



Policy for Electronic Access to Transcripts of Court Proceedings in CM/ECF and PACER

Effective 5/12/2008

Pursuant to the policy adopted by the Judicial Conference of the United States Courts, all transcripts produced by a court reporter of any court proceeding in the District of Minnesota may become electronically available on CM/ECF and PACER.

There are four essential steps in making transcripts of court proceedings available in CM/ECF and PACER:

- Filing the transcript and the Notice of Filing of Official Transcript on CM/ECF.
- Providing appropriate access to transcripts during the 90-day restriction period.
- Transcript redaction requests and procedures.
- Setting appropriate continued restrictions and/or public access (PACER) for both redacted and un-redacted transcripts after the 90-day restriction period.

A. Filing the Transcript & Notice in CM/ECF:

- 1) In accordance with 28 U.S.C. § 753(b), whenever a transcript is requested and paid for by a party or requested by the court, the court reporter or the Clerk must promptly file an electronic (PDF) version of the transcript in CM/ECF.
- 2) In addition to the transcript, court reporters or docket clerks will also file a “Notice of Filing of Official Transcript” which contains: (1) information for all case participants (and the public) on purchasing copies of the official transcript during the 90-day restriction period; and (2) instructions to attorneys for requesting redaction of personal data identifiers (PDI) in transcripts, if needed. It is the responsibility of the parties and their attorneys to identify PDI and to request redaction using the procedure described below. A sample form of the “Notice of Filing of Official Transcript” appears in the attachments to this policy.
 - **IMPORTANT:** Court reporters and Clerk’s Office staff do not check for PDI in transcripts filed on CM/ECF before e-filing. It is solely the responsibility of parties and attorneys to address any need for redaction once transcripts have been filed. (Note that during the 90-day restriction period, public access to e-filed transcripts is restricted only to public terminals in the Clerk’s Office. This provides time for all parties to identify redaction needs – before the electronic public availability of transcripts.)

B. Access to Transcripts during the 90-Day Restriction Period:

- 1) When the “Transcript” event is filed in CM/ECF, the system automatically sets the document restriction level to “Court users and public terminals” and establishes a 90-day deadline for this restriction. During the 90-day restriction period, the public may only view transcripts at public terminals in the Clerk’s Office. Printing or downloading is not permitted. When viewing transcripts at public terminals, a document header is displayed by CM/ECF, stating “**AVAILABLE AT THE PUBLIC TERMINAL FOR VIEWING ONLY.**” PACER internet access to transcripts is not available during the 90-day restriction period. Court staff always has access to transcripts.
- 2) Anyone (including a case participant) requesting copies of transcripts during the 90-day restriction period time is referred by Clerk’s Office staff to the appropriate court reporter, who provides the transcript for a fee not to exceed the maximum rates established by the Judicial Conference. Court reporters may provide either paper or PDF versions of transcripts and may charge higher fees for expedited delivery.
- 3) Case participants (attorneys of record and parties) who have purchased a copy of the transcript from the court reporter will gain remote electronic access to the transcript in CM/ECF during the 90-day restriction period. At the court’s direction, other individuals, such as appellate attorneys, who have purchased a copy of the transcript from the court reporter may gain remote electronic access to the transcript in CM/ECF during the 90-day restriction period.
 - **IMPORTANT:** Attorneys who have been designated in the system for electronic access to transcripts during the 90-day restriction period will still incur PACER billing fees when viewing transcripts – despite having already paid the court reporter for that transcript.
- 4) Judicial Conference policy provides that an attorney appointed pursuant to the Criminal Justice Act (CJA) is entitled to compensation under the CJA for functions performed to fulfill his or her obligations under the transcript policy, including the following: (1) traveling to gain access to the transcript, if needed; (2) reviewing a transcript to determine whether to file notice of intent to redact; (3) filing a notice of intent to redact or a motion for an extension of time; (4) reviewing a transcript to determine the location of information to be requested to be redacted or whether to file a motion for additional redaction; (5) preparing and filing a redaction request or motion; and (6) other actions (including creating pleadings, attending hearings or other follow-up). The attorney is also entitled to reimbursement under the CJA for the costs of obtaining a transcript for purposes of review. If a case involving a CJA representation has already been closed and the original attorney is no longer available, or if standby counsel is no longer available, new counsel may be appointed under the CJA and compensated as outlined above. In the event that the original appointed counsel is still available, but has filed a final voucher for the underlying case, the attorney shall be permitted to file a supplemental voucher for compensation.

C. Transcript Redaction Procedures:

- 1) When the “Notice of Filing of Official Transcript” is filed, and case participants receive the Notice of Electronic Filing (NEF), they are informed of the Court’s transcript redaction procedure in the notice. From the date the transcript is filed, attorneys and/or parties have seven calendar days file in CM/ECF a “Notice of Intent to Request Redaction” to provide notice that they intend to file a Statement of Redaction to redact the personal data identifiers (PDI) in accordance with *Fed. R. Crim. P. 49.1* and *Fed. R. Civ. P. 5.2*. If no such notice is filed, the court will assume redaction of PDI from the transcript is not necessary. A sample form of the “Notice of Intent to Request Redaction” appears in the attachments to this policy.
 - **NOTE:** Redaction is not required for every transcript prepared and filed with the Court. Instead, the burden is placed on the parties to invoke redaction procedures. Judges and court reporters will work to educate attorneys about this process and to limit the number of PDI referenced in court proceedings whenever possible.
- 2) To comply with *Fed. R. Civ. P. 5.2*; *Fed. R. Crim. P. 49.1*; and *LR 5.5*, attorneys or unrepresented parties, unless otherwise ordered by the court, are responsible to request redaction of PDI from the following portions of the transcript: (1) statements by the party and statements made on the party’s behalf; (2) the testimony of any witness called by the party; (3) sentencing proceedings; and (4) any other portion of the transcript ordered by the court.
- 3) Attorneys of record or unrepresented parties are responsible for requesting redaction of PDI from the transcript even if the requestor of the transcript is a judge or a member of the public/media. If only part of the transcript is ordered, an attorney or unrepresented party is not responsible for ordering and reviewing other parts of the proceedings. An attorney serving as “standby” counsel appointed to assist a pro se defendant in his or her defense must review the same portions of the transcript as if the pro se defendant were his or her client.
- 4) If redaction is requested, the party must file a “Statement of Redaction” in CM/ECF within 21 calendar days of the date the transcript was filed, unless otherwise extended by the Court. The “Statement of Redaction” must indicate where the PDI to be redacted appear in the transcript. The “Statement of Redaction” event is configured to automatically send the NEF to court reporters.
 - **IMPORTANT:** The “Statement of Redaction” is a public document; therefore, attorneys are to only identify the location and type of PDI to be redacted and how the document should read after the information is redacted. A sample form of the “Statement of Redaction” appears in the attachments to this policy.
- 5) Court reporters may only redact the PDI specifically identified by an attorney or unrepresented party, in accordance with *Fed. R. Civ. P. 5.2* and *Fed. Crim. P. 49.1*, unless otherwise directed by court order. PDI are to be redacted to: (1) the last four

- digits of social security or tax ID numbers; (2) the initials of the names of minor children; (3) the last four digits of financial account numbers; (4) the year only of birth dates; and (5) in criminal cases only, the city and state only of home addresses.
- 6) Within 31 calendar days of the date the transcript was filed, the court reporter must perform the requested redactions and file a certified redacted version of the transcript in CM/ECF. The court reporter must redact all PDI to maintain the page and line integrity from the original transcript to the redacted transcript.
 - 7) Any extension of time to comply with the redaction procedure deadlines set forth in this policy must be granted by the Court. Such requests for extensions of time would not be routinely granted due to the potential for delay of appellate court proceedings in the event redaction procedures extend beyond 31 days.
 - 8) If any attorney of record or party fails to timely file the "Notice of Intent to Request Redaction," the attorney/party must file a motion to request redaction of the transcript with the court.
 - 9) If any attorney of record or party fails to file a timely "Statement of Redaction" after a timely "Notice of Intent to Request Redaction" has been filed, the attorney/party shall: (1) file a motion with the court to request redaction; or (2) withdraw the "Notice of Intent to Request Redaction." If the attorney does not file a motion to request redaction or withdraw the "Notice of Intent to Request Redaction," the Court may issue an order to show cause as to why the attorney or party has not met the requirements of LR 5.5.
 - 10) Once redaction has occurred, it is preferred that any subsequent transcripts sold by the court reporter consist of the redacted version of the transcript. If a case participant has purchased an un-redacted transcript and a redacted transcript is subsequently filed, that case participant will have remote electronic access to both the un-redacted version and the redacted version of the transcripts. But, if a case participant only purchased a redacted version of the transcript, that case participant must request to have access to the un-redacted version of the transcript. Clerk's staff may grant such access, unless otherwise directed by the Court. Only the redacted version of the transcript (if redaction occurred) will be available for remote access via PACER at the end of the 90-day restriction period.

D. Access to Redacted & Un-redacted Transcripts Following the 90-Day Restriction Period:

- 1) At the end of the 90-day restriction period, any cases with un-redacted transcripts filed that do not have any other pending motions relating to the transcript will have the restrictions removed from the transcript to provide access to the transcript on PACER.

- 2) At the end of the 90-day restriction period, if a redacted transcript was filed in CM/ECF, the restrictions are removed from the redacted transcript to provide access to the transcript on PACER, and electronic access to the original (un-redacted) transcript remains restricted indefinitely.
- 3) PACER fees apply for all who access the transcript, including case participants, members of the media, or anyone who has paid for a copy of the transcript. CM/ECF identifies transcripts as a unique type of case document for PACER billing purposes – the cost for viewing/printing is eight cents per page, but there is no document page limit, as with other case documents.
- 4) After the 90-day restriction period, an original (un-redacted) transcript will remain restricted in CM/ECF when a redacted version is subsequently filed. The un-redacted versions of transcripts will continue to be viewable at public terminals in the Clerk’s Office, with the header, “**AVAILABLE AT THE PUBLIC TERMINAL FOR VIEWING ONLY**” displayed. Unless restricted by court order, printed copies of original, un-redacted transcripts, for which a redacted version was subsequently filed and available through PACER, may be provided to the public at the Clerk’s Office.

➤ **NOTE: Transcripts of court proceedings may only be sealed by court order.**

Additional Transcript Policy Guidelines:

This policy applies to transcripts made available remotely via CM/ECF and PACER. It does not affect in any way the obligation of the court reporter or transcriber, pursuant to statute, to promptly deliver to the Clerk of Court the court reporter’s or transcriber’s original records of a proceeding or the inclusion of a transcript with the records of the court.

Nothing in this policy creates a private right of action against the court, the staff court reporter, or the contract court reporter or transcriber.

Nothing in this policy changes any rules or policies with respect to sealing or redaction of court records for any other purpose.

This policy 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.

This policy does not affect any court rules or ruling requiring the sealing of materials or the protection of sealed materials.

Attachments:

- Sample “Notice of Filing of Official Transcript”
- Sample “Notice of Intent to Request Redaction”
- Sample “Statement of Redaction”

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

[Plaintiff Name(s)]

Plaintiff(s)

Case No: [Case Number]

v.

[Defendant Name(s)]

Defendant(s)

NOTICE OF FILING OF OFFICIAL TRANSCRIPT

Notice is hereby given that an official transcript of a proceeding has been filed by the court reporter or transcriber in the above-captioned matter.

The parties have seven (7) calendar days as of the date of this filing to file a Notice of Intent to Request Redaction of this transcript to redact personal data identifiers in accordance with Fed. R. Crim. P. 49.1 or Fed. R. Civ. P. 5.2. Please review Local Rule 5.5 for the rules in this District to redact personal data identifiers from transcripts. Any party needing a copy of the transcript to review for redaction purposes may purchase a copy from the court reporter or view the document at the public terminals located in the Clerk's Office.

In accordance with Judicial Conference policy and Local Rule 80.1, after 90 calendar days from the date of this filing, the transcript may be made remotely electronically available to the public. Case participants who have purchased a copy of the transcript from the court reporter and have a CM/ECF account will have remote electronic access to the transcript during the 90-day restriction period.

Date: _____

Court Reporter

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

[Plaintiff Name(s)]

**NOTICE OF INTENT TO REQUEST
REDACTION**

Plaintiff(s)

Case No: [Case Number]

v.

[Defendant Name(s)]

Defendant(s)

The undersigned [attorney/unrepresented party] hereby notifies the Court, court reporter or transcriber, and counsel that in accordance with the procedure set forth in Local Rule 5.5, Redaction of Transcripts, I intend to request redaction of personal data identifiers located within the transcript filed on [mo/dy/year] to comply with Fed. R. Civ. P. 5.2 or Fed. R. Crim. P. 49.1.

Dated: _____

[Signature block of Attorney]

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

[Plaintiff Name(s)]

Case Number: [Case Number]

Plaintiff(s)

v.

STATEMENT OF REDACTION

[Defendant Name(s)]

Sample

Defendant(s)

In accordance with Local Rule 5.5, I have reviewed the transcript filed on [mo/dy/year] in the above-captioned matter, filed a timely Notice of Intent to Request Redaction, and have located personal data identifiers (PDI) in the transcript that must be redacted pursuant to Fed. R. Civ. P. 5.2 or Fed. R. Crim. P. 49.1. I hereby request the court reporter to redact the following PDI in the transcript:

Description of PDI to be Redacted	Page and Line Number of PDI to be Redacted	Redacted PDI to Read As
Social Security Number	Page 10, line 2	XXX-XX-1234
Financial Account Number	Page 63, line 4	XXXXXXXX1234
Name of Minor Child	Page 3, line 7	JXXX DXX
Date of Birth	Page 13, line 14	XXXX XX, 1981
Home Address (<u>criminal cases only</u>)	Page 12, line 12; Page 30, line 4	XX XXXX XX St. Paul, MN

I understand that the redacted version of the transcript will be filed within 31 days of the date the original transcript was filed, but that the court reporter will not provide me with a copy of the redacted transcript. I understand that if I purchased a copy of the transcript from the court reporter, I may remotely access the electronic version of the redacted transcript on CM/ECF, and that PACER fees will apply if I access the transcript electronically. I also understand that after the 90-day restriction period, the redacted version of the transcript may be remotely electronically available to the public.

Date: _____

Attorney of record or Unrepresented Party