

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

New Transcript Policy
Effective 5/15/08

At its September 2007 session, the U.S. Judicial Conference approved a new policy regarding the availability of transcripts of court proceedings. A new release of CM/ECF, Version 3.2, includes software that facilitates the implementation of this policy.

I. Summary

The language from the Judicial Conference's September 2007 session states:

- A. A transcript provided by a court reporter or transcriber will be available at the office of the clerk of court for inspection only, for a period of 90 days after it is delivered to the clerk.
- B. During the 90-day period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference, the transcript will be available within the court for internal use, and an attorney who obtains the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's CM/ECF system for purposes of creating hyperlinks to the transcript in court filings and for other purposes.
- C. After the 90-day period has ended, the filed transcript will be available for inspection and copying in the clerk's office and for download from the court's CM/ECF system through the judiciary's PACER system.

When the new transcript policy is implemented, transcripts must be compliant with the new Federal Privacy Rules, Civ. 5.2 and Crim. 49.1. The Judicial Conference approved procedures for applying redaction requirements to transcripts of court proceedings and the new CM/ECF Version 3.2 has been designed to include those procedures.

Under 28 U.S.C. § 753(b), the court reporter or transcriber must deliver promptly a certified copy of any transcript made to the clerk of court for the records of the court. The Notice of Electronic Filing (NEF) informs parties and attorneys of record of the 90-day restriction and

how to obtain the transcript during the restriction period. The date when the transcript is submitted is the starting point for all deadlines related to the transcript.¹

During the 90-day period (which may be extended by the court), access to the transcript in CM/ECF is restricted to four types of users:

- court staff;
- public terminal users;
- attorneys of record or parties who have purchased the transcript from the court reporter/transcriber; and
- other persons as directed by the court, e.g., appellate attorneys.

Except for public terminal viewers, persons authorized to view or download the transcript can also create hyperlinks to the transcript.

II. Overview of the Process within CM/ECF

Transcripts:

_____The court reporter will enter the transcript into the record. The notice of electronic filing indicates the transcript may be viewed at the court public terminal or purchased through the court reporter/transcriber before the deadline for public release of the transcript.

Redaction responsibilities apply to the attorneys even if the requestor of the transcript is a judge or a member of the public/media. Any party needing to review the transcript for redaction purposes may purchase a copy from the court reporter/transcriber or view the transcript at the courthouse using the public terminal to CM/ECF. If a party purchases the transcript from the court reporter, and he or she is an attorney on the case, he or she will be granted remote access to the transcript via CM/ECF and PACER by the court reporter.

PACER fees will be applied both during and after the 90-day restriction period. Charges will not be capped at 30 pages as they are for other court documents, but will rather accrue for the entire transcript. The user will incur PACER charges for each time the transcript is accessed even though he/she may have purchased it from the court reporter and obtained remote access through CM/ECF. There is no “free look” for transcripts.

If there is no request to redact personal identifiers as required by Fed.R.Crim.P. 49.1 and Fed.R.Civ.P. 5.2, the court will assume redaction of personal identifiers from the transcript is not necessary and will remove the restrictions after 90 days.

¹

Note: the special redaction procedures for transcripts and the 90-day restriction policy apply only to transcripts of federal courtroom proceedings.

Redaction:

In reviewing transcripts for redaction, only the following personal identifiers may be automatically redacted without further permission from the court:

- Social Security numbers
- financial account numbers
- name(s) of minor children
- dates of birth
- home addresses of individuals (criminal cases only)

Within 7 days of filing of the transcript, a party wishing to remove personal identifiers may inform the court by filing a Notice of Intent to Request Redaction. If the transcript contains personal identifiers, a party must file a Redaction Request within 21 calendar days from the filing of the transcript. A Redaction Request should include a statement indicating where the personal identifiers appear in the transcript by page and line and how they are to be redacted. The redaction request itself should not disclose the complete personal identifier to be redacted. (Sample form is posted on our web site at www.lawd.uscourts.gov).

If a party wishes to redact information other than that listed above, that party should move the court by filing a Motion to Redact Transcript, which shall be served on all parties and the court reporter/transcriber within the 21-day period.

If redactions are requested, the court reporter/transcriber must, within thirty-one (31) calendar days from the filing of the transcript, or longer if the court so orders, revise and file a redacted transcript. The redacted transcript will be electronically available at the expiration of the 90-day restriction period. The original unredacted transcript will be retained by the clerk as a restricted document.

III. General Issues

- A. If only part of the transcript is ordered, an attorney is not responsible for ordering and reviewing other parts of the proceedings.
- B. The redaction-related documents (e.g., notice of intent to redact, etc.) should be in the court record to ensure that the changes to the transcript are documented and are available both to the court in which the transcript was created and the appellate court (for potential orders regarding any delay).
- C. There is no obligation on the part of the clerk's office to perform any redaction. Instead, the burden rests on the attorneys to inform the court reporter where to redact and on the court reporter to perform the redaction.
- D. Redaction of transcripts could be prevented by limiting unnecessary personal identifiers disclosed during court proceedings.