



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NOTICE TO THE BAR

COLLEEN MCMAHON
Chief Judge

RUBY J. KRAJICK
Clerk of Court

Dated:
January 8, 2021

Contact:
Help Desk (212) 805-0800

Modified Procedures for Highly Sensitive Documents

The United States District Court for the Southern District of New York announces new procedures for Highly Sensitive Documents (“HSDs”) in response to recent reports of cybersecurity breaches into the computer systems of federal agencies. While it is not known if this breach has affected the Southern District directly, these new procedures are intended to protect the security of certain highly confidential sealed filings maintained in the Court’s electronic files in CM/ECF.

Highly Sensitive Documents comprise a limited group of documents that (1) contain classified information or information that could harm national security; or (2) by their disclosure could reasonably be expected to cause exceptionally grave damage or injury to any person, entity or institution.

By Standing Order of the Court (21-MC-0006), any party that believes its filing should be treated as an HSD should utilize the Court’s procedures under Rules 6.16 and 6.17 of the [ECF Rules & Instructions](#) and the assigned judge’s [Individual Practices](#) (see attached).

Questions may be directed to the ECF Help Desk by telephone at (212) 805-0800 or by email at helpdesk@nysd.uscourts.gov.

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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

IN RE:)	
PROCEDURES FOR THE FILING,)	STANDING ORDER
SERVICE, AND MANAGEMENT OF)	M10 468
HIGHLY SENSITIVE DOCUMENTS)	21-mc-0006
)	

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

WHEREAS, the Court does not allow parties to file sealed documents on the Case Management/Electronic Case Filing (“ECF”) system in criminal cases;

WHEREAS, since February 3, 2020, this Court has allowed parties to file sealed documents on the ECF system in civil and miscellaneous cases, subject to appropriate restrictions on viewing;

WHEREAS, during that time, this Court has also allowed parties in civil and miscellaneous cases to request leave to file a document in paper form, and not on the ECF system, if they had reason to believe the document should not be electronically filed;

THE COURT FINDS that, pursuant to Fed. R. Civ. P. 5(d)(3)(A), good cause exists to allow parties to file highly sensitive documents in civil and miscellaneous cases outside of the ECF 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 highly sensitive documents in civil and miscellaneous cases shall be subject to the procedures and requirements set forth below. This Standing Order supersedes any and all inconsistent provisions in existing local rules or other standing orders of this Court.

1. Documents Subject to this Standing Order

Subject to approval by the Court in accordance with the procedures set forth below, a document may be deemed a Highly Sensitive Document (“HSD”) if the S.D.N.Y. ECF Rules and Instructions otherwise permit the document to be filed on the ECF system and:

- a. it contains classified information or information that could harm national security;
- or

- b. its disclosure could reasonably be expected to cause exceptionally grave damage or injury to any person, entity or institution.

2. Filing and Service of HSDs

- a. HSDs may be filed in paper form and will be maintained by the Clerk of Court under seal in a secure paper filing system.
- b. Any party seeking to file a document under seal as an HSD shall follow the procedures set forth in [Sections 6.16 and 6.17 of the S.D.N.Y. ECF Rules and Instructions](#).
- c. The filing party shall serve the HSD by any manner specified in Fed. R. Civ. P. 5(b)(2), except for service via the ECF system.

3. Highly Sensitive Court Orders

If a judge determines that a court order contains highly sensitive information, the Clerk of Court will file and maintain the order in a secure paper filing system, and paper copies of the order will be served on the parties via mail.

4. Removal of Existing HSDs from the ECF System

Upon motion of a party in accordance with the procedures set forth above or upon its own motion, the Court may determine that a document that was previously filed electronically qualifies as an HSD and direct that the HSD be removed from the ECF system and filed in accordance with the procedures set forth above.

IT IS SO ORDERED, this 8th day of January, 2021.



Colleen McMahon
Chief United States District Judge
Southern District of New York

Addendum to Electronic Case Filing Rules & Instructions

January 8, 2021

Modified Filing Procedures for Highly Sensitive Documents

Background

The United States District Court for the Southern District of New York announces new procedures for Highly Sensitive Documents (“HSDs”) in response to recent reports of cybersecurity breaches into the computer systems of federal agencies. While it is not known if this breach has affected the Southern District directly, these new procedures are intended to protect the security of certain highly confidential sealed filings maintained in the court’s electronic files in CM/ECF.

Any party that believes its filing should be treated as HSDs should utilize the court’s procedures under Rules 6.16 and 6.17 of the [ECF Rules & Instructions](#) and the assigned judge’s [Individual Practices](#).

6.16 What if I believe a document cannot or should not be electronically filed on ECF?

Any party ~~that (a) is~~ unable to comply with a judge’s requirement for electronic filing under seal through the ECF system; ~~(b) or who has reason to~~ believes ~~that~~ a ~~particular~~ document should ~~not~~ be ~~electronically~~ filed ~~under seal in paper form because it is a Highly Sensitive Document (see section 6.17 below);~~ or (c) has ~~another reason to believe a document should not be electronically filed,~~ must move for leave of the Court to file the document in the traditional manner, on paper. ~~Any such motion should be made to the presiding judge in accordance with his or her Individual Practices or, if there is no presiding judge, to the Part I judge.~~

~~If the matter is time sensitive, the filing party should promptly contact the Chambers of the relevant judge by telephone and email to alert Chambers to the motion. If Chambers does not respond within two hours, the filing party should call the Clerk of Court at 212-805-0140 during business hours.~~

6.17 What is a Highly Sensitive Document?

~~As defined in Standing Order 21-MC-0006, subject to approval by a judge, a document may be deemed a Highly Sensitive Document if these Rules & Instructions otherwise permit the document to be filed on the ECF system and (1) it contains classified information or information that could harm national security; or (2) its disclosure could reasonably be expected to cause exceptionally grave damage or injury to any person, entity or institution.~~

6.18 [Same as Current 6.17]