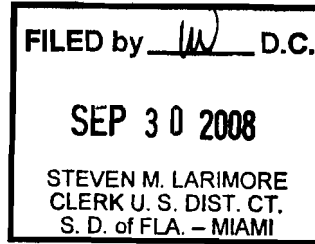


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

ADMINISTRATIVE ORDER 2008-31

IN RE: POLICY ON ELECTRONIC
AVAILABILITY OF TRANSCRIPTS OF
COURT PROCEEDINGS



The Judicial Conference of the United States has revised its national policy addressing electronic availability of transcripts of court proceedings filed with the court. The Judicial Conference Policy on Electronic Availability of Transcripts applies to any transcript of a court proceeding that is subsequently filed with the court and made available to the public via electronic access. In furtherance of the implementation of this policy locally, effective for any transcript filed on or after the date of this order (regardless of when the proceeding took place) it is

ORDERED that transcripts of proceedings before the United States District Court for the Southern District of Florida taken or transcribed by Official Court Reporters and Contract Court Reporters are now required to be filed with the Court in electronic format. The Court will follow the Judicial Conference Policy on Electronic Availability of Transcripts of court proceedings before making official transcripts electronically available to the public. The policy will apply to all transcripts of proceedings or parts of proceedings ordered on or after this date, regardless of when the proceeding took place, unless otherwise ordered by the Court. For

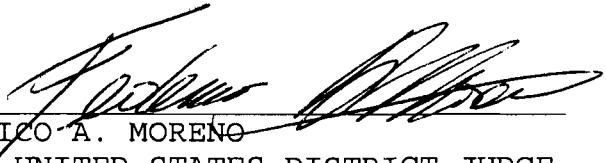
specifics as to the policy, please see the attached New Transcript Policy;

It is **FURTHER ORDERED** that the policy set forth in this order:

- A. Does not affect in any way the obligation of the court reporter to file promptly with the Clerk of Court the court reporter's original records of a proceeding or the inclusion of a filed transcript with the records of the court pursuant to 28 U.S.C. § 753.
- B. Does not affect the obligation of the Clerk to make the official transcript available for copying by the public without further compensation to the court reporter 90 days after the transcript is filed pursuant to Judicial Conference policy.
- C. Is not intended to create a private right of action.
- D. Is intended to apply the Judicial Conference policy on privacy and public access to electronic case files to transcripts that are electronically available to the public. It is not intended to change any rules or policies with respect to sealing or redaction of court records for any other purpose.
- E. Does not prevent the production of a transcript on an expedited basis for a party, or any other person or entity, that may order such a transcript, subject to whatever court rules or orders are currently imposed to protect sealed materials. Any non-party that orders a

transcript on an expedited basis should be alerted to the
Judicial Conference policy on privacy and public access
to electronic case files by the entity providing the
transcript to the party.

DONE and ORDERED in Chambers at Miami, Florida, this 29th
day of September, 2008.


FEDERICO A. MORENO
CHIEF UNITED STATES DISTRICT JUDGE

Copies provided to:

The Honorable J.L. Edmondson, Chief Judge, Eleventh Circuit
All Southern District and Magistrate Judges
U.S. Attorney R. Alexander Acosta
Federal Public Defender Kathleen Williams
James Gerstenlauer, Circuit Executive
Steven M. Larimore, Court Administrator • Clerk of Court
Library

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

**New Transcript Policy
Effective September 30, 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. The policy 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 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.

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

Pursuant to 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 starting point for all deadlines begins the date the transcript is submitted. The redaction period for transcripts and the 90-day restriction policy apply to transcripts of federal court proceedings only.

During the 90-day period (which may be extended by the court), access to the transcript in CM/ECF is restricted to the following 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.

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

Court reporters will either email a PDF version of the transcript to the clerk's office for uploading/docketing or the court reporter will upload /docket transcript into CM/ECF. When an official transcript of a court proceeding has been filed, parties will be notified via CM/ECF notice of electronic filing (NEF) which will include various standard deadlines:

- 21 calendar days after the filing of the transcript, party to file the Redaction Request, if necessary;
- 31 calendar days after the filing of the transcript, court reporter to file the redacted transcript, if requested;
- 90 calendar days after the filing of the transcript, normal release of remote restrictions, unless redaction issues are pending.

Redaction responsibilities apply to the attorneys even when 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 a public terminal. 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 given remote access to the transcript via CM/ECF and PACER. PACER fees apply at all times when accessing transcripts remotely. The clerk's office will grant remote access upon notification from the court reporter that payment was received.

There is no obligation on the part of the Clerk's office to perform any redaction. Instead, it rests on the attorneys to tell the court reporter where to redact, and on the court reporter to perform the redaction.

Unless otherwise ordered by the court, the attorney is responsible for privacy compliance of the following portions of the transcript:

- opening and closing statements made on the party's behalf;
- statements of the party;
- the testimony of any witness called by the party;
- sentencing proceedings;¹
- any other portion of the transcript ordered by the court.

Only the following personal identifiers listed by the Judicial Conference in its policy on the Electronic Availability of Transcripts may be redacted through this part of the process:

1. Minors' names: use the minor's initials;
2. Financial account numbers: use only the last four numbers of the account;
3. Social Security numbers: use only the last four numbers;
4. Dates of birth: use only the year; and
5. Home addresses: use only the city and state (applicable in criminal cases only).

If redaction is requested within 21 calendar days of the transcripts' delivery to the clerk, or longer if so ordered by the Court, the parties must file with the court a Transcript Redaction Request (sample attached). A copy of the Transcript Redaction Request must be either faxed, e-

¹Both the government and the defendant are responsible for privacy compliance of sentencing proceedings.

mailed, or mailed to the court reporter. The request should indicate where the personal identifiers to be redacted appear on the transcript.

For example, if a party wanted to redact the Social Security number 123-45-6789 on page 10, line 12 of a transcript the Redaction Request would include the information: Page 10, line 12, SSN to read xxx-xx-6789. Access to the Transcript Redaction Request document will be restricted in PACER and CM/ECF to the court and the attorneys of record in the case.

Redacted Transcript Within 31 Calendar Days

Within 31 calendar days from the filing of the transcript with the Clerk (or longer if ordered by the court), if redaction is requested, the court reporter will file the redacted transcript.

Motion to Redact (other than five listed personal identifiers within 21 days)

If a party wishes to redact additional information (that is not listed by the Judicial Conference) he or she 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.

The original un-redacted electronic transcript should be retained by the clerk of court as a restricted document. The court will monitor this deadline to ensure that the redacted transcript is available for the parties and attorneys should there be an appeal.

****SAMPLE REDACTION REQUEST FORMAT****

Note: the event is located on CM/ECF by clicking:
Civil or Criminal > OTHER DOCUMENTS or APPEALS DOCUMENTS> Redaction Request -
Transcript

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____-Civ or Cr-(USDJ's last name/USMJ's last name)

Plaintiff(s)

v.

Defendant(s)

_____ /

TRANSCRIPT REDACTION REQUEST

Pursuant to Fed.R.Civ.P.5.2/Fed.R.Crim.P.49.1, Plaintiff/Defendant requests that the following personal identifiers be redacted from the transcript filed on (Date) :

| Doc# | Page | Line | Identifier | Redaction Requested |
|------|------|------|--------------------------|---------------------|
| 53 | 15 | 10 | Social Security Number | xxxx-xx-1234 |
| 53 | 25 | 2 | Taxpayer ID Number | xx-xxxx5678 |
| 70 | 32 | 14 | Date of Birth | xx/xx/1954 |
| 72 | 24 | 23 | Minor Child's Name | Pxxx Txxxx |
| 80 | 56 | 11 | Financial Account Number | xxx-xxx-xxxx2689 |
| 93 | 89 | 8 | Home Address | City, State |

Respectfully submitted,

/s/ [Name of Password Registrant](Florida Bar Number)

Attorney e-mail address

Firm Name

Street Address

City, State, Zip Code

Telephone: (xxx) xxx-xxxx

Facsimile: (xxx) xxx-xxxx

Attorneys for Plaintiff/Defendant [Party Name(s)]

Certificate of Service

I hereby certify that on (date), I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and I hereby certify that I have served by some other authorized manner the document to the following Court Reporter: Name of Court Reporter or Court Reporter Coordinator. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.