

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO**

IN THE MATTER OF:

**Procedures for the Filing,
Service, and Management of
Highly Sensitive Documents**

GENERAL ORDER: 21-01

GENERAL ORDER

In response to recent disclosures of wide-spread breaches of both private sector and government computer systems, the Court has adopted new security procedures to protect any highly sensitive document (HSD) filed with the Court that, if improperly disclosed, could cause harm to the United States, the Federal Judiciary, litigants, or others.

General Definition of HSDs

HSDs are defined as documents that contain information that is likely to be of interest to the intelligence service of a foreign government and the use or disclosure of such information by a hostile foreign government would likely cause significant harm to the United States or its interests. Examples of HSDs include unclassified sealed documents involving **national security, foreign sovereign interests, criminal activity related to cybersecurity or terrorism, investigation of public officials,** and **extremely sensitive commercial information likely to be of interest to foreign powers.**

This order does not alter any procedures for the filing under seal of sensitive or confidential pleadings that do not meet the definition of an HSD. **The following types of sealed documents typically will not qualify as HSDs:** (1) trade secrets; (2) Social Security records; (3) administrative immigration records; (4) bank records; (5) health records; (6) writs; (7) settlement agreements; (8) valuation reports and (9) most sealed documents with personal identifiable information in bankruptcy and adversary cases.

Filing of a Motion to Treat a Document as an HSD:

1) If a document qualifies as an HSD as that term is described above, the movant is required to file a paper motion with the Bankruptcy Court to treat that document as an HSD. The movant must serve the motion, the proposed HSD, and a draft order on the parties who may have access to the document by mail with proof of service under Fed. R. Bankr. P. 9013. **The motion and the copy of the proposed HSD must not be filed on CM/ECF.** The motion and each proposed HSD should be conspicuously marked as a "HIGHLY SENSITIVE DOCUMENT" and placed inside an envelope marked "HIGHLY SENSITIVE." The

outside of the envelope shall be affixed with the case number and the name of the debtor.

- 2) The movant must provide the Court two copies of the following documents: 1) the motion to treat a document as an HSD; 2) the HSD and 3) the proposed order. The documents must be mailed to the Clerk's Office at Jose V. Toledo Federal Building & US Courthouse 300 Recinto Sur Street, San Juan, PR 00901 or at MCS Building, suite 222A, 880 Tito Castro Avenue, Ponce, PR 00716-4732. If a party wishes to submit the documents on an expedited basis or elects to deliver them personally to the Court, he/she can contact the Clerk's Office at the telephone numbers available at the Bankruptcy Court's website (prb.uscourts.gov) by going to the "Court Info" section and clicking on "Contact Us" and schedule the delivery of the documents.
- 3) The motion must set forth in detail why the proposed document constitutes a highly sensitive document under the criteria set out in this order, including the specific grounds for asserting that the document contains information that is likely to be of interest to the intelligence service of a foreign government and the use or disclosure of such information by a hostile foreign government would likely cause significant harm to the United States or its interests. Conclusory assertions will not be deemed a sufficient basis for filing a motion to treat a sealed document as an HSD.
- 4) The filer must **not** email or fax the court with a copy of the HSD.
- 5) If a filer believes that a previously filed document in an ongoing case before the Court qualifies as an HSD, a motion to treat the sealed document as an HSD may be filed.
- 6) An **unrepresented party** (pro se litigant) must file the two copies of the motion and proposed HSD using the procedure described above. The unrepresented party is not required to file a proposed order. The two copies of the motion to seal and the proposed HSD shall be mailed to the Clerk's Office and will serve a copy of the motion and proposed HSD to parties who may have access to the document. The unrepresented party must not submit an HSD to the Court by email or fax.
- 7) The Clerk's Office shall make an informational docket entry in the Court's CM/ECF indicating that a motion to treat a document as an HSD was filed by the moving party with the Court. The docket entry must indicate that the copies of such documents are being securely stored in the Bankruptcy Court's vault.

Entry of Orders

- 1) 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.
- 2) If appropriate, the Court may set the motion for a hearing. Otherwise, the Court

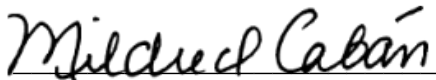
will issue an order on the motion and, if granted, the order will be served by U.S. mail, certified mail, or private delivery service. The Clerk's Office will make an informational docket entry in CM/ECF indicating whether the motion to treat the document as an HSD was granted or denied. If the order denies the relief requested, the order will direct the Clerk on how to dispose of the proposed HSD. Examples of disposing of an HSD includes: (1) return to filer; (2) dispose at filer's request; (3) allow the document to be filed under seal in CM/ECF; or (4) allow the document to be filed in CM/ECF.

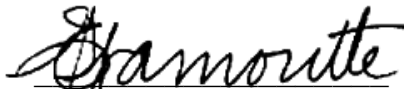
- 3) If the Court determines that a court order contains highly sensitive information, the Clerk's Office will file and maintain the order in a secure paper filing system and will serve paper copies of the order on the parties that may have access to the HSD via U.S. mail, certified mail, or private delivery service.

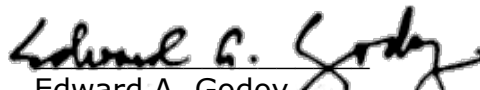
This standing order supersedes the Local Bankruptcy Rule 9018-1(a) with respect to HSDs only. The procedures for filing motion under seal for sensitive, confidential, scandalous, or defamatory document that do not meet the definition of an HSD under Local Bankruptcy Rule 9018-1 remain in effect.

IT IS SO ORDERED.

In San Juan, Puerto Rico, this 10th day of March, 2021.


Mildred Caban Flores
Chief U.S. Bankruptcy Judge


Enrique S. Lamoutte
U.S. Bankruptcy Judge


Edward A. Godoy
U.S. Bankruptcy Judge