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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

8 In Re:

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

GENERAL ORDER NO. 03-21

12
13 In response to recent disclosures of wide-spread breaches of both private sector and
14 government computer systems, all Federal Courts are immediately adding new security
15 procedures to protect highly sensitive documents (“HSDs”) filed with the Court.
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17 Based on advice from the Administrative Office of the United States Courts, the Court
18 finds that, pursuant to Civil Rule 5(d)(3)(A) and Criminal Rule 49(b)(3)(A), good cause exists to
19 require all parties to file HSDs outside of the Court’s electronic filing system.
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21 Accordingly, IT IS HEREBY ORDERED that, effective as of the date of this Order and
22 until such time as the Court orders otherwise, the filing of HSDs shall be subject to the procedures
23 and requirements set forth below. This General Order supersedes any and all inconsistent
24 provisions in existing Local Rules or other General Orders of this Court.
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26 **1. Documents Subject to this Order**

- 27 a. A document is an HSD if its subject matter renders it of potential value to malicious
28 nation-state actors seeking to harm the interests of the United States. The Court will

1 consider whether the document involves: matters of national security; foreign
2 sovereign interests; cybersecurity; intellectual property or trade secrets of value to
3 malicious nation-state actors; terrorism; investigation of public officials; and/or the
4 reputational interests of the United States. This list is not exhaustive. In making such
5 a determination the Court will consider the extent of the domestic or international
6 interests that are implicated.
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- 8 b. The following types of documents are generally not considered HSDs: presentence
9 reports, pretrial release reports, pleadings related to cooperation in criminal cases,
10 social security records, administrative immigration records, sealed filings in most
11 civil cases, and the following when they do not meet the criteria in 1.a: applications
12 for search warrants, requests made under 18 U.S.C. § 2703, pen register and trap and
13 trace requests, and applications for electronic surveillance under 18 U.S.C. § 2518.
14
15 c. Any dispute as to whether a document is an HSD shall be resolved by the presiding
16 judge or, when no presiding judge is assigned, the chief judge.
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18 **2. Filing HSDs**

- 19 a. The filing procedures in this section apply to all parties other than the United States
20 Attorney's Office. The Court will work with the United States Attorney's Office to
21 establish separate filing procedures.
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23 b. In order to have a document filed as an HSD, a party must submit to the Clerk's
24 Office: a motion to treat a document as an HSD, the HSD sought to be filed, and a
25 certificate of service if applicable.
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27 c. The required documents shall be submitted in paper form in a sealed envelope
28 marked "HIGHLY SENSITIVE DOCUMENT." Documents shall not be stapled or

1 folded. The outside of the envelope shall be affixed with a copy of the HSD's caption
2 page (with confidential information redacted).

- 3 d. The filing party shall serve the HSD on other parties as follows:
- 4 i. Civil cases - by any manner specified in Civil Rule 5(b)(2), except for
5 service via the Court's electronic filing system; or
 - 6 ii. Criminal cases - by any non-electronic means specified in Criminal Rule
7 49(a)(3)(B) or (a)(4).
 - 8 iii. The Court recommends that parties do not use electronic means of
9 transmitting HSDs to any government agency that may have been
10 compromised by this breach.
- 11
- 12 e. Upon receipt, the Clerk's Office will make an informational entry on the case docket
13 indicating that an HSD motion was received and delivered to chambers.
- 14 f. Parties are required to simultaneously file a copy of the above motion electronically
15 under seal, with any necessary redactions, unless otherwise directed by the presiding
16 judge. HSD documents themselves are not to be filed electronically as an attachment.
17 Failure to file the motion electronically may significantly delay the Court's
18 consideration.
- 19 g. The Court may deny the motion without reviewing the content of the HSDs if it is
20 clear on the face of the motion that HSD treatment should not apply or that the filing
21 of such documents would serve no purpose in the case.
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- 23 h. The Court will issue an order on the motion and, if granted or granted in part, an
24 informational entry will be made on the docket indicating that the HSD has been filed
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1 with the Court. The Clerk's Office will maintain the HSD in a secure format outside
2 of the Court's electronic filing system.

- 3 i. If the motion is denied the filing party is responsible for filing the document under
4 existing procedures set forth in the Court's local rules and CM/ECF filing
5 procedures.
6
7 j. The Court will make every effort to issue an order that need not itself be considered
8 an HSD. If such is not possible, an informational entry will be made on the docket
9 indicating that the order ruling on the HSD has been served on the parties by mail
10 and it will be filed and maintained in a secure format outside of the Court's electronic
11 filing system.
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13 **3. Removal of Existing HSDs or Highly Sensitive Cases from the Court's Electronic**
14 **Filing System**

- 15 a. Upon motion of a party or upon its own motion, the Court may determine that a
16 document, case, or any portion of it, that has been filed electronically is highly
17 sensitive and direct that the HSD or case be removed and maintained in a secure
18 format outside of the Court's electronic filing system.
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20 b. A motion to remove an HSD or highly sensitive case from the Court's electronic filing
21 system shall be filed by paper with the Clerk's Office and must explain why the
22 document or case is highly sensitive under the criteria set out in paragraph 1 above.
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24 c. Parties are required to simultaneously file a copy of the motion electronically under
25 seal, with any necessary redactions, under existing procedures. Failure to file the
26 motion electronically may significantly delay the Court's consideration.
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1 d. An informational entry will be made on the case docket indicating that the motion has
2 been filed in paper and will be maintained in a secure format outside of the Court's
3 electronic filing system.

4 **4. Bankruptcy Cases**

5 This General Order does not apply to bankruptcy cases or adversary proceedings.

6 **5. Questions about HSD Filing Procedures**

7 Any questions about how an HSD should be filed should be directed to the Clerk's Office.
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9 Dated this 1st day of March, 2021.
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12 RICARDO S. MARTINEZ
13 CHIEF UNITED STATES DISTRICT JUDGE
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