

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

STANDING ORDER REGARDING SEALED AND
HIGHLY SENSITIVE DOCUMENTS
Standing Order No. 21-01

In response to recent disclosures of wide-spread breaches of private sector and government computer systems, the Court of Appeals for the Eighth Circuit is immediately adding new security procedures to protect certain Highly Sensitive Documents (HSDs).

Eighth Circuit Rule 25A(h) establishes the following procedure for filing sealed documents:

Sealed Documents: Sealed documents must only be filed in paper format. Motions for permission to file a document under seal must also be filed in paper format. The motion should state whether the filing party believes the motion to seal may be made publically available on PACER or should remain sealed.

Sealed documents are filed in the CM/ECF system in a restricted status that generally permits only the parties, judges, and court staff to access the materials.

For security reasons, however, Highly Sensitive Documents will not be filed electronically, even in a restricted status, and will be maintained in paper format only. Highly Sensitive Documents are certain filings that contain sensitive non-public information that, if obtained without authorization and improperly released, could cause harm to the United States, the Federal Judiciary, litigants, and others. For example, applications for search warrants and applications for electronic surveillance under 18 U.S.C. § 2518 are presumptively classified as Highly Sensitive Documents. But other sealed documents – such as most documents similar to and including pre-sentence reports, pleadings related to cooperation in most criminal cases, social security records, administrative immigration records, and sealed filings in many civil cases – likely would not be sufficiently sensitive to require treatment as Highly Sensitive Documents.

If a party believes that a sealed document should be filed as a Highly Sensitive Document, and not placed on the CM/ECF system, even in a restricted status, the party must file a paper motion seeking to classify the document as a Highly Sensitive Document. Any motion must include a statement justifying why the document should be maintained in paper format only. The motion will be referred to the court for a ruling.

IT IS SO ORDERED.

January 12, 2021

Order Entered at the Direction of the Court
Clerk, U.S. Court of Appeals, Eighth Circuit
s/Michael E. Gans