

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Transcript Policy
effective May 15,2008

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:

1. A transcript provided to a court 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.
2. 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 the court filings and for other purposes.
3. 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 filed is the starting point for all deadlines related to the transcript.

During the 90 day period (which may be extended by the court), access to the

transcript in CM/ECF is restricted to four (4) types of users:

- ▶ court staff;
- ▶ public terminal users;
- ▶ attorneys of record or parties who have purchased the transcript from the court reporter or 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

Court reporters or transcribers will electronically submit a PDF version of the transcript to the clerk's office for filing and docketing in the court's CM/ECF system. Counsel of record will be notified of the filing of the transcript and redaction deadlines via NEF. Non-CM/ECF participants will be mailed a copy of the NEF. Redaction responsibilities apply to the attorneys even if the requestor of the transcript is a judge or 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 clerk's office using the public terminal for CM/ECF. If a party purchases the transcript from the court reporter/transcriber, and he or she is an attorney on the case, he or she will be given remote access to the transcript via CM/ECF and PACER. PACER fees apply at all times when accessing transcripts remotely.

Remote access will be granted by the clerk's office when notified by the court reporter/transcriber of receipt of full payment for the transcript.

Counsel/parties have 21 days from the date the transcript is filed to file a Transcript Redaction Request which must contain where each personal data identifier appears in the transcript by page and line, and how they are to be redacted. The court reporter/transcriber must be provided a paper copy of the Transcript Redaction Request. Only the following personal data identifiers can be redacted by the court

reporter/transcriber: social security and taxpayer identification numbers; financial account numbers; name(s) of minor children; dates of birth; and home addresses.

The court reporter/transcriber must, within 31 calendar days of the filing of the transcript with the clerk, or longer if the court so orders, perform the requested redactions, and file a redacted version of the transcript with the clerk. The original unredacted electronic transcript will be retained by the clerk as a restricted document.

An attorney wishing to redact additional information from a transcript may make a motion to the court. The transcript will not be electronically available until the court has ruled on any such motion, even though the 90 day restriction period may have ended.

If a Transcript Redaction Request or Motion to Extend Time is not filed, no redactions will be made and the original transcript will be publicly available after the 90 day restriction period.

When a transcript relates to CJA representation, the attorney conducting the transcript review is entitled to compensation under the CJA for functions reasonably performed to fulfill the redaction obligation and for reimbursement for related reasonable expenses.

III. General Issues

1. Purchase of the transcript by the public/media

Members of the public, including the news media, who purchase a transcript from the court reporter/transcriber within the 90 day restriction period, will not be granted remote electronic access during the restriction period. At the end of the restriction period, remote electronic access to the redacted transcript, or if no redaction was done, to the original transcript, will be available via PACER. PACER fees will be charged.

2. Miscellaneous

If only a portion of the transcript is ordered, counsel is not responsible for ordering and reviewing other parts of the proceedings.

Court reporters/transcribers are not responsible for the identification of the need for or redaction of the transcripts. Redaction will be accomplished only with the input from the attorneys of record. Attorneys are required to list the information to be redacted by page and line number.

Redaction related documents should be in the court record to ensure that the changes to the transcript are documented and available to both the court in which the transcript was created and the appellate court.

There is no obligation on the part of the clerk's office to perform any redaction. Redaction responsibilities rest on the attorneys who must advise the court reporter/transcriber where to redact, and on the court reporter/transcriber who must perform the redaction.

This policy applies to all transcripts filed with the clerk's office on or after May 15, 2008. Transcripts filed prior to May 15, 2008 will not be available electronically.

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