

## Questions and Answers on the Electronic Availability of Transcripts and Transcript Redaction Procedures

Rev. February 19, 2009

Q. When will the electronic transcript be made remotely available to the public through the PACER system?

A. The electronic transcript will be remotely available to the public through PACER 90 days after it has been filed with the court.

Q. Will anyone be able to obtain a copy of the transcript during the initial 90-day period after the certified transcript copy has been filed with the court?

A. Yes, any attorney, party, or member of the public wanting a copy of a transcript during the 90-day period will be able to purchase a copy from the court transcriber. In addition, court staff will have appropriate access during the 90-day period to any transcript filed with the court through the CM/ECF system.

Q. Will an attorney, a party, or the public be able to review the transcript during the 90-day period?

A. Yes, the transcript on the CM/ECF system will be available for review and inspection at the court's public terminal during the 90-day period, but only for transcripts filed on or after 2/2/09. However, the clerk's office will not provide copies to an attorney, a party or the public during the 90-day period, but rather will refer anyone who wants to purchase a copy to the court transcriber.

Q. How will court staff or the CM/ECF system know which attorneys have purchased a transcript from the court transcriber?

A. The court transcriber will make an entry onto the docket to notify the court with the name(s) of the party(s) who have purchased a copy of the transcript. Any party who purchases a transcript on or after 2/2/09 may obtain 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.

Q. Once the certified copy of the transcript is filed with the court, may court transcribers sell copies to other parties requesting the transcript?

A. Yes, nothing in the new policies restrict attorneys, parties, or the public from requesting copies of a transcript from a court transcriber - - during or after the 90-day period.

Q. How will a court transcriber know when to redact a transcript?

A. An attorney or party to the case will file a Notice of Intent to Request Redaction within seven days of the filings of the transcript with the court. An attorney or party will then have 21 calendar days from the date of filing of the transcript to review the transcript and submit to the court transcriber a list of places where the personal data identifiers to be redacted appear in the transcript. The court may order this time extended, for good cause shown.

Q. How would an attorney apply to extend the transcript redaction deadline in the ECF system?

A. The attorney would use the specific motion event which may be found in ECF under Bankruptcy > Motion > Extension of Time Re: Transcript. The motion entry should be linked to the transcript.

Q. What are the personal identifiers that a party may request be redacted?

A. The following personal identifiers should be redacted:

- Social Security numbers (or taxpayer identification numbers) to the last four digits;
- financial account numbers to the last four digits;
- dates of birth should contain only the year of birth;
- individuals known to be minor children (refer to with initials); and
- in criminal cases, any home addresses stated in court to the city and state.

Q. What is the procedure to seal or redact protected private information from the docket when filed in error?

A. Local Bankruptcy Rule 9037-1(b): If a document is filed that discloses protected private information, a party seeking to expunge that document from the publicly accessed electronic docket may file a motion in accordance with Local Bankruptcy Rule 9013-1 seeking to have the document sealed. Upon receipt of such a motion, the clerk shall temporarily block access to the document at issue pending the court's determination of the motion.

Q. Once a court transcriber receives the list of redactions from the attorney(s), how long does the court transcriber have to redact the transcript and refile the redacted transcript with the court?

A. The court transcriber must redact the identifiers as directed by the party, and then re-file the redacted transcript within 31 calendar days of the filing of the original transcript. Also during this time period, an attorney could, by motion for a protective order, request that additional information be redacted.

Q. Will the unredacted transcript that is originally filed with the court be permanently restricted?

A. Yes, once the court transcriber re-files the redacted transcript the clerk of court will permanently restrict access or seal the original transcript, pursuant to General Order No. 2008-3.

Q. If an attorney files a Notice of Intent to Request Redaction or a motion for extension of time to file this notice, and then doesn't submit a redaction request, what should be done?

A. The clerk's office will contact chambers for guidance on what action to take.

Q. How should the redaction be made?

A. There are various software programs that are available to assist court transcribers in the redaction process. The use of these programs is permissible, as long as page and line integrity remains intact. Court transcribers may also manually redact. To manually redact, the court transcriber should place an "x" in the space of each redacted character. Manual redactions should have the same number of x's as characters deleted in order to preserve page and line numbers of transcripts. Whatever method is used to redact, page and line integrity must be maintained from the original transcript to the redacted transcript.

Q. Are there any other changes to the format of a redacted transcript?

A. Yes. The title page of the transcript should indicate that it is a redacted transcript immediately below the case caption and before the volume number and the name and title of the judge. A notation of "REDACTED TRANSCRIPT" should be inserted on a blank line, and care should be taken to ensure that the addition of this text does not cause changes to the length of the title page. Also, at the end of the transcript, and without causing a "page rollover" (a smaller font may be used) the redacted transcript should be certified by the court transcriber stating: "I (we) certify that the foregoing is a true and correct copy of the transcript originally filed with the clerk of court on dy/mo/year, and incorporating redactions of personal identifiers requested by the following attorneys of record: \_\_\_\_\_ in accordance with Judicial Conference policy. Redacted characters appear as an "x" (or a black box) in the transcript."

Q. Does the word "redacted" need to be put in each redaction? For example: "My son, M (redacted), handled Account No. (redacted) 4567 and must have made a mistake."

A. No, it is not necessary to note redactions in the body of the transcripts; using x's (or black boxes) in place of the redacted characters is all that is required in the body of the transcript.

Q. As the court transcriber is preparing a transcript, if she/he notices that redactions will be necessary, should the court transcriber do the redactions then and there?

A. No, they do not have the responsibility to redact information unless there is a redaction request is made by the parties to the case.

Q. Is there a fee that the court transcriber can charge for making the redactions?

A. No. The Judicial Conference has not authorized an additional fee for providing redacted transcripts to the court for the electronic records of the court.

Q. When a transcript is requested by a third party (for example, the media or a researcher), what version (redacted or unredacted) should the court transcriber sell?

A. The redacted transcript should be sold since the unredacted version is permanently restricted

or sealed by General Order. Selling the redacted version will help prevent the dissemination of the personal information that the Judicial Conference Policy requires to be redacted in all court filings, and could help in preventing identify theft.