

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

IN RE: PROCEDURES FOR THE FILING
SERVICE, AND MANAGEMENT OF
HIGHLY SENSITIVE DOCUMENTS

GENERAL ORDER

February 10, 2021

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In accordance with the Memorandum from the Director of the Administrative Office of the United States Courts to all United States Judges (January 6, 2021) regarding policy changes for sealed filings in CM/ECF in response to cybersecurity breaches by nation state actors conducting a global espionage campaign into the computer systems of federal agencies, the Court enters the following General Order:

1. There is good cause, pursuant to Fed. R. Civ. P. 5(d)(3)(A) and Fed. R. Crim. P. 49(b)(3)(A), to permit all parties to file certain “highly sensitive documents” outside of the Court’s electronic filing system in accordance with the procedures set forth below.
2. The following provisions apply, effective immediately, to all highly sensitive documents filed after the entry of this General Order. They do not affect procedures for all documents containing confidential information routinely filed under seal pursuant to D. Conn. L. Civ. R. 5(e) and D. Conn. L. Crim. R. 57(b).
3. The term “highly sensitive documents” for purposes of this General Order refers to documents that (a) include sensitive or confidential information likely to be of interest to the intelligence service of a hostile foreign government and (b) the use or disclosure of which could cause significant harm. For instance, highly sensitive documents might be filed in cases involving:
 - National security;
 - Foreign or domestic sovereign interests;
 - Cybersecurity;
 - Ongoing law enforcement investigations of likely interest to the intelligence service of a hostile foreign government, including in such cases search warrant applications, applications for electronic surveillance pursuant to 18 U.S.C. § 2518, and other applications for electronic surveillance or any data;

- Intelligence or counter-intelligence operations;
 - Information that, if disclosed, might endanger public officials or the integrity of government operations; or
 - Non-public intellectual property, including valuable trade secrets.
4. The term “highly sensitive documents” does not generally include the following types of documents (unless the case and document falls within the scope of the previous paragraph):
- Presentence and pretrial reports;
 - Pleadings indicative of cooperation in criminal cases;
 - Sealed indictments, criminal complaints, arrest warrants, search warrants, other investigative filings, or petitions for action on conditions of release;
 - Grand jury proceedings;
 - Social Security records;
 - Medical, mental health, or rehabilitation records;
 - Administrative records in immigration cases;
 - Attorney discipline proceedings;
 - Juvenile proceedings;
 - Documents containing personal or financial information;
 - Education records;
 - Proprietary business information not of interest to a foreign government; or
 - Documents subject to a routine protective order in a civil case.
5. It is the primary responsibility of a filing party to determine if a document to be filed qualifies as a “highly sensitive document.” If the filing party determines that a document is highly sensitive, the filing party shall present a “Motion for Leave to File a Highly Sensitive Document.” For cases that already have an assigned CMECF docket number, such motions must be presented to the Clerk’s Office. For cases that do not yet have an assigned CMECF docket number, such motions must be presented to the judge who has been assigned to consider the matter in question. The party filing such a motion shall present the following in hard copy:
- a. A printed copy of the filed Motion for Leave,

- b. A supporting statement explaining in detail the basis for the Court to conclude that the filing qualifies as a “highly sensitive document,”
- c. A proposed order for the assigned judge’s signature, and
- d. The highly sensitive document or documents.

If the Motion for Leave in a case that already has an assigned CMECF number cannot be electronically filed, the filing party may present its hard copy of the Motion for Leave to the Clerk's Office for initial filing along with its supporting documentation.

- 6. The filing party shall, for documents that must be served on opposing parties, effect service using one of the non-electronic methods of service provided by Fed. R. Civ. P. 5 or Fed. R. Crim. P. 49, and electronically file a certificate of service.
- 7. The Clerk's Office shall file-stamp the hard-copy submission and, unless otherwise directed by the Court, keep the highly sensitive document or documents in its secure custody and control.
- 8. Upon receipt of the hard-copy submission, the assigned judge shall review the documents and either grant the Motion for Leave or direct such other action as the judge deems appropriate. If the motion is denied, the document will be subject to filing on the CMECF public docket by the Clerk’s Office seven (7) calendar days after the motion has been denied absent a further motion granted to file the document under seal or for a stay or other relief.
- 9. Upon motion of any party, the Court may determine that a previously filed document in any open or closed civil or criminal case is a highly sensitive document and direct the Clerk of the Court to remove the document or documents from the Court's electronic filing system and retain them non-electronically. A party’s motion to treat a previously filed document as a highly sensitive document shall be filed electronically when possible, but a supporting statement explaining why the document is highly sensitive may be presented in hard copy to the Clerk of the Court if the explanation would reveal the highly sensitive information the party seeks to protect. If it is not possible to file the motion electronically, a hard copy of the motion may be presented to the Clerk’s Office for filing.

10. The parties' responsibility for determining whether a document is highly sensitive does not preclude the Court from determining on its own motion that a document is highly sensitive and should be removed from the Court's electronic filing system and retained non-electronically.

IT IS SO ORDERED.

Dated this 10th day of February 2021.

/s/ Stefan R. Underhill

Stefan R. Underhill
Chief United States District Judge