

FILED

April 12, 2021

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

1 UNITED STATES BANKRUPTCY COURT
2 EASTERN DISTRICT OF CALIFORNIA
3

4 In re

5 ORDER ADOPTING REVISIONS TO
6 LOCAL BANKRUPTCY RULES

}
} General Order 21-02
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8 Notice and opportunity for public comment having been given in accordance with
9 Federal Rule of Bankruptcy Procedure 9029, and those comments received having been
10 duly reviewed and considered by the Court,

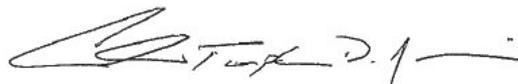
11 **IT IS HEREBY ORDERED** that the Local Rules of Practice of the United States
12 Bankruptcy Court, Eastern District of California, be amended to include changes to LBR
13 9018-1, as stated in the attached redlined version.
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16 DATED: April 12, 2021

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18 _____
19 Ronald H. Sargis
Chief Bankruptcy Judge



Fredrick E. Clement
Bankruptcy Judge

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22 Christopher D. Jaime
Bankruptcy Judge



Kevin L. Strydom II
Bankruptcy Judge

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25 _____
26 Honorable Jennifer E. Niemann
27 United States Bankruptcy Judge
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LOCAL RULE 9018-1
Filing Under Seal

(a) Motions to File a Document under Seal - ~~Motions~~ - Non-Highly Sensitive Documents. For documents which are not Highly Sensitive Documents (as defined in ¶ (b)), motions to file a document under seal and the document to be placed under seal may be filed through the Court's e-filing system or over the counter. If the motion is granted, the Court will seal only an entire document; it will not seal parts of a document.

Motions to redact information already on the Court's docket or claims register, such as social security numbers, the names of minor children or financial account numbers must comply with the redaction procedures in Local Rule 9037-1.

(b) Highly Sensitive Documents. The Administrative Office of the Courts having identified past and potential breaches to the Judiciary's electronic filing system (CM/ECF) and that certain documents electronically filed are "Highly Sensitive Documents" ("HSD(s)"), the following procedures shall be used when a party in interest requests that the court allow for the filing or placing of a HSD under seal. The following definition of a HSD and the procedure is structured and shall be applied in a manner consistent with the strong presumption in favor of public access to court records. *See Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597-98 (1978).

1) The definition of a Highly Sensitive Document developed by the Ninth Circuit and incorporated into this Local Bankruptcy Rule is:

Unclassified sealed documents involving: national security; foreign sovereign interests; criminal activity related to cybersecurity, intellectual property, or trade secrets; terrorism; investigation of public officials; the reputational interests of the United States; and sensitive commercial information likely to be of interest to foreign powers.

This is a very limited scope definition, with the normal electronic sealing of documents to be done electronically as provided under this Local Rule.

(2) Classified Documents. The sealing of classified documents shall be requested and sealed as provided in applicable statutes and procedures for such classified document.

(bc) What to File.

- 1) A Motion to Seal Documents. A motion to seal documents shall explain the grounds for sealing, as set forth in Fed. R. Bankr. P. 9018. Care should be given not to disclose information that the motion seeks to seal.
- 2) A Proposed Order. The proposed order shall direct the clerk to place the document under seal. Care should be given when writing the order not to disclose

information in the document to be sealed. *Pro se* filers need not submit an order.

- 3) *Documents to be Sealed.* A proposed sealed document must not be filed at the same time as the motion to seal it. Rather, it should be filed after the judge in the case has signed and entered on the docket an order sealing the document.

(e) *How to File.*

1) *Non-HSDs.* For all documents that do not meet the definition for HSDs stated in ¶ (b) 1) above.

- † A) *E-Filing.* E-Filers shall use the Sealed Documents link located in the Court's e-filing system to submit the motion, proposed order and, once the judge has signed the order, the proposed sealed document. Care should be given to follow the instructions in our Sealed Documents link to avoid placing sensitive information on the docket.
- 2 B) *Paper Filing.* With the exception of *pro se* filers, all motions and orders to seal documents must be filed electronically. However, the proposed document to be sealed may be filed in paper with the clerk in Fresno, Modesto or Sacramento. All filers must file a motion to seal and a proposed order (pro se filers need not submit an order) before submitting the document to be sealed. Once a judge has signed the order sealing the document, the filer must then submit a copy of the document to be sealed to the clerk's office in a sealed envelope, marked, "DOCUMENTS TO BE KEPT UNDER SEAL," with the case number and name of the filing party written on the envelope.

2) *Highly Sensitive Documents.* For documents requested to be filed as a HSDs as defined in ¶ (b) 1) above.

- A) *Paper Filing.* For all HSDs for which filing under sealing is requested, all motions and supporting pleadings to establish that the document is a HSD shall be filed in paper with the clerk in Fresno, Modesto or Sacramento. All filers must file a motion to seal and a proposed order (pro se filers need not submit an order) before submitting the document to be sealed. The HSD requested to be filed under seal shall not be transmitted to the Clerk of the Court until after the court enters the order on the motion. The motion and supporting pleading shall bear the following banner on the first page of the pleading located under the caption to the pleading: **REQUEST TO FILE HSD UNDER SEAL** (all capital letters and bold font).

The clerk shall stamp the motion and supporting pleadings as filed.

transmit the paper filed motion and supporting pleadings to the Clerk of the Court to be physically filed in the Clerk's HSD secure filing system, and copies to the judge assigned the case or adversary proceeding to which the motion relates. The clerk shall enter a docket entry "Motion to File HSD Under Seal and Supporting Pleadings," and not place electronic versions of the motion and supporting documents on the CM/ECF filing system.

B) Order on Motion to Seal as HSD. The order either granting or denying the motion shall be transmitted to the attorney or *pro se* party requesting the HSD sealing of documents by U.S. Mail, First Class Postage, and to the Clerk of the Court to be physically filed in the Clerk's HSD Secure Filing System.

i) *Denial of Motion.* If the motion to file a HSD is denied, the document(s) shall not be filed with the court and disposed of as provided in ¶ e) below. The clerk shall enter a docket entry "Motion to File HSD Under Seal Denied and Document Not Filed With the Court."

ii) *Granting of Motion.* If the motion to file a HSD is granted, the filer must then submit a copy of the HSD to be sealed to the clerk's office in a sealed envelope, marked, "**HSD DOCUMENTS TO BE KEPT UNDER SEAL,**" with the case number, name of the filing party, and the statement "**PHYSICAL FILING WITH CLERK**" written on the envelope.

(de) Disposition of Sealed Documents. If the Court grants the motion, the document will be kept under seal until the judge orders otherwise. If the Court denies the motion, filers will not be permitted to file the document as a sealed document. Any paper copy of a proposed document to be sealed submitted to the Court will be destroyed.

(ef) Storage of Sealed Documents.

1) *Documents, other than HSDs, Filed Under Seal.* Documents permitted to be filed on paper will be scanned, entered into the Court's e-filing system, and then promptly destroyed unless filed with a self-addressed stamped envelope for return to the filer after entry.

2) *HSDs Filed Under Seal Documents ordered to be filed as a Highly Sensitive Document (as defined in ¶ (b) 1)) shall be physically filed by the Clerk of the Court and not filed electronically on the CM/ECF filing system, until the judge orders otherwise.*