

NOV 21 2008

Thomas M. Gould, Clerk
U. S. District Court
W. D. OF TN, MemphisUNITED STATES DISTRICT COURT
for the
WESTERN DISTRICT OF TENNESSEE

Re: Policies and Procedures Regarding the
Implementation of the United States Judicial
Conference Policy on Electronic Availability
of Transcripts via Case Management/ Electronic
Case Files (CM/ECF)

Administrative Order
No. 2008- 35

At its September 2007 session, the United States Judicial Conference approved a policy regarding the electronic availability of transcripts of court proceedings which is applicable to any transcript of a court proceeding that is subsequently filed with the court and made available to the public via the Court's electronic case filing system. In accordance with this policy and effective for any transcript filed on or after December 1, 2008 (regardless of when the proceeding took place), IT IS ORDERED that:

1. Transcripts of court proceedings may only be electronically filed by the official Court Reporter for the proceeding. For a 90 day period, beginning on the day the transcript is filed, electronic access via PACER will not be permitted except as detailed in paragraph 2 below. The transcript will be available for inspection only, free of charge, at the office of the Clerk of Court via the public terminals. Copying will not be permitted during this period.
2. During the 90-day restriction period, a copy of the transcript may be obtained from the court reporter or transcriber at the rate established by the Judicial Conference of the United States. The transcript will be available within the court for internal use. Attorneys or parties who purchase the transcript from the court reporter or transcriber may obtain remote electronic access to the transcript through the court's CM/ECF system through the Public Access to Court Electronic Records (PACER) system for purposes of creating hyperlinks to the transcript in court filings and for other case related purposes. PACER fees will accrue during and after the 90-day restriction period for the entire transcript rather than being capped at 30 pages. Members of the public, including the news media, who purchase a transcript, shall not be granted remote electronic access during the 90-day restriction period. In addition, the transcript policy does not provide for a free copy of transcripts for the Department of Justice at the Clerk's office.
3. Upon filing of the transcript, CM/ECF will generate and serve all parties associated with a particular case a Notice of Filing of the Official Transcript which will advise parties that they have seven calendar days from the filing date of the transcript to file a Notice of Intent to Request Redaction of a Transcript and 21 calendar days from the filing date of the transcript to file the actual Request for Redaction.

4. Parties wishing to redact a transcript must inform the Court, by filing a Notice with the Clerk via CM/ECF, of the party's intent to redact personal identifiers, as required by Federal Rule of Criminal Procedure 49.1 and Federal Rule of Civil Procedure 5.2, from the electronic transcript of the court proceeding. Within 21 calendars of the filing of the transcripts a Request for redaction shall be filed via the CM/ECF system and served on the Court Reporter. The request for redaction shall indicate by page and line number, the location of the personal data identifiers for which redaction is being requested. Personal data identifiers shall include: individuals' social security and taxpayer identification numbers, financial account numbers, names of minor children, dates of birth and in criminal cases, home addresses. Requests for Redaction should be worded so that they do not include personal data identifiers since they will be viewable on the public docket of the case record. Parties seeking to redact personal identifiers other than those listed above shall file a motion in accordance with this court's local rules. A copy of the motion shall be served on the Court Reporter.
5. Redaction responsibilities are solely the responsibility of the attorneys and the pro se litigants who attended the hearing to which the transcription applies. Each party is responsible for reviewing and requesting redaction of testimony of witnesses that were called for the party and for that party's own statements.

6. When the Notice of Intent to Request Redaction has been filed and subsequently a Request to Redact is filed within the requisite 21 calendar day deadline, the Court Reporter shall redact the personal data identifiers as detailed in the Request for Redaction to include:

- the last four digits of the social security and taxpayer identification number;
- the last four digits of the financial account number;
- the initials of minor child's name;
- the year of the individual's birth; and
- the city and state of the home addresses.

The Court Reporter shall then electronically file a redacted transcript with an amended certification indicating that the transcript was amended by the redaction of certain personal identifiers at the request of the parties. Parties who have made financial arrangements with the Court Reporter will be given remote access to the redacted transcript.

7. After the 90-day restriction period has expired, the filed transcript, or in the event of redaction requests, the redacted transcript will be available for inspection and copying at the Clerk's office and for downloading from the CM/ECF system via PACER. If and when redaction requests are made, the unredacted version of the transcript will NOT be accessible remotely, but will be available for inspection and copying in the Clerk's office. The requisite copy fees and PACER access fees will apply.

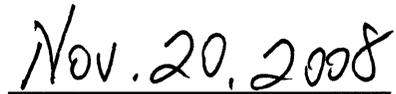
8. The policy established in this Order:
- A. Is applicable to transcripts made available remotely via CM/ECF and PACER. It does not affect in any way the obligation of the Court Reporter to promptly deliver to the Clerk of Court the original records of a proceeding or the inclusion of a transcript with the records of the Court.
 - B. Does not create a private right of action against the Court, the Staff Court Reporter, or the Contract Court Reporter.
 - C. Does not affect or limit the right of any party (or any other person or entity) to order production of a transcript on an expedited basis.
 - D. Does not affect the Local Rules or rulings of the Court requiring the sealing of materials or the protection of sealed materials.

IT IS SO ORDERED.

For the Court:



**JON PHIPPS McCALLA
CHIEF UNITED STATES DISTRICT JUDGE**



DATE