SENSITIVE DOCUMENT." The outside of the sealed envelope must be clearly marked with the caption of the case (the name of the court, the case name and case number) in which the HSDs are submitted.
- vii. *Submit a Proposed Order.* The movant may submit to the Clerk's Office a proposed order promptly after the objection deadline has expired (if no objections were filed) or after a hearing on any objection.

5. **Court Order.** The court will issue an order on the motion. The court will serve a copy of the order on the parties via mail or other method directed by the court.

**6. 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 HSDs or a case be removed from the court's electronic filing system 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 HSDs or a highly sensitive case from the court's electronic filing system must explain why the documents should be deemed HSDs under the criteria in paragraph 1 or why they should otherwise be subject to the heightened protection for HSDs.