

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI**

**NOTICE TO MEMBERS OF THE BAR**

**ELECTRONIC AVAILABILITY OF TRANSCRIPTS OF  
PROCEEDINGS BEFORE UNITED STATES DISTRICT  
AND MAGISTRATE JUDGES**

Effective June 9, 2008, the United States District Court for the Western District of Missouri, in accordance with the Judicial Conference Policy on Privacy and Public Access to Electronic Case Files, Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1, will implement the following policy regarding official court transcripts:

1. A transcript provided to the court by a court reporter or transcriber will be available at the Clerk's Office, for inspection only, for a period of 90 days after it is filed.
2. During the 90-day period, a copy of the transcript may be purchased from the court reporter or transcriber at the rate established by the Judicial Conference. Any attorney of record who has purchased a copy of the transcript from the court reporter or transcriber will be given remote electronic access to the transcript through the court's CM/ECF system.
3. After the 90-day period has ended, or longer if ordered by the court, the transcript will be available to download through PACER, for copying at the Clerk's Office, and for purchase from the court reporter or transcriber.

***Note:* A transcript of a suppression hearing in a criminal case will be available at the Clerk's Office, for inspection only, as soon as it has been electronically filed. The 90-day release period will not begin to run until final disposition at the District Court level of the defendant(s) involved. All requests for copies of a suppression hearing transcript prior to the completion of the 90-day period must be made to the court reporter or transcriber.**

This policy applies solely to transcripts filed on or after June 9, 2008, of proceedings held before the United States District Judges and Magistrate Judges for the Western District of Missouri and recorded by Official Court Reporters, Contract Court Reporters, and Electronic Court Recorder Operators. The policy does not apply to

depositions, proceedings of state courts, other jurisdictions, or sealed transcripts.

This policy establishes a procedure for counsel to request the redaction from the transcript of specific personal data identifiers before the transcript is made remotely available electronically to the general public.

Counsel is strongly urged to share this notice with their clients so that an informed decision about the inclusion of certain materials may be made. **The responsibility for redacting personal data identifiers rests solely with counsel and the parties.** The court reporter, transcriber or clerk will not review the transcript for compliance with this policy.

### **FILING OF TRANSCRIPT**

Whenever an official transcript of a proceeding is filed, a CM/ECF Notice of Filing (NEF) will be served on all parties in the case. The NEF will include a deadline for the filing of the following:

- **Notice of Intent to Redact** (if necessary) - **7 calendar days** after filing the original transcript.
- **Release Transcript Restriction Deadline** - **90 calendar days** after filing the original transcript, unless redaction issues are pending.

**Note: The Release Transcript Restriction deadline will not appear on the NEF for the filing of a suppression hearing transcript.**

If the Notice of Intent to Redact is filed, the additional deadlines listed below will apply:

- **Notice of Items to be Redacted Deadline** (if necessary) - **21 calendar days** after filing the original transcript.
- **Redacted Transcript Deadline** (if requested) - **31 calendar days** after filing the original transcript.

### **NOTICE OF INTENT TO REDACT**

If redaction is determined to be necessary, a party must file a **Notice of Intent to Redact** within **7 calendar days** after the filing of the original transcript.

## **NOTICE OF ITEMS TO BE REDACTED**

Within **21 calendar days** after the transcript is filed, or longer if ordered by the court, a party must file in the CM/ECF system a Notice of Items to be Redacted. This document indicates the personal identifiers to be redacted and specifies the page and line number where they appear in the transcript. **Access to this document is restricted to court staff and case participants.** (See attached Notice of Items to be Redacted form.)

Items included on the Notice of Items to be Redacted are limited to personal data identifiers, as set forth in Federal Rule of Civil Procedure 5.2 and Federal Rule of Criminal Procedure 49.1:

- Social security numbers and taxpayer identification numbers should show only the last four digits;
- Financial account numbers should be redacted to the last four digits;
- Dates of birth should contain only the year of birth;
- Names of minor children should be referred to with initials; and
- Home address should reveal only the city and state (criminal cases only).

## **MOTION TO REDACT TRANSCRIPT**

If a party wants to redact information **in addition** to the personal identifiers listed above, that party must file a Motion to Redact Transcript within the 21 calendar days after the transcript is filed, or longer if ordered by the court. **Access to this document is restricted to court staff and case participants.**

***NOTE:*** If a party files a Notice of Intent to Redact but fails to timely file a Notice of Items to be Redacted, Motion to Redact, or Motion to Extend Time Re Transcript, no redaction will be made and the original transcript will be publicly available after the 90-day period.

## **REDACTED TRANSCRIPT**

If redactions have been requested, the redacted transcript must be filed by the court reporter or transcriber within **31 calendar days** after the filing of the original transcript, or longer if ordered by the court.

## **RELEASE OF TRANSCRIPT**

At the end of the 90-calendar days after the original transcript was filed, or longer if ordered by the court, the access restrictions will be lifted from the last filed version of the transcript. If a redacted version has been filed, the original unredacted transcript will remain as a restricted document.

**NOTE: Both the unredacted and redacted transcripts will be available at the public terminal, for viewing only. However, only the redacted version will be available for printing at the Clerk's Office or for remote electronic access through PACER at the end of the 90-day restriction period.**

### **RESPONSIBILITIES FOR REDACTION**

When a transcript is filed, the attorneys in the case are (or, where there is a pro se party, the party is) responsible for reviewing it for the personal data identifiers required in the federal rules to be redacted, and providing the court reporter or transcriber with a statement setting out the redactions to be made to comply with these rules. Unless otherwise ordered by the court, the attorney must review the following portions of the transcript:

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

**NOTE: Pursuant to the E-Government Act, the Western District of Missouri, restricts access to voir dire transcripts. In the unusual case where an attorney elects to have voir dire transcribed, the voir dire portion of the transcript will never be made available to the public remotely, even after the 90-day restriction is lifted. As a consequence, the voir dire portions of the transcript are not subject to redaction requirements. The party requesting the transcript will have remote access to the voir dire portions only after purchasing a copy from the court reporter or transcriber. Voir dire portions of the transcript are to be filed separately from the transcript of any other portion of the proceedings.**

**NOTE: The responsibility for redacting personal data identifiers rests solely with counsel, including "standby" counsel, and the parties. The court reporter, transcriber or clerk will not review the transcript for compliance with this policy.**

### **DOCUMENT ACCESS**

During the 90-day restriction period, or longer if ordered by the court, individuals wishing to purchase a copy of a transcript must do so through the court reporter or transcriber. If an attorney of record on the case has purchased and received the transcript from the court reporter or transcriber, they will be given remote electronic access to the transcript through the CM/ECF system. Attorneys authorized to view or download the transcript will be able to create hyperlinks to the transcript. (See below for fee information.)

The transcript will also be available at the Court Clerk's Public Terminal (for inspection only).

A copy of the transcript **CANNOT** be provided by the Clerk's Office during the 90-day restriction period to anyone - including the attorneys and parties in the case, Department of Justice, Federal Public Defenders Office, CJA Panel Attorneys, public or media.

After the 90-day restriction period, the filed transcript will be remotely available to the public through PACER, available for copying at the Clerk's Office, and available for purchase from the court reporter or transcriber.

### **PACER CHARGES**

Charges for access through PACER will accrue during and after the 90-day restriction period. Charges will accrue for the entire transcript rather than being capped at the 30-page limit. The user will incur PACER charges each time the transcript is accessed even though the PACER user may have purchased it from the court reporter or transcriber and obtained remote access through CM/ECF. There is no "free look" for transcripts.

### **CJA PANEL ATTORNEYS**

An attorney who is serving as appointed "standby" counsel for a pro se litigant must review the transcript as if the pro se party were his or her client. Counsel appointed pursuant to the Criminal Justice Act (CJA), including those serving as "standby" counsel, may claim compensation under the CJA for reasonable time spent complying with the redaction procedure and for reimbursement of related reasonable expenses. Examples of activities related to the procedure which could be covered include:

- the cost of obtaining the transcript;
- travel expenses to gain access to the transcript;
- time spent reviewing the transcript to determine the need for redaction;
- time spent and expenses incurred filing a notice of redaction;
- time spent on preparing and filing a redaction request; and
- time spent on motion practice relating to the transcript's redaction.

If a case involving a CJA representation has already closed, and the original attorney or standby counsel is no longer available, a new attorney may be appointed under the CJA and compensated as outlined above. If the original appointed attorney is still available, but has filed a final voucher for the underlying case, the attorney may file a supplemental voucher for compensation.

**\*\*SAMPLE NOTICE FORMAT\*\***

IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI

\_\_\_\_\_ Plaintiff(s)  
vs. Case No. \_\_\_\_\_  
\_\_\_\_\_ Defendant(s)

**NOTICE OF ITEMS TO BE REDACTED**

Pursuant to Federal Rules of Civil Procedure 5.2/Federal Rule of Criminal Procedure 49.1, (Plaintiff/Defendant), requests the following personal identifiers be redacted from the transcript filed on (Date) :

| Doc # | Page | Line Identifier | Redaction Requested |
|-------|------|-----------------|---------------------|
|-------|------|-----------------|---------------------|

|       |  |  |                                |
|-------|--|--|--------------------------------|
| _____ |  |  | /s/ _____                      |
| Date  |  |  | Attorney's Name and Bar Number |
|       |  |  | Law Firm Name                  |
|       |  |  | Law Firm Address               |
|       |  |  | Law Firm Phone Number          |
|       |  |  | Attorney's E-mail Address      |

**CERTIFICATE OF SERVICE**

I hereby certify that on (Date) , I filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: \_\_\_\_\_, and I hereby certify that I have mailed by United States Postal Service to the following non CM/ECF participants: \_\_\_\_\_.

|       |                                |
|-------|--------------------------------|
| _____ | /s/ _____                      |
| Date  | Attorney's Name and Bar Number |