

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

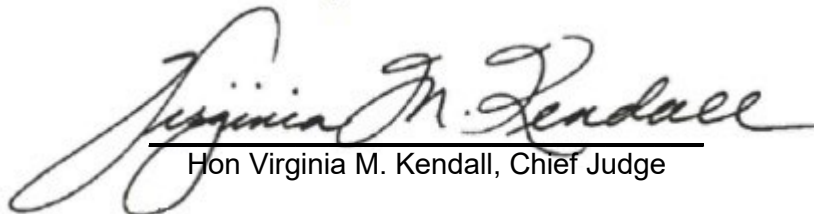
PROPOSAL TO AMEND THE LOCAL RULES

On December 19, 2024, the full Court approved proposed Local Rule 5.8.1 Highly Sensitive Documents from the Civil Rules of this Court as attached (additions shown thus, and deletions shown ~~thus~~):

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COMMENT: By direction of the full Court and pursuant to 28 U.S.C. §2071(e) regarding appropriate public notice and opportunity for comment, the Clerk is directed to: (a) cause notice of the proposed Local Rule 5.8.1 Highly Sensitive Documents to be published in the *Chicago Daily Law Bulletin*, (b) cause notice of the proposal to amend and requests for comment to be posted on the web site for the United States District Court Northern District of Illinois, (c) cause notice of the proposal to amend to be posted in the Courthouses at Chicago and Rockford, (d) indicate in such notice a final date for receipt of comments, which date shall be sixty days from the first date of publication in the *Law Bulletin*, (e) collect and distribute among the members of the Advisory Committee for Local Rules all comments received, and (f) following receipt of a copy of the report and recommendation of the Advisory Committee, distribute copies of the comments together with copies of the report and recommendation among the members of the Court for consideration at a regular meeting of the full Court.

ENTER:
FOR THE COURT



Hon Virginia M. Kendall, Chief Judge

Dated at Chicago, Illinois this 23rd day December 2024

LR 5.8.1 Highly Sensitive Documents

1. Documents and Materials Eligible for Designation

- a. Definition: A Highly Sensitive Document (HSD) is a document or other material that contains sensitive, but unclassified, information that warrants exceptional handling and storage procedures to prevent significant consequences that could result if such information were obtained or disclosed in an unauthorized manner. Although frequently related to law enforcement materials, especially sensitive information in a civil case could also qualify for HSD treatment.
- i. Examples of HSDs: Examples include ex parte sealed filings relating to: national security investigations, cyber investigations, and especially sensitive public corruption investigations; and documents containing a highly exploitable trade secret, financial information, or computer source code belonging to a private entity, the disclosure of which could have significant national or international repercussions.
- ii. Excluded Matters: Most materials currently filed under seal do not meet the definition of an HSD and do not merit the heightened protections afforded to HSDs. The form or nature of the document, by itself, does not determine whether HSD treatment is warranted. Instead, the focus is on the severity of the consequences for the parties or the public, should the document be accessed without authorization. This local rule does not apply to classified information, which should be handled according to the Classified Information Procedures Act (CIPA) and the Chief Justice's Security Procedures related thereto, 18 U.S.C. app 3 §§ 1, 9. The Chief Justice's Security Procedures (criminal prosecutions) and the Department of Justice (DOJ) regulation 28 C.F.R. § 17.17(c) (civil actions) govern classified information in any form in the custody of a court. Most presentence reports, pretrial release reports, pleadings related to cooperation in criminal cases, social security records, administrative immigration records, applications for search warrants, interception of wire, oral, or electronic communications under 18 U.S.C. § 2518, and applications for pen registers, trap and trace devices would not meet the HSD definition.
- b. Format: HSDs vary in their physical form and characteristics. They may be paper, electronic, audiovisual, microform, or other media. The term "document" includes all recorded information, regardless of its physical form or characteristics.

2. Requesting HSD Designation

- a. Any party seeking to file an HSD must, before such filing, seek leave of court for such filing in the manner provided in paragraph 2(b).
- i. A request for HSD designation must be accompanied by a certification of the movant's good-faith belief that the material meets the HSD definition.
- ii. The requesting party must articulate why HSD treatment is warranted, including, as appropriate: the contents of the document; the nature of the investigation or litigation; and the potential consequences to the parties, the public, or national interests, in the event the information contained in the document is accessed or disseminated without authorization.
- iii. The requesting party must include a proposed order that provides the information stated in paragraph 3 below.

iv. The requesting party shall serve the proposed HSD on the other parties as follows:

- (a) Civil cases - by any manner specified in Civil Rule 5(b)(2), except for service via the court's electronic filing system; or
- (b) Criminal cases - by any manner specified in Criminal Rule 49(a)(3)(B) or (a)(4).

b. The request and the proposed HSD material 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).

3. Order Granting HSD Designation

An order granting a motion seeking HSD designation, or directing the filing of a document as an HSD on the court's own motion, must:

- a. State the identity of the persons who are to have access to the documents without further order of court; and
- b. Set forth instructions for the duration of HSD treatment. HSDs are stored temporarily or permanently offline as the situation requires. When designating a document as an HSD, the court will indicate when the designation will automatically lapse or when the designation should be revisited by the judicial officer. HSDs will be migrated as sealed documents to the court's electronic docketing system and unsealed, as appropriate, as soon as the situation allows.

4. Filing An HSD

- a. A copy of the order granting HSD designation must be included with any document filed as an HSD.
- b. The Clerk will maintain the HSD in a secure standalone computer system that is not connected to any network.
- c. 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. The docket entry shall not include personal or other identifying details related to or contained with the HSD.
- d. An opinion or order entered by the court related to an HSD may itself constitute an HSD if it reveals sensitive information in the HSD. If the court determines that a court order qualifies as an HSD, the Clerk's Office will file and maintain the order as an HSD and will serve paper copies of any filing issued by the court.
- e. An HSD in the lower court's record will ordinarily be also regarded by an appellate court as an HSD.

5. Safeguarding Internal Communication

Litigants must safeguard internal court communications regarding HSDs, including notes and pre-decisional materials, not to include the protected substance of HSDs in any communication using the internet, portable storage drives, or a computer connected to a network.

(DATE)