

**IN THE UNITED STATES DISTRICT COURT
FOR THE HAWAII**

IN RE:)	
PROCEDURES FOR THE FILING,)	GENERAL ORDER
SERVICE, AND MANAGEMENT OF)	23-9000
HIGHLY SENSITIVE DOCUMENTS)	
)	

WHEREAS, in response to disclosures of wide-spread breaches of both private sector and government computer systems, federal courts are adding new security procedures to protect highly sensitive documents filed with the courts;

THE COURT FINDS that, pursuant to [Civil Rule 5\(d\)\(3\)\(A\)](#) and [Criminal Rule 49\(b\)\(3\)\(A\)](#), good cause exists to require all parties to file certain highly sensitive documents outside of the court’s electronic filing system.

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

The filing procedures set forth below apply to documents that contain highly sensitive information.

- a. The following types of documents are deemed highly sensitive documents (HSDs): Applications for electronic surveillance under 18 U.S.C. § 2518, unclassified sealed documents involving: foreign sovereign interests; criminal activity related to cybersecurity, intellectual property, or trade secrets; terrorism; investigation of public officials; potential negative impact on national security or foreign relations of the United States; and sensitive commercial information likely to be of interest to foreign powers.
- b. The following types of documents have restricted access and generally are not considered HSDs: Presentence reports, pretrial release reports, pleadings related to cooperation in most criminal cases, social security records, administrative immigration records, and sealed filings in many civil cases.
- c. Any dispute as to whether a document is an HSD shall be resolved by the presiding judge or, when no presiding judge is assigned, the chief judge.

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, and, if applicable, a copy of the court order authorizing the treatment of that document as highly sensitive in paper form.
- b. The required documents, 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. The filing party shall serve the HSD on the other parties as follows:
 - i. Civil cases - by any manner specified in [Civil Rule 5\(b\)\(2\)](#), except for service via the court's electronic filing system; or
 - ii. Criminal cases - by any manner specified in [Criminal Rule 49\(a\)\(3\)\(B\) or \(a\)\(4\)](#).
- d. The clerk's office will make an informational docket entry in the court's electronic filing system indicating that the HSD was filed with the court and will maintain the HSD in a secure paper filing system.

3. Filing of Motions to Treat a Document as an HSD

- a. Represented parties
 - i. A represented party shall file a motion to treat a document as an HSD and a proposed order in paper form.
 - ii. The filing party shall submit to the clerk's office for filing a motion to treat a document as an HSD, the HSD sought to be filed, and a certificate of service, in paper form. The motion shall explain why the proposed document constitutes an HSD under the criteria set out in paragraph 1.b. above or why it should otherwise be subject to the heightened protection for HSDs.
 - 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 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 file and maintain the order in a secure paper filing system and will serve paper copies of the order on the parties.

5. 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 the HSD or case be removed from the court's electronic filing system and maintained by the clerk's office in a secure paper filing system.
- b. A party's motion to remove an HSD or highly sensitive case from the court's electronic filing system shall explain why such document or case is highly sensitive under the criteria set out in paragraph 1.b. above or why it should otherwise be subject to the heightened protection for HSDs.

6. Questions about HSD Filing Procedures

Any questions about how an HSD should be filed with the court pursuant to this General Order should be directed to the clerk's office, 808-541-1890.

IT IS SO ORDERED, this 25th day of January, 2023.