



UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS

NOTICE TO MEMBERS OF THE BAR

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

Effective May 15, 2008, the United States District Court for the Western District of Arkansas, 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 have 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.

This policy applies solely to transcripts filed on or after May 15, 2008, of proceedings held before the United States District Judges and Magistrate Judges for the Western District of Arkansas 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 electronically available to the general public.

Counsel are 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 by the Clerk, a Notice of Filing of Transcript will be served on all parties in the case. The CM/ECF Notice of Electronic Filing (NEF) will include four deadlines:

- **Notice of Intent to Request Redaction (if necessary) - 7 calendar days** after filing the original transcript.
- **Redaction Request Deadline (if necessary) - 21 calendar days** after filing the original transcript.
- **Redacted Transcript Deadline (if requested) - 31 calendar days** after filing the original transcript.
- **Release Transcript Restriction Deadline - 90 calendar days** after filing the original transcript, unless redaction issues are pending.

NOTICE OF INTENT TO REQUEST REDACTION

If redaction is determined to be necessary, a party must file a **Notice of Intent to Request Redaction** within **7 calendar days** after the filing of the original transcript. (The event is located in the CM/ECF system, civil and criminal event categories, under *Other Filings > Other Documents*.) **Attorneys must serve this notice in paper upon the court reporter or transcriber.** (See attached Notice of Intent to Request Redaction form.)

REDACTION REQUEST - TRANSCRIPT

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 **Redaction Request - Transcript**. (The event is located in the CM/ECF system, civil and criminal event categories, under *Other Filings > Other Documents*.) **Attorneys must serve this notice in paper upon the court reporter or transcriber.**

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 Redaction Request form.)

Items included on the redaction request 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 number and taxpayer identification number to the last four digits;
- Financial account numbers to the last four digits;
- Dates of birth to the year;
- Names of minor children to the initials; and
- Home address to 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. Attorneys must serve this notice in paper upon the court reporter or transcriber.**

NOTE: If a party files a Notice of Intent to Request Redaction but fails to timely file a Redaction Request, 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 submitted by the court reporter or transcriber to the Clerk's Office and filed 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 are 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 the party's behalf;
- statements of the party;
- the statement of any witness called by the party;
- sentencing proceedings; and
- any other portion of the transcript ordered by the court.

If a portion of the transcript includes voir dire, or other jury information that does not fall within the responsibilities of either party, the court may direct the attorneys to review it and offer redactions, or the court may restrict that part of the transcript from remote electronic public access.

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 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 serving as “standby” counsel, may claim compensation under CJA for the time spent performing functions to fulfill the redaction obligations and for reimbursement of related reasonable expenses.

****SAMPLE NOTICE FORMAT****

***NOTE: The event is located on CM/ECF by clicking:
Civil or Criminal > Other Filings > Other Documents>
Notice of Intent to Request Redaction***

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS

_____ Plaintiff(s)

vs. Case No. _____

_____ Defendant(s)

NOTICE OF INTENT TO REQUEST REDACTION

Notice is hereby given that a Redaction Request shall be filed with the Court within 21 days from the filing of the transcript with the Clerk of Court.

Date /s/ _____
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:

_____.

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

****SAMPLE NOTICE FORMAT****

***NOTE: The event is located on CM/ECF by clicking:
Civil or Criminal > Other Filings > Other Documents >
Redaction Request - Transcript***

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS

_____ Plaintiff(s)

vs. Case No. _____

_____ Defendant(s)

REDACTION REQUEST - TRANSCRIPT

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) :

<u>Doc #</u>	<u>Page</u>	<u>Line</u>	<u>Identifier</u>	<u>Redaction Requested</u>
70	12	8	Social Security Number	xxxx-xx-1234
70	13	9	Taxpayer ID Number	xxxxxx5678
70	15	16	Financial Account Number	xxx-xxx-xxxx9012
70	16	23	Date of Birth	xx/xx/1951
70	56	11	Minor Child's Name	Initials
70	62	10	Home Address (criminal only)	City, State

Date

/s/ _____
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:
_____.

Date

/s/ _____
Attorney's Name and Bar Number