

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF FLORIDA

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In re:

|                             |   |                  |
|-----------------------------|---|------------------|
| <b>PROCEDURES FOR THE</b>   | ) | AMENDED          |
| <b>FILING, SERVICE, AND</b> | ) | ADMINISTRATIVE   |
| <b>MANAGEMENT OF HIGHLY</b> | ) | ORDER NO. 21-002 |
| <b>SENSITIVE DOCUMENTS</b>  | ) |                  |
| _____                       | ) |                  |
|                             | / |                  |

**WHEREAS** federal courts are updating their security procedures to uniformly protect highly sensitive documents (HSDs), a narrow subset of sealed documents that must, for their protection, be stored outside the court's collective electronic systems; and

**WHEREAS** the Administrative Office of the United States Courts has mandated federal courts to update security procedures to uniformly protect HSDs;

**THE COURT FINDS** that pursuant to Rules 5005(a) and 7005, Fed. R. Bankr. P., good cause exists to require all parties to file certain HSDs outside of the Court's electronic filing system and to adopt the revised HSD Guidance which includes a standard definition of HSDs, a dedicated

procedure for filing, serving, and maintaining HSDs, and factors to be considered by judicial officers in determining if a document is an HSD.

Accordingly, it is

**ORDERED:** effective as of the date of this Order and until further order of the Court, the filing, service, and management of certain HSDs are subject to the procedures and requirements set forth below. This Amended Administrative Order supersedes inconsistent provisions in this Court's Local Rules, other administrative orders, and procedures.

(1) **Documents Subject to this Order.** The filing procedures set forth below apply to documents that contain highly sensitive information.

a. **Highly Sensitive Documents (HSDs).** HSDs include documents or other materials that contain sensitive, but unclassified, information that warrants exceptional handling and storage procedures to prevent significant consequences that could result if such information were obtained or disclosed in an unauthorized manner. Examples of HSDs include *ex parte* sealed filings relating to national security investigations, cyber investigations, and especially sensitive public corruption investigations; and documents containing a highly exploitable trade secret, financial information, or computer source code belonging to a private entity, the disclosure of which could

have significant national or international repercussions. HSDs will be maintained by the Clerk's Office in a secure paper filing system.<sup>1</sup>

**b. Documents that are not considered HSDs.** Most materials currently filed under seal do not meet the definition of an HSD and do not merit the heightened protections afforded to HSDs. The form or nature of the document, by itself, does not determine whether HSD treatment is warranted. Instead, the focus is on the severity of the consequences for the parties or the public should the document be accessed without authorization. The following types of documents generally are not considered HSDs: bank records, Social Security records, health records, writs, settlement agreements, valuation reports, and personally identifiable information. Sealed filings in most bankruptcy cases and adversary proceedings are not sufficiently sensitive to require HSD treatment and may continue to be sealed in the court's electronic filing system as provided in the *Administrative Procedures for Filing, Signing, and Verifying Pleadings and Papers by Electronic Means* on the Court's website.

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<sup>1</sup> This guidance does not apply to classified information, which should be handled according to the Classified Information Procedures Act (CIPA) and the Chief Justice's Security Procedures related thereto, 18 U.S.C. app 3 §§ 1.9. The Chief Justice's Security Procedures (criminal prosecution) and the Department of Justice (DOJ) regulations 28 C.F.R. § 17.17(c) (civil action) govern classified information in any form in the custody of a court.

**(2) Motions to Treat a Document as an HSD.** A party seeking to file an HSD first must file a motion and obtain an order authorizing the treatment of the filing as an HSD. The motion must explain why the document constitutes an HSD under the criteria set out in this Order or why it otherwise should be subject to the heightened protection of HSDs. A motion for HSD designation must be accompanied by a certification of the movant's good-faith belief that the material meets the HSD definition. The requesting party must articulate why HSD treatment is warranted, including, as appropriate: the contents of the document; the nature of the litigation; and the potential consequences to the parties, the public, or national interests, in the event the information contained in the document is accessed or disseminated without authorization. The requesting party must include a proposed order that provides the information stated in paragraph 4 below. The requesting party shall serve the proposed HSD on the other parties as required under the Federal Rules of Bankruptcy Procedure and this Court's Local Rules.

**(3) Processing HSDs.**

a. **Represented parties.** A represented party must file a motion to treat a document as an HSD electronically via the Court's electronic filing system and submit a proposed order as provided for in this

Court's Local Rules. **A copy of the proposed HSD must be mailed to the Tallahassee clerk's office and must not be filed electronically.**

b. **Unrepresented parties.** A party who is not represented by an attorney must file the motion by: filing a paper copy of the motion with the clerk's office; emailing or faxing the motion to the clerk's office pursuant to Administrative Order 20-005; or filing the motion in accordance with filing procedures posted on the Court's website, [www.flnb.uscourts.gov](http://www.flnb.uscourts.gov). **A copy of the proposed HSD must be mailed to the Tallahassee clerk's office and must not be filed with the motion.**

c. **Delivery of the HSD to the Court.** As soon as practicable after the motion is filed, the filing party must deliver to the clerk's office in Tallahassee, Florida (110 East Park Ave., Ste. 100, Tallahassee, FL 32301) two (2) paper copies of the proposed HSD. The proposed HSD must be placed in a sealed envelope marked **"HIGHLY SENSITIVE DOCUMENT FILED PURSUANT TO AMENDED ADMINISTRATIVE ORDER 21-002, Re: Case No. \_\_\_\_, Motion (ECF #\_\_)."** and must have a copy of the appropriate case caption page (with confidential information redacted) attached ("Inner Envelope"). The Inner Envelope must then be placed in a larger envelope ("Outer Envelope") that is addressed to the judge assigned to the matter. **The**

**Outer Envelope must NOT have any indication that a proposed HSD is enclosed.**

d. **Service of HSD motions.** The filing party must serve the motion and the proposed HSD on the appropriate parties as provided for in the applicable Federal Rules of Bankruptcy Procedure, this Court's Local Rules, and any other order of the Court. The proposed HSD must be delivered to the appropriate service parties in the form of a paper copy. The filing party must file a certificate of service in accordance with this Court's Local Rules.

**(4)Orders on HSD motions.** If appropriate, the Court may set the motion for hearing. Otherwise, the Court will issue an order on the motion.

a. **Order granting the motion.** An order granting a motion seeking HSD designation or directing the filing of a document as an HSD on the Court's own motion will: State the identity of the person(s) who are to have access to the document(s) without further order of the Court; and set forth instructions for the duration of HSD treatment. Instructions will include when the designation automatically lapses or when the designation should be revisited by

the judicial officer.<sup>2</sup> If the Court enters an order granting the motion, the order will be entered on the case docket. The clerk's office will make a "text-only" docket entry in the Court's electronic filing system indicating that the document designated as an HSD was filed with the Court and that it will be maintained in a secure location.

**b. Order denying the motion.** If the Court enters an order denying the motion, the order will direct the clerk to dispose of the proposed HSD by returning it to the filer at the filer's expense, allowing the filer to retrieve it, or allowing the document to be filed under seal in the electronic filing system.

**c. Resolution of Disputes.** 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.

**(5) Maintaining and service of highly sensitive court orders.** If the Court determines that an 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 appropriate parties via

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<sup>2</sup> Once the classification of a document as an HSD *has automatically lapsed or is otherwise terminated* by the Court, the document will be migrated as a sealed document to the Court's electronic filing system, and unsealed as appropriate, as soon as the situation allows.

U.S. mail or other courier service.

**(6) Removal of Existing HSDs or Highly Sensitive Cases from the Court's Electronic Filing System.**

**a. Motion to remove HSDs or cases from electronic filing system.** On its own or upon motion of a party, the Court may determine that a document, case, or any portion of it, that has been filed electronically is highly sensitive and direct that it be removed from the Court's electronic filing system and maintained by the clerk's office in a secure paper filing system. Provided, however, that nothing requires the Court to search cases or documents filed prior to the effective date of this Order to determine the existence of any document or case that may be or contain an HSD.

**b. Content of the motion.** A motion to remove an HSD or highly sensitive case from the Court's electronic filing system must explain why the document or case is highly sensitive under the criteria set out in this Order or why it should otherwise be subject to the heightened protection for HSDs.

**(7) Safeguarding Internal Communication:** Care will be taken in internal court communications regarding HSDs, including notes and pre-decisional materials, not to include the protected substance of HSDs



in any communication using the internet or a computer connected to a network.

**(8) 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's office at: 866-639-4615, or by email at [CMECF\\_HelpDesk@flnb.uscourts.gov](mailto:CMECF_HelpDesk@flnb.uscourts.gov).

**DONE AND ORDERED ON** July 5, 2024.



**KAREN K. SPECIE**  
Chief U.S. Bankruptcy Judge